

Texas Rules of Civil Procedure 621-656

Writ of Execution

SECTION 3.

EXECUTIONS RULE 621. ENFORCEMENT OF JUDGMENT

The judgments of the district, county, and justice courts shall be enforced by execution or other appropriate process. Such execution or other process shall be returnable in thirty, sixty, or ninety days as requested by the plaintiff, his agent or attorney.

RULE 621a. DISCOVERY AND ENFORCEMENT OF JUDGMENT

At any time after rendition of judgment, and so long as said judgment has not been suspended by a supersedeas bond or by order of a proper court and has not become dormant as provided by Article 3773, V.A.T.S., the successful party may, for the purpose of obtaining information to aid in the enforcement of such judgment, initiate and maintain in the trial court in the same suit in which said judgment was rendered any discovery proceeding authorized by these rules for pre-trial matters. Also, at any time after rendition of judgment, either party may, for the purpose of obtaining information relevant to motions allowed by Texas Rules of Appellate Procedure 47 and 49 initiate and maintain in the trial court in the same suit in which said judgment was rendered any discovery proceeding authorized by these rules for pre-trial matters. The rules governing and related to such pre-trial discovery proceedings shall apply in like manner to discovery proceedings after judgment. The rights herein granted to the parties shall inure to their successors or assignees, in whole or in part. Judicial supervision of such discovery proceedings after judgment shall be the same as that provided by law or these rules for pre-trial discovery and proceedings insofar as applicable.

RULE 622. EXECUTION

An execution is a process of the court from which it is issued. The clerk of the district or county court or the justice of the peace, as the case may be, shall tax the costs in every case in which a final judgment has been rendered and shall issue execution to enforce such judgment and collect such costs. The execution and subsequent executions shall not be addressed to a particular county, but shall be addressed to any sheriff or any constable within the State of Texas.

RULE 623. ON DEATH OF EXECUTOR

When an executor, administrator, guardian or trustee of an express trust dies, or ceases to be such executor, administrator, guardian or trustee after judgment, execution shall issue on such judgment in the name of his successor, upon an affidavit of such death or termination being filed with the clerk of the court or the justice of the peace, as the case may be, together with the

certificate of the appointment of such successor under the hand and seal of the clerk of the court wherein the appointment was made.

RULE 624. ON DEATH OF NOMINAL PLAINTIFF

When a person in whose favor a judgment is rendered for the use of another dies after judgment, execution shall issue in the name of the party for whose use the suit was brought upon an affidavit of such death being filed with the clerk of the court or the justice of the peace.

RULE 625. ON MONEY OF DECEASED

If a sole defendant dies after judgment for money against him, execution shall not issue thereon, but the judgment may be proved up and paid in due course of administration.

RULE 626. ON PROPERTY OF DECEASED

In any case of judgment other than a money judgment, where the sole defendant, or one or more of several joint defendants, shall die after judgment, upon an affidavit of such death being filed with the clerk, together with the certificate of the appointment of a representative of such decedent under the hand and seal of the clerk of the court wherein such appointment was made, the proper process on such judgment shall issue against such representative.

RULE 627. TIME FOR ISSUANCE

If no supersedeas bond or notice of appeal, as required of agencies exempt from filing bonds, has been filed and approved, the clerk of the court or justice of the peace shall issue the execution upon such judgment upon application of the successful party or his attorney after the expiration of thirty days from the time a final judgment is signed. If a timely motion for new trial or in arrest of judgment is filed, the clerk shall issue the execution upon the judgment on application of the party or his attorney after the expiration of thirty days from the time the order overruling the motion is signed or from the time the motion is overruled by operation of law.

RULE 628. EXECUTION WITHIN THIRTY DAYS

Such execution may be issued at any time before the thirtieth day upon the filing of an affidavit by the plaintiff in the judgment or his agent or attorney that the defendant is about to remove his personal property subject to execution by law out of the county, or is about to transfer or secrete such personal property for the purpose of defrauding his creditors.

RULE 629. REQUISITES OF EXECUTION

The style of the execution shall be "The State of Texas." It shall be directed to any sheriff or any constable within the State of Texas. It shall be signed by the clerk or justice officially, and bear the seal of the court, if issued out of the district or county court, and shall require the officer to execute it according to its terms, and to make the costs which have been adjudged against the defendant in execution and the further costs of executing the writ. It shall describe the

judgment, stating the court in which, and the time when, rendered, and the names of the parties in whose favor and against whom the judgment was rendered. A correct copy of the bill of costs taxed against the defendant in execution shall be attached to the writ. It shall require the officer to return it within thirty, sixty, or ninety days, as directed by the plaintiff or his attorney

RULE 630. EXECUTION ON JUDGMENT FOR MONEY

When an execution is issued upon a judgment for a sum of money, or directing the payment simply of a sum of money, it must specify in the body thereof the sum recovered or directed to be paid and the sum actually due when it is issued and the rate of interest upon the sum due. It must require the officer to satisfy the judgment and costs out of the property of the judgment debtor subject to execution by law.

RULE 631. EXECUTION FOR SALE OF PARTICULAR PROPERTY

An execution issued upon a judgment for the sale of particular chattels or personal property or real estate, must particularly describe the property, and shall direct the officer to make the sale by previously giving the public notice of the time and place of sale required by law and these rules.

RULE 632. EXECUTION FOR DELIVERY OF CERTAIN PROPERTY

An execution issued upon a judgment for the delivery of the possession of a chattel or personal property, or for the delivery of the possession of real property, shall particularly describe the property, and designate the party to whom the judgment awards the possession. The writ shall require the officer to deliver the possession of the property to the party entitled thereto.

RULE 633. EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY

If the judgment be for the recovery of personal property or its value, the writ shall command the officer, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

RULE 634. EXECUTION SUPERSEDED

The clerk or justice of the peace shall immediately issue a writ of supersedeas suspending all further proceedings under any execution previously issued when a supersedeas bond is afterward filed and approved within the time prescribed by law or these rules.

RULE 635. STAY OF EXECUTION IN JUSTICE COURT

At any time within ten days after the rendition of any judgment in a justice court, the justice may grant a stay of execution thereof for three months from the date of such judgment, if the person against whom such judgment was rendered shall, with one or more good and sufficient sureties, to be approved by the justice, appear before him and acknowledge themselves and each of them bound to the successful party in such judgment for the full amount thereof, with interest and costs, which acknowledgment shall be entered in writing on the docket, and signed by the persons binding themselves as sureties; provided, no such stay of execution shall be granted unless the party applying therefor shall first file an affidavit with the justice that he has not the money with which to pay such judgment, and that the enforcement of same by execution prior to three months would be a hardship upon him and would cause a sacrifice of his property which would not likely be caused should said execution be stayed. Such acknowledgment shall be entered by the justice on his docket and shall constitute a judgment against the defendant and such sureties, upon which execution shall issue in case the same is not paid on or before the expiration of such day

RULE 636. INDORSEMENTS BY OFFICER

The officer receiving the execution shall indorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person he shall number them as received.

CAUSE NO. _____

v.

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IN THE JUSTICE COURT

PRECINCT NO. 3

ORANGE COUNTY, TEXAS

APPLICATION FOR WRIT OF EXECUTION

See Texas Rules of Civil Procedure 621-656

The undersigned Applicant makes this Application for a Writ of Execution based on the following:

The judgment creditor has a judgment dated _____ against the judgment debtor in the above styled cause of action; and (choose at least one below)

- The total amount of the judgment awarded was \$ _____ (including judgment amount, pre-judgment interest, cost and attorney's fees) at an interest rate of _____ %
- The judgment was for specific property: _____ which the court determined that the property has a value of: \$ _____ and the pre-judgment interest, costs and attorney's fees are: \$ _____ at an interest rate of _____ %

The judgment debtor has paid \$ _____ toward the judgment.

Debtor's Name: _____ Debtor's Last known Address: _____

Debtor's Phone Number: _____

The Judgment creditor seeks the Constable or Sheriff to execute on:

(choose at least one below - refer to your judgment to assist with this, if necessary):

- Execution is issued upon a judgment for the sum of money, or directing payment simply of a sum of money (TRCP 630);
- Execution issued upon a judgment for the sale of particular chattels or property or real estate (TRCP 631); state with specificity: _____

(additional list may be attached if necessary)
- Execution issued upon a judgment for the delivery of the possession of a chattel or personal property, or for the delivery of the possession of real property (TRCP 632); state with specificity: _____

(additional list may be attached if necessary)
- Execution issued upon a judgment for the recovery of personal property or its value (TRCP 633); state with specificity: _____

(additional list may be attached if necessary)

The Judgment creditor seeks a return of the execution within (please check one):

- 30 days; 60 days; or 90 days

Applicant would like the Writ to be: Forwarded to the Constable of Precinct 3; or
 (please check one) Returned to Applicant to forward to a constable or Sheriff in another county.

Applicant respectfully request that this Court issue a Writ of Execution authorizing the Constable or Sheriff to seize non-exempt property to satisfy this judgment. Applicant understands that this Application and any attachments will be forward to the Constable or Sheriff as a courtesy, however, any additional information needed to assist the Constable or the Sheriff, not included or attached to this Application, will need be forwarded to the officer directly.

Date of Request: _____

Signature of the Applicant

Applicant's Printed Name: _____

Applicant's Address: _____

Applicant's Phone Number: _____

File pulled and verified by: _____, Clerk

Fees Collected: \$ _____

Date Paid: _____