

Civil Justice Initiative & Expedited Action Rules



Civil Justice Initiative

The Landscape of Civil Litigation in State Courts

“Civil justice **touches every aspect of our lives and society**, from public safety to fair housing to the smooth transaction of business.”

“Americans deserve a civil legal process that can **fairly and promptly resolve disputes for everyone**—rich or poor, individuals or businesses, in matters large or small.”



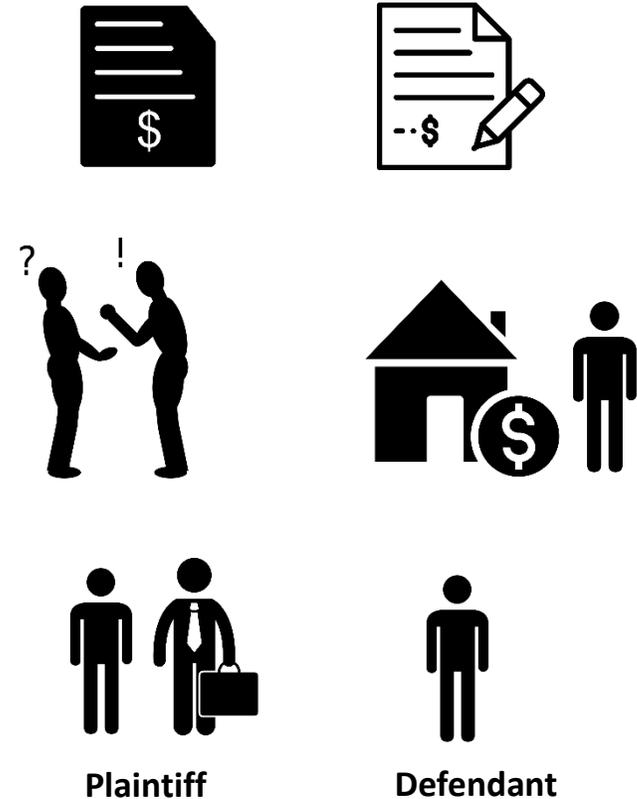
The civil justice system is a lot different than many perceive it to be.

Perception



Judgment: \$1,000,000

Reality



Plaintiff

Defendant



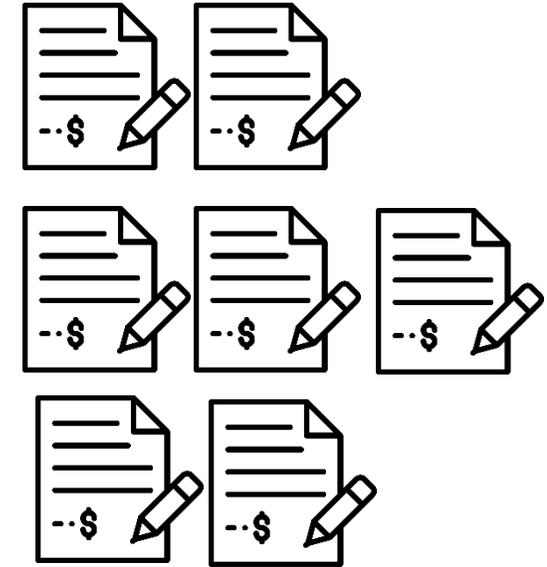
Nationally, contract case filings have come to dominate the civil justice landscape.

1992



**1 Tort case filed for every
1 Contract case filed**

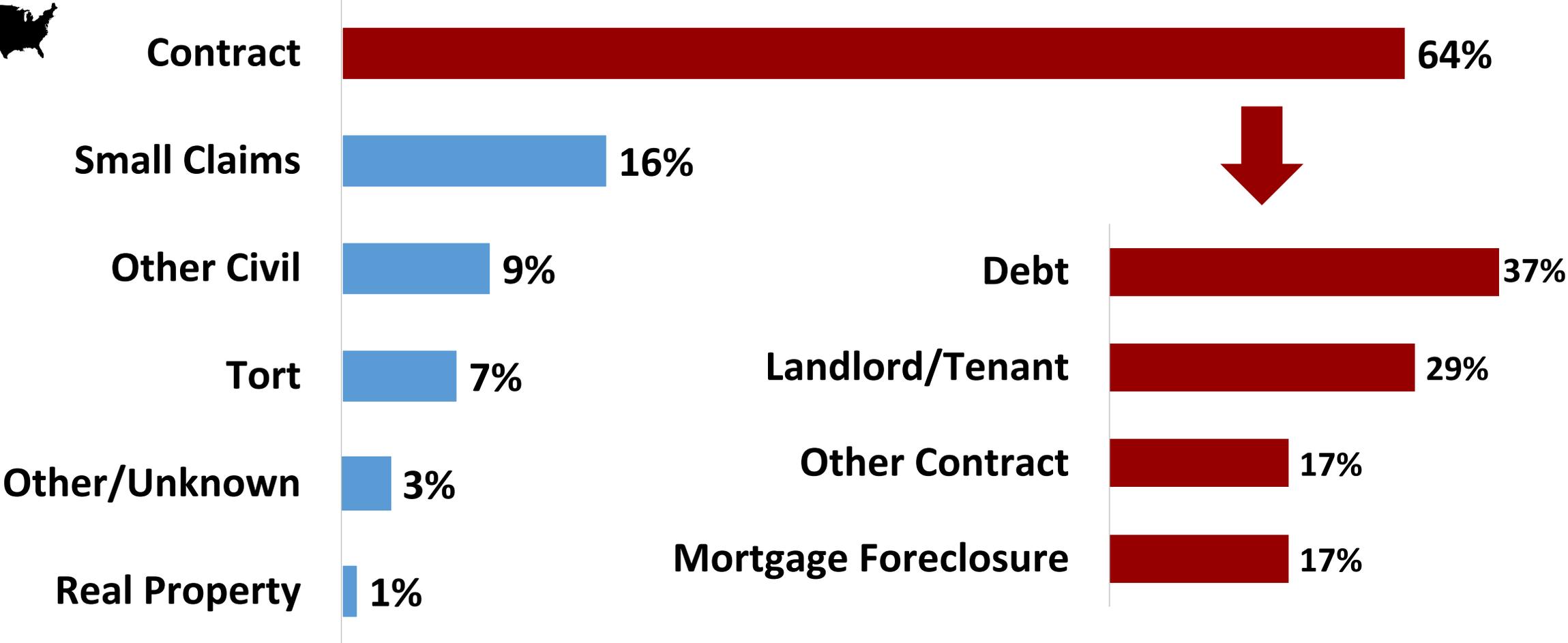
2013



**1 Tort case filed for every
7 Contract cases filed**

NCSC Landscape of Civil Litigation in State Courts (2015)

80% of caseload involves **contracts** and **small claims**.



NCSC Landscape of Civil Litigation in State Courts (2015)



The civil caseload in **Texas** has undergone a similar transition.



1992

1



tort

to

1



contract

2016

1



tort

to

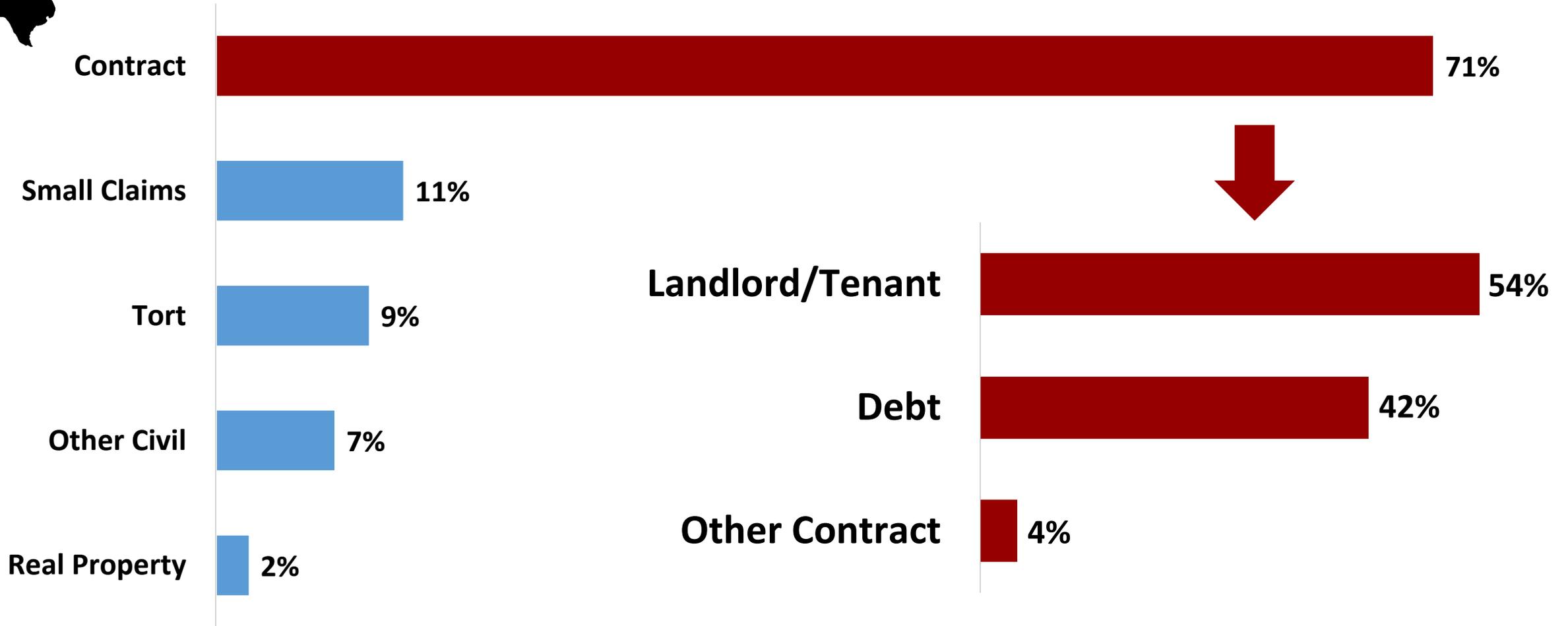
7



contract



More than 80% of caseload involves **contracts** and **small claims**.



Texas Office of Court Administration

Number of mortgage foreclosures unknown



Pleading Requirements Effective 1/1/21

- Rule 47
 - Pleadings required to contain statement of what party is seeking
 - **<\$250k, excluding interest, punitive, attorneys fees, costs**
 - <\$250k and non-monetary relief
 - >\$250k-\$1M
 - >\$1M
 - Only non-monetary relief
- Expedited Action Rules apply if in (c)(1) – Rule 169(a)

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9153

FINAL APPROVAL OF AMENDMENTS TO TEXAS RULES OF CIVIL PROCEDURE 47, 99, 169, 190, 192, 193, 194, 195, 196, 197, AND 198

ORDERED that:

1. On August 21, 2020, in Misc. Dkt. No. 20-9101, the Court preliminarily approved amendments to Rules 47, 169, 190, 192, 193, 194, and 195 of the Texas Rules of Civil Procedure to comply with Act of May 27, 2019, 86th Leg., R.S., ch. 696 (SB 2342), and invited public comment. Following public comment, the Court made revisions to those rules and also revised Texas Rules of Civil Procedure 99, 196, 197, and 198. This Order incorporates the revisions and contains the final version of the rules, effective January 1, 2021.
2. The amendments apply to cases filed on or after January 1, 2021, except for those filed in justice court. The rules amended by this Order continue to govern procedures and limitations in cases filed before January 1, 2021.



Goal of TRCP 169



To aid in the **prompt, efficient** and **cost effective** resolution of cases, while maintaining **fairness** to litigants.

Differentiated Case Management

- The process of developing and following, for each case, a schedule of events that achieves its earliest disposition consistent with fairness and due process.
- Not all cases are alike, as complexities differ, so criteria establishing and defining case categories should be used.



Civil Case Complexities

- TRCP Rule 190 provides for three levels of complexity:
 - **Rule 190.2 – Level 1**
 - Rule 190.3 – Level 2
 - Rule 190.4 – Level 3
- Level 1
 - Used to be cases under \$250k
 - Now is ALL EXPEDITED CASES



Expedited Actions – Rule 169 (Eff. 1/1/21)

- Automatically in unless court removes for:
 - Good cause
 - Pleading out of it
- No pleading out without leave of court unless filed at least 30 days after discovery is closed or 30 days before trial date.
 - Leave granted only with good cause outweighing prejudice to opposing party.
 - If removed, discovery reopens under Rule 190.2(c)



Rules for Expedited Actions

- Limited Discovery
- Restricts the Court's Ability to Require Alternative Dispute Resolution
- Mandates Quick Trial Settings
- Provides for Abbreviated Trials for Cases under 250k



Discovery – Expedited Trial Process

- Governed by TRCP Rule 190.2 – applies to family law under \$250k with no children too
- Discovery period is limited to 180 days after first initial disclosures are due
- No more than 15 interrogatories, 15 requests for production, 15 requests for admission
- Oral depositions limited to 20 hours per side
- Can't serve discovery until after initial disclosures are due
- Required disclosures added



Required Disclosures

- Duty to disclose unless exempted even before discovery request, similar to FRCP 26(a)
- Initial disclosures – within 30 days of first answer or general appearance (or within 30 days of being served)
 - Listing of items in Rule 194.2(b) – Civil and 194.2(c) – Family
 - Exemptions in 194.2(d) include CPS, administrative cases, forfeiture, etc
- Pretrial disclosures – at least 30 days before trial – 194.4
 - Witnesses, Exhibits
- Expert disclosures – without awaiting discovery request – 195.5



ADR – Expedited Trial Process

- Alternative Dispute Resolution
 - Mediation, arbitration, summary trial, etc
- Parties can agree not to engage in ADR
- Otherwise, Court may refer to ADR ONCE:
 - Can't exceed 1/2 day
 - Can't exceed twice the filing fee in cost
 - Has to be completed at least 60 days before the first trial setting
- Parties can agree to ADR outside of this



Expert Challenges – Expedited Actions

- Can only challenge expert as part of summary judgment motion or during trial on the merits
- Doesn't apply to late designations



Trial Settings – Expedited Trial Process

- Setting

- Upon request of any party, must be set within 90 days of the conclusion of discovery period

- Continuances

- Court can continue cause twice
- Continuances can't exceed a total of 60 days



Conducting Trial – Expedited Actions

- Each side allowed no more than 8 hours in trial
 - Includes jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing statements.
 - Doesn't include objections, bench conferences, bills of exception, and challenges to jurors
 - Can be extended to 12 hours per side with good cause



Questions?

