

309th District Court

General Policies and Procedures and Policies and Procedures for Hearings via Zoom During COVID-19 Pandemic

Effective June 1, 2020

1. There will be no in-person *docket calls*. General *trial dockets* will be on Mondays and will be held via Zoom. The Court Coordinator will send the Zoom meeting invitation to all attorneys or parties. Attorneys shall forward the Zoom invites to any and all prose litigants. Trial cases will then be preferentially set by the Court during this general trial docket.
2. Hearings for *temporary orders* are set on Tuesdays and Thursdays and will be heard via Zoom. A party may request a hearing date and time via the **e-hearing system** (when in place) available through the District Clerk's website. If requesting an in-person temporary orders hearing, contact the Court Clerk for a setting. Temporary orders hearings may be limited to one hour per party whether heard via Zoom or in person. A request for temporary orders in a modification case should be supported by an affidavit and approved by a judge. Make sure that mediation has been completed before requesting a temporary orders hearing.
3. *Enforcement hearings* are set on Wednesdays, and will be heard in person. A party may request a hearing date and time via the **e-hearing system** (when in place) available through the District Clerk's website. Attorneys and parties should have already conferred with each other and be ready to try their case at the time it is called. For child support enforcement cases, please bring a payment history from the Texas Office of the Attorney General. If the moving party is requesting incarceration, the moving party should bring a proposed commitment order to the hearing. Commitment orders must be entered by 2:00 p.m. on the date of incarceration.
4. *CPS hearings* are set on Thursdays, except for emergencies. All CPS hearings shall be heard via Zoom except for final trials. Parties to CPS cases who do not have access to Zoom may attend court in person.
5. *Entries of orders* are set on Fridays via submission. Please make sure that all documents listed as *Required Orders and Forms for Entry of Final Decree/Order* have also been e-filed, otherwise your case may be dismissed on the date of the entry hearing. If the entry is contested, attorneys or parties may file a motion to enter and request a hearing via Zoom. A party may request a hearing date and time via the **e-hearing system** (when in place) available through the District Clerk's website. It is the responsibility of parties or their attorneys to verify within seven business days after filing the proposed order that the order has been signed by the court.
6. *Discovery Dispute hearings* are set on Fridays at 1:30 p.m., **ONLY AFTER** the following procedures have been performed.

PLEASE NOTE: It is imperative that counsel make every effort possible to resolve any and all discovery issues without Court intervention, as not to waste the Court's time. If there has not

been a conference between the parties, the court will closely examine that efforts made by both counsel to effectuate one.

If Court intervention is necessary, the following procedure must be followed, before an Oral hearing is held:

1. The party seeking Court intervention must file a letter not to exceed three(3) pages (13 point font) explaining the nature of the dispute and include the date, time, and place of prior out-of-court discovery or scheduling discussion(s) and the names of all counsel participating in the discussion(s).
2. Please attached the “**309TH DISCOVERY TEMPLATE.XLS**” (in xls form) which will show each discovery item in dispute.
3. This letter and template must be both **e-mailed** to the lead clerk and all non-movants;
 - a. after receiving the **letter AND template (in xls form)**, the Court will schedule a ten (10) to fifteen (15) minute telephonic conference with all parties.
4. The responding/nonmovant party will have an opportunity to **e-mail** a two (2) page (13 point font) response, along with its updates to **movant’s “309TH DISCOVERY TEMPLATE.XLS”**, detailing whether objections will be removed or if the requested item is within the care, custody, and control of non-movant. (THE PORTION OF THE SPREADSHEET LABELED “NONMOVANT”).
5. Responses will be sent to the lead clerk and movant (within the forty-eight (48) hours prior to the telephonic conference); and
6. at the conclusion of the telephonic conference, the Court may make a order from the submitted template or the court may order further briefing and/or a submission/hearing date.
7. The Court will send the notice to all parties of any discovery submissions/hearings.

IN ACCORDANCE, WITH
RULES OF THE JUDICIAL DISTRICT COURTS OF HARRIS COUNTY, TEXAS
FAMILY TRIAL DIVISION

RULE 6. REFERRAL TO ASSOCIATE JUDGE

6.1 Referral. All pending cases and cases filed after the date of the adoption of these rules are hereby referred to the associate judge of each court pursuant to Chapter 201, Tex. Fam. Code, subject to limitations imposed by that same chapter.

6.2 Order of Referral. This Rule shall constitute the Order of Referral required by 201.006, Tex. Fam. Code, as to any pending or future cases under Title 1, 2, 4, or 5, Tex. Fam. Code.

7. ***Submission docket:*** the following motions will be heard by submission; if the court believes that an oral hearing is needed, the court will contact the parties with further instructions:

- a. Motions for Adoption Evaluation and Appointment of an Amicus (Sua sponte of the Court)
- b. Motions for Alternative or Substituted Service (Sua sponte of the Court – if properly accompanied by an affidavit that includes at least 3-4 attempts)
- c. Opposed motions for Appointment of Attorney Ad Litem, Amicus Attorney, or Custody Evaluation
- d. Motions for Arbitration
- e. Motions to Compel (see number 6 above)
- f. Motions to Confer with a Child (Sua sponte of the Court for children over 12 years of age)
- g. Motions to Consolidate (Sua sponte of the Court)

- h. Motions for Cost Deposit (private appointment)
- i. Motions for Continuance
- j. Motions for Drug Screening
- k. Motions to Enter (see number 5 above)
- l. Motions for Genetic Testing
- m. Motions for Judgment Nunc Pro Tunc
- n. Agreed QDRO (if properly accompanied by a motion to enter after plenary power has expired)
- o. Motions to Reinstate
- p. Motions for Summary Judgment
- q. Motions to Transfer (Sua sponte of the Court after proper service and no answer and no controverting affidavit on file)
- r. Uncontested Matters on Final Issues – may be proven-up by affidavit or unsworn declaration.
- s. Motions for Withdrawal/Substitution of Counsel
- t. Motions to Waive Appointment of Attorney Ad Litem (Sua sponte of the Court with supporting affidavit or statute)

A movant requesting relief by submission should contact the court for a submission date, which must be at least 10 days from the date of filing. Movant must serve all parties with ***notice of submission*** at least 10 days before the submission date; such notice must state that the motion will be heard by submission, no party may appear for the hearing in person, and that any response to the motion must be on file at least 3 days before the submission date. Please be sure to include a proposed order along with the motion.

8. ***Mediation is required before temporary orders***; exceptions may be made in certain cases. If a party is being denied possession of the party's child, the court may waive the mediation requirement. Failure to mediate may not be used as an excuse to avoid a temporary orders hearing.

9. ***Mediation is required before the final trial*** of a case; exceptions may be made in certain cases. Parties seeking such an exception should file a motion seeking such relief and set a hearing on the issue at least 10 days before trial. Failure to mediate prior to trial may result in dismissal of the case.

10. ***Default final hearings*** are set by appointment only on Tuesdays and Thursdays between 8 a.m. and 9 a.m. An attorney or party that wishes to schedule a prove up of a default final order should contact the Court Clerk, who may set an appointment for the matter to be heard. **DO NOT** come to the court to prove up a default final order unless you have made an appointment that has been confirmed by the Court Clerk. A ***sworn inventory, non-military affidavit, and certificate of last known address, and/or statement of evidence*** must be on file **on or before** prove up of a default divorce.

11. An ***agreement incident to divorce*** must be approved by the court, unless the AID is binding under another rule of law. Prior to the parties proving up their divorce, the AID must be reviewed by the court to determine whether the division of the community is just and right. If the court incorporates the agreement by reference in the final decree, the agreement does not have to be filed with the court.

12. When based on a **mediated settlement agreement**, the terms of a final order must comply with the mediated settlement agreement.

13. A **pre-trial conference** is required for all **jury trials** and will generally be scheduled on the Friday seventeen days before trial. Prior to the pre-trial conference, the parties to a jury trial should file the *Pretrial Conference Checklist* (see court's website for the checklist).
14. A **pre-trial conference** is required in each **adoption** case. All such pre-trial conferences will be heard via Zoom. Please contact the Court Coordinator for a pre-trial date. The final trial of the case will be set at the pre-trial conference.
15. **Late calls and e-mails:** Due to the current COVID-19 situation and the lack of available court time, no late calls will be accepted at this time, except in an emergency via e-mail at 309late@justex.net. Attorneys are responsible for ensuring that they do not have conflicting settings. Any attorney sent to stand in for an absent attorney should expect to fully represent the client at the hearing.
16. In cases regarding children, use each child's entire name. *Do not use initials to identify children.*
17. **Ex parte temporary restraining orders** should be joint and mutual, although exceptions may be made if supported by affidavit. In divorce actions, *ex parte* temporary restraining orders should use the language included in section 6.501 of the Texas Family Code. In SAPCR cases, the court will strike certain proposed injunctions (such as alcohol or paramour injunctions) if they are not supported by an affidavit. A TRO on a counter-petition must contain a certificate of conference. Alternatively, a counter-petitioner should notice the other side of a hearing for temporary orders instead of having a represented party served with a TRO.
18. If a party is requesting that a parent's possession be supervised, the requesting party should be prepared to pay the costs associated with providing the proposed named supervisor.
19. **Appointment of attorney ad litem:** (1) Service by publication—an **attorney ad litem** will be appointed to represent a party served by publication; the serving party should contact the court after the return of service and actual publication has been e-filed. (2) Service by posting on courthouse door—in cases with no children or property, the court may waive ad litem after motion and hearing.
20. **Appointment of Amicus Attorney:** The court may appoint an **amicus attorney** and/or a custody evaluation in a case in which conservatorship or possession of or access to a child is in dispute. The amicus attorney shall bill the parties for work performed at a rate not to exceed \$250.00 per hour.
21. An **attorney ad litem** in a DFPS matter should submit a **voucher** for out-of-court work by the next hearing date in the matter.
22. Parties to a custody dispute **must** complete a 4-hour **parenting class** prior to trial. The court may order an 8-hour parenting class if determined necessary.
23. **In-person hearings/trials.** All electronic devices should be in silent mode or turned off in the courtroom. No food or gum chewing is allowed in the courtroom. No photos or videos are allowed, except in adoption cases. While in trial, parties and attorneys may have water or other beverages in covered containers at the counsel table. All parties shall comply with the COVID-19 social distancing regulations including wearing masks.
24. Children may not be brought in the courtroom without court approval. If the court approves a request for a judge to interview a child in chambers, bring the child to the courthouse at the interview time.

25. ***Vulnerable populations:*** an attorney, party, or witness who is 65 or older or who has serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised may contact the court and identify themselves as a ***vulnerable individual*** and request accommodations.

These policies and procedures do not supplant the Harris County Local Rules.

POLICIES AND PROCEDURES FOR HEARINGS VIA ZOOM

Non-Essential matters, that cannot otherwise be heard by submission, may be heard via Zoom.

Scheduling of such non-essential Zoom hearings does not require agreement of the parties. If mediation is required by this court's policies and procedures, the parties should mediate prior to scheduling a Zoom hearing.

Trials may be heard via Zoom, but only BY AGREEMENT OF ALL PARTIES.

I. STEPS TO OBTAIN A ZOOM HEARING:

- A. Schedule a Zoom hearing date and time by contacting the Court Coordinator at molly_mai@justex.net.
- B. Court Coordinator will send a confirmation e-mail with the Zoom meeting details (link and meeting ID number).
- C. Upon receiving the Zoom meeting details (link and meeting ID number) from the Court Coordinator, the scheduling party is responsible for noticing the other party/parties.
 1. Notice of hearing must be e-filed.
 2. Notice must contain the Zoom conference details (link and meeting ID number) generated by the Court Coordinator, along with all other details otherwise required in a notice of hearing.

II. STEPS TO OBTAIN A ZOOM TRIAL SETTING:

- A. Obtain an agreement from all the parties to have a hearing via Zoom. A Rule 11 agreement with actual signatures can be filed with the court to show said agreement was made prior to requesting the scheduling of the hearing.
- B. Schedule a Zoom trial date and time by contacting the Court Coordinator at molly_mai@justex.net.
- C. Court Coordinator will send a confirmation e-mail with the Zoom meeting details (link and meeting ID number).

III. POLICIES AND PROCEDURES

- A. The scheduling party/parties must cancel the hearing or trial as soon as possible if it is no longer needed; a cancellation can be accomplished by notifying the Court Coordinator. If appropriate, notice of the cancellation should be given to other parties.

- B. The scheduling party/parties must notify the Court Coordinator at the time a hearing is scheduled if the parties will need to have a record made of the proceedings.
- C. Local rules and family code requirements for filings and pre-exchange of materials/ exhibits still apply.
- D. Parties are responsible for the logistics of their remote appearance. Technical difficulties that are not timely resolved may result in a hearing being passed. If a party's inability to participate is due to a lack of familiarity with Zoom, such lack of participation may be considered a failure to appear.
- E. The ***SCHEDULING PARTY is responsible for including Zoom conference details in the notice of hearing to other parties.***
- F. Exhibits needed for a Zoom hearing must be sent to the Court Coordinator and Court Reporter, at molly_mai@justex.net and mekailah_mcchriston@justex.net, for download via Dropbox link at least two business days before the Zoom hearing.
 - 1. The only exhibit formats that will be accepted are PDF for documents, JPG or PNG for images, and MP4 for audio and video. No DOC formats or executables will be accepted.
 - 2. E-file your exhibit list two days prior to the date of the Zoom hearing. Place the caption and style of the case in the subject line when submitting your exhibits.
 - 3. Exhibits should be named in number format, i.e., P-1 for petitioner's exhibit one.
 - 4. Do not e-file exhibits. Such e-filing does not make exhibits part of the record except regarding a summary judgment motion.
 - 5. Should your hearing require a volume of combined exhibits of 50 pages or more, contact the court coordinator to make arrangements to deliver the exhibits to the court.
- G. Please e-mail the Court Reporter at mekailah_mcchriston@justex.net prior to the hearing and list the following information: case number, style of the case, attorneys' names and contact information, and parties' names.

IV. PARTICIPATING IN THE ZOOM VIRTUAL COURTROOM

- A. You will join the virtual courtroom at the scheduled time by clicking the link in the e-mailed "e-vite."
- B. When you join a virtual setting, you will be appearing in a virtual waiting room with all other parties, attorneys, and witnesses. There may be several cases set on the docket at that time. When your case is called, the court will bring you into the virtual courtroom.
- C. Because the Zoom app works on all modern smart phones, tablets, and computers, ***each attorney is expected to appear by video, rather than merely by voice.***
- D. When you enter the virtual courtroom, your video is automatically activated and your audio muted, until the hearing begins.
- E. Hearings will be transcribed by official or deputy court reporter. Please complete the record request form available on the court website (in fillable format).
- F. Witnesses will be called as in any case, and the court or Court Coordinator will bring them in one at a time from the waiting room. ***Only people on video will be permitted to testify, unless they are in the physical presence of a notary public.***
- G. Notes may be passed between lawyer and client, using the private chat feature. To do so, hit the "CHAT" button, then at the bottom of the chat window, pull down the recipient arrow and select your lawyer's/client's name. However, such communication is prohibited during taking of the respective client's testimony. If the Rule has been invoked, witnesses shall not use the chat feature and will only be permitted in the virtual courtroom while they are

testifying. Witnesses on the witness stand may not refer to notes or paperwork while testifying, except as otherwise allowed.

- H. A client may, upon request, confer in private with their attorney. The client should “slip a note” via the chat feature to their attorney, who may request a moment to confer. If the request is granted by the court, the attorney and client will be moved into a confidential video room to confer for a moment.
- I. All hearings conducted via Zoom app are subject to additional instructions as deemed appropriate by the court during the hearing.

V. NO RECORDING OF COURT PROCEEDING

NO PERSON, OTHER THAN THE COURT REPORTER, MAY RECORD A COURT PROCEEDING WITHOUT THE COURT’S PERMISSION. THIS PROHIBITION APPLIES TO ALL PERSONS, INCLUDING MEMBERS OF THE PUBLIC VIEWING COURT PROCEEDINGS ON ANY COURT’S LIVE STREAM AND TO PERSONS WITH THE ABILITY TO RECORD ANY VIRTUAL COURT PROCEEDING. ANY PERSON FOUND TO BE IN VIOLATION OF THIS ORDER FACES CONTEMPT PROCEEDINGS, INCLUDING A FINE OF UP TO \$500 AND A SENTENCE OF CONFINEMENT FOR UP TO SIX (6) MONTHS IN JAIL FOR EACH ACT OF CONTEMPT OF COURT.

VI. POLICIES APPLY TO AGENTS

No party, attorney, or witness may circumvent the terms of these policies by having another person perform a task prohibited for that party, attorney, or witness. For example, if an attorney is prohibited from communicating with a witness during a proceeding, the attorney’s legal assistant or other agent of the attorney may not communicate with that witness during the proceeding.

A handwritten signature in black ink that reads "Linda Dunson". The signature is written in a cursive, flowing style.

Presiding Judge - May 29, 2020