

# SETTLEMENT CREDITS

Presented by:

Jacqueline M. Stroh of  
The Law Office of Jacqueline M. Stroh, P.C.

San Antonio, Texas

1

## FOCUS ON CHAPTER 33

Even where Chapter 33 does not apply, a defendant may still be entitled to a settlement credit under the common law's one-satisfaction rule.

In fact, the underpinning of Chapter 33's settlement credit is the one-satisfaction rule.

“The one satisfaction rule applies to prevent a plaintiff from obtaining more than one recovery for the same injury.”

*Stewart Title Guar. Co. v. Sterling*, 822 S.W.3d 1, 7 (Tex. 1991).

2

## APPLICATION OF CHAPTER 33

Chapter 33 applies to: (1) tort claims; and (2) DTPA actions.

Chapter 33 does not apply to: (1) actions to collect workers' compensation benefits or against an employer for exemplary damages arising out of the death of an employee; (2) claims for exemplary damages; or (3) a cause of action for the manufacture of methamphetamine.

Application of Chapter 33's settlement credit provisions are mandatory to cases within its scope.

3

## SECTIONS RELEVANT TO CREDIT

Section 33.012 - Governs a Claimant's Maximum Recovery

- Jury's Verdict - Claimant's Responsibility - Settlement Credit

Section 33.013 - Governs a Defendant's Maximum Liability

- Jury's Verdict Multiplied by Defendant's Percentage of Responsibility

Section 33.011 - Defines Key Terms: Claimant; Defendant; Liable Defendant; Settling Person; Percentage of Responsibility

4

## STANDARD OF REVIEW

De Novo - Whether the defendant is entitled to credit one or more settlements

De Novo - Questions of statutory construction

Abuse of Discretion? - Questions that involve the presentation of conflicting evidence.

*Sky View at Las Palmas, LLC v. Mendez*, 555 S.W.3d 101 , 109 n.8 (Tex. 2018)

5

## BURDEN OF PROOF

Burden is on non-settling defendant to prove existence and amount of settlement by putting the settlement agreement or some other evidence of the settlement amount in the record.

Burden is on the claimant to show that all or part of the settlement should not be credited. (Exemplary damages)

Burden is on the non-settling defendant to prove the allocation is a sham.

Burden is on the claimant to overcome presumption.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Settlement Credits

Also available as part of the eCourse

[2020 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the  
30<sup>th</sup> Annual Conference on State and Federal Appeals session  
"Settlement Credits"