

How to Retain or Reinstate a Case Dismissed by the Court

If nothing happens in your case for a while, it can be “dismissed for want of prosecution” (called a DWOP).

This article tells you how to ask the judge to:

- (1) retain: keep your case open, or
- (2) reinstate: reopen your case if it has already been dismissed.

FORMS ARE INCLUDED.

Texas Forms for Retaining or Reinstating a Case

Retaining a Case on the Docket

Motion to Retain Case on Docket and Notice of Hearing

<https://www.texaslawhelp.org/node/1440> [1]

Order on Motion to Retain Case on Docket

<https://www.texaslawhelp.org/node/1441> [2]

Reinstating a Case Dismissed by the Court

Motion to Reinstate Case on Docket and Notice of Hearing

<https://www.texaslawhelp.org/node/1442> [3]

Order on Motion to Reinstate Case on Docket

<https://www.texaslawhelp.org/node/1443> [4]

Click the link below for a program you can use to fill out the forms online. The program contains information to help you fill out the forms at each step.

[GUIDED FORMS - CLICK HERE \(HTTPS://TEXASLAWHELP.ORG/INTERACTIV](https://www.texaslawhelp.org/interactive-forms)
[5]

What does “dismissed for want of prosecution” or DWOP mean?

“Dismissed for want of prosecution” or DWOP means your case is dismissed by the judge because nothing has happened in your case for a while or you missed



a hearing or trial (of which you had notice).

Before dismissing a case for want of prosecution, the clerk will send you a letter or email that tells you that your case has been placed on the dismissal docket (list of cases to be dismissed on a certain date).

See Texas Rules of Civil Procedure, Rule 165a. (<https://www.txcourts.gov/rules-forms/rules-standards/>) [6]



What does it mean to retain a case?

If a case is “retained” it is kept open. If your case was placed on the dismissal docket (but not yet dismissed), you can ask the judge to keep your case open by filing a Motion to Retain Case on Docket and Notice of Hearing.

What does it mean to reinstate a case?

If a case is “reinstated” it is reopened after being dismissed. If your case was dismissed for want of prosecution, you can ask the judge to reopen your case by filing a Motion to Reinstate Case on Docket and Notice of Hearing (if you file by the deadline discussed below.)

See Texas Rules of Civil Procedure, Rules 165(a)(4). (<https://www.txcourts.gov/rules-forms/rules-standards/>) [6]

What is the deadline to ask the judge to reinstate my case?

You must file (turn in) a completed Motion to Reinstate Case on Docket and Notice of Hearing form **within 30 days** of the date the judge signed the dismissal order.

Exception: If you first learned about the dismissal order **more than 20 days** after it was signed by the judge, your **30-day deadline** to file the Motion to Reinstate Case on Docket began on the day you received notice of the dismissal from the clerk or the day you actually found out about the dismissal (whichever happened **first**). However, even if this exception applies, your 30-day deadline **cannot begin more than 90 days** after the dismissal order was signed by the judge. So, the **latest** you could file a Motion to Reinstate Case on Docket is **120 days** after the dismissal order was signed by the judge.

See Texas Rules of Civil Procedure, Rule 306(a)(4). (<https://www.txcourts.gov/rules-forms/rules-standards/>) [6]

How do I ask the judge to retain my case?

Step 1: Schedule a hearing.

Call the clerk's office. Tell the clerk you want to schedule a hearing on a motion to retain case on docket. The clerk will give you a date and time for the hearing.

Step 2: Fill out these forms.

- **Motion to Retain Case on Docket and Notice of Hearing** (<https://www.texaslawhelp.org/node/1440>) [1]

Fill out this form completely in blue or black ink and sign it.

Remember to:

- write the reason the case should be retained (remember you must have a good reason),
 - write the date and time of the hearing,
 - write the full physical address of the court where the hearing will be held, and
 - fill out and sign the Certificate of Service.
- **Order on Motion to Retain Case on Docket** (<https://texaslawhelp.org/www.texaslawhelp.org/node/1441>) [7]

Fill out this form completely in blue or black ink (except for the judge's signature).

Step 3: Turn in your motion form.

Turn in your completed Motion to Retain Case on Docket and Notice of Hearing form at the clerk's office and get a copy for both you and the other side. The clerk will "file-stamp" your forms with the date and time and return the copies to you.

Step 4: Send a file-stamped copy of your motion to the other side.



Send a file-stamped copy of the Motion to Retain Case on Docket and Notice of Hearing to the other side. Send it on the same day you get the hearing date. The other side must receive it at least 3 days before the hearing. If the other side has a lawyer, send it to the lawyer instead of directly to the other side.

Send it:

- by fax, or
- by email, or
- by commercial delivery service (such as FedEx or UPS), or
- by personal delivery, or
- by certified mail, return receipt requested and regular mail. (This way may take too long.)



Keep proof that you sent the Motion to Retain Case on Docket and Notice of Hearing to the other side. You must bring proof to your hearing.

Step 5: Go to the hearing.

Be ready to explain to the judge why you need the case retained on the docket. Bring proof that you sent the Motion to Retain Case on Docket and Notice of Hearing to the other side. Bring the Order on Motion to Retain Case for the judge to sign. Remember, the judge may or may not retain your case.

How do I ask the judge to reinstate my case?

Step 1: Schedule a hearing.

Call the clerk's office. Tell the clerk you want to schedule a hearing on a motion to reinstate case on docket. The clerk will give you a date and time for the hearing.

Step 2: Fill out these forms.

- **Motion to Reinstate Case on Docket and Notice of Hearing**
(<https://www.texaslawhelp.org/node/1442>) [3]

Fill out this form completely in blue or black ink and sign it.

Remember to:

- write the reason the case should be reinstated (remember you must have a good reason),

- write the date and time of the hearing,
- write the full physical address of the court where the hearing will be held, and
- fill out and sign the Certificate of Service.
- **Order on Motion to Reinstate Case on Docket**
(<https://www.texaslawhelp.org/node/1443>) [4]



Fill out this form completely in blue or black ink (except for the judge's signature).

Step 3: Turn in your motion form.

Turn in your completed Motion to Reinstate Case on Docket and Notice of Hearing form at the clerk's office and get a copy for both you and the other side. The clerk will "file-stamp" your forms with the date and time and return the copies to you.

Step 4: Send a file-stamped copy of your motion to the other side.

Send a file-stamped copy of the Motion to Reinstate Case on Docket and Notice of Hearing to the other side. Send it on the same day you get the hearing date. The other side must receive it at least 3 days before the hearing. If the other side has a lawyer, send it to the lawyer instead of directly to the other side.

Send it:

- by fax, or
- by email, or
- by commercial delivery service (such as FedEx or UPS), or
- by personal delivery, or
- by certified mail, return receipt requested and regular mail. (This way may take too long.)

Keep proof that you sent the Motion to Reinstate Case on Docket and Notice of Hearing to the other side. You must bring proof to your hearing.

Step 5: Go to the hearing.

Be ready to explain to the judge why you need the case reinstated on the

docket and why it should not have been dismissed. Bring proof that you sent the Motion to Reinstate Case on Docket and Notice of Hearing to the other side. Bring the Order on Motion to Reinstate Case for the judge to sign.

Why would I want to retain or reinstate my case?

Getting your case retained or reinstated can preserve:

- statute of limitations (legal deadlines) that may apply to your case, **and**
- orders (such as temporary orders) already made in your case.



What if the judge does not reinstate my case?

If your case is dismissed (and not reinstated), it goes away completely.

You must file your case again, pay the filing fee again and have the other side served again (if needed).

If there was a legal deadline to file your case and it has passed, you may be out of luck. Talk to a lawyer if there was a legal deadline to file your case.

Where can I read the law about retaining or reinstating a case?

Read the law here: Texas Rules of Civil Procedure, Rule 165(a) and Rule 306(a)(4) (<https://www.txcourts.gov/rules-forms/rules-standards/>) [6].

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Links

[1] <https://www.texaslawhelp.org/node/1440>

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[3] <https://www.texaslawhelp.org/node/1442>

[4] <https://www.texaslawhelp.org/node/1443>

[5] <https://texaslawhelp.org/interactive-form/dismissal-want-prosecution-guided-form>

[6] <https://www.txcourts.gov/rules-forms/rules-standards/>

[7] <https://texaslawhelp.org/www.texaslawhelp.org/node/1441>