



## 309<sup>th</sup> DISTRICT COURT GENERAL POLICIES AND PROCEDURES

*Effective January 1, 2023*

**The 309<sup>th</sup> has fully returned to IN-PERSON operations, with the exception of our Friday dockets which will still be heard via Zoom. Any appearances via Zoom without prior Court approval shall be considered as NO APPEARANCE. Please contact the Court Clerks at 713-274-4520 if you have any questions.**

**IT IS ORDERED** that the parties, attorneys, witnesses, and any other persons attending proceedings held by the 309<sup>th</sup> District Court shall comply with the following procedures:

1. ***Trial Dockets*** are on Mondays and will be heard **in-person**. Appearances via Zoom without prior Court approval shall be considered as no appearance.
2. ***Temporary Orders hearings*** are set on Tuesdays, Wednesdays, and Thursdays. A party may request a hearing date and time via the **e-hearing system** available through the District Clerk's website. Temporary orders hearings are limited to one hour per party. If there is an amicus on the case then parties are limited to 45 minutes each and the amicus will have 30 minutes. 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** 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 in person.
5. ***Uncontested Cases/Agreed Final Orders*** are heard in person on our uncontested docket Mondays – Thursdays at 8:00 am or by submission by e-filing an affidavit of prove-up or unsworn

declaration along with all necessary forms listed as *Required Orders and Forms* on our website and a final order signed by all counsels and parties.

6. ***Default final hearings*** are heard IN PERSON on Mondays - Thursdays at 8:00 a.m. 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.

7. ***Entries of Orders*** are set on Fridays by submission. If the entry is contested, attorneys or parties may appear via Zoom at docket call. 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. 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.

8. ***Discovery Dispute hearings*** are set on Fridays and is scheduled by the Court Clerks, **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 “**309<sup>TH</sup> 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 Lead Clerk will schedule a ten (10) to fifteen (15) minute Zoom conference with all parties.
4. The responding/nonmoving party will have an opportunity to **e-mail** the Lead Clerk a two (2) page (13 point font) response, along with its updates to **movant's “309<sup>TH</sup> 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 Zoom conference); and
6. At the conclusion of the Zoom conference, the Court may make an order from the submitted template or the court may order further briefing and/or a submission/hearing date.
7. The Lead Clerk will contact all parties via email 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.

9. **Submission Dockets:** the following motions will be heard by submission; if the Court believes that an oral hearing is needed, the Court Clerks will contact the parties with further instructions:

- a. Adoption Evaluation and Appointment of an Amicus (Sua sponte of the Court)
- b. Alternative or Substituted Service (Sua sponte of the Court – if properly accompanied by an affidavit that includes at least 3-4 attempts)
- c. Appointment of Attorney Ad Litem, Amicus Attorney, or Custody Evaluation
- d. Arbitration
- e. Compel/Referral for Mediation/Motion to Waive Mediation
- f. Confer with a Child (Sua sponte of the Court for children over 12 years of age)
- g. Consolidate
- h. Continuance
- i. Cost Deposit (private appointment)
- j. Drug Screening
- k. Genetic Testing/Alcohol Abuse
- l. Judgment Nunc Pro Tunc
- m. Motions to Enter
- n. Agreed QDRO (if properly accompanied by a motion to enter after plenary power has expired)
- o. Reinstate
- p. Summary Judgment
- q. Transfer (Sua sponte of the Court after proper service and no answer and no controverting affidavit on file)
- r. Withdrawal/Substitution of Counsel
- s. Waive Appointment of Attorney Ad Litem (with supporting affidavit or statute)

A movant requesting relief by submission should request a hearing date and time via the **e-hearing system** available through the District Clerk's website 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.** Failure to do so will result in your motion not being submitted to the Court for review.

10. **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.

11. ***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.
12. ***Dismissal Dockets*** are held via Zoom ONLY so do not appear in person. There will be no oral hearings. Please read the instructions carefully in the Court notice in order to prevent any dismissals of the case. Failure to appear via Zoom shall result in dismissal for want of prosecution.
13. An ***Agreement Incident to Divorce (AID)*** 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.
14. When based on a **mediated settlement agreement**, the terms of a final order must comply with the mediated settlement agreement.
15. A ***Pre-trial Conference*** is required for all ***jury trials*** and will generally be scheduled on the Friday 14 days before trial VIA ZOOM. 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) and shall have final mediation completed.
16. A ***Pre-trial Conference*** is required in each ***adoption/termination*** case. All such pre-trial conferences will be heard via Zoom. Please contact the Court Coordinator for a pre-trial date if one has not already been set by the Court. This provides an opportunity to confirm that necessary documents have been filed. The final trial of the case will be set at the pre-trial conference. Counsels may also contact the Court Coordinator to schedule a pre-trial conference date on **SIJS** cases.
17. ***Late calls by email:*** Attorneys and prose litigants who will be late for their scheduled hearing should contact the Court at least 15 minutes prior to the hearing and state how late they are running and the reason for the delay by using the "late call" email address: [309late@justex.net](mailto:309late@justex.net). The email subject line must contain the cause number; the body of the email must include: 1) the name of the attorney/party checking in late, 2) time estimate for late appearances, and 3) the reason for being late including any other Court(s) in which the attorney/party will be appearing. Cases may be dismissed, passed or reset if the attorney for the moving party does not arrive in the courtroom within thirty minutes of their scheduled hearing.
18. In cases regarding children, use each child's entire name. ***Do not use initials to identify children.***
19. ***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. Please contact the Ancillary Clerk at 832-927-5705 to schedule

TRO hearings only. \*\*\* Do not use the e-hearing system nor contact the Court Clerks or Coordinator to schedule TRO hearings. \*\*\*

20. 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.

21. ***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.

22. ***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.

23. 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.

24. 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.

25. ***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 unless instructed otherwise by the Judge.

26. 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.

27. ***Dress Code:*** If the Court is holding the proceeding through Zoom, and unless the Court orders otherwise for that proceeding, attorneys shall dress in the same business attire as if the proceeding were held in the courtroom. Parties and witnesses shall dress in the manner they would if they were attending court in person, unless required for health reasons not to do so. Each attorney shall ensure that the attorney's client(s) and/or witness(es) are aware of and comply with this dress code. If the Court is holding the proceeding only by telephone, this dress code will not apply.

28. **NO RECORDING OF COURT PROCEEDING – UNDER PENALTY OF CONTEMPT OF COURT, 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.** The Court Reporter's record shall be the only record of the court proceeding.

29. ***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.

30. ***Exhibits for Trials/Hearings:*** Local rules and Family Code requirements for filings and pre-exchange of exhibits still apply in order to be potentially admissible into evidence in a trial/hearing. All exhibits, except rebuttal exhibits, must be pre-marked and brought to the Court (two hard copies – one copy for the Judge and one copy for the witness) on the day of the trial/hearing.

\*\*\* DO NOT e-file your exhibits. \*\*\*

- \* Deadline: Exhibits must be exchanged two days prior to a hearing and ten days prior to final trial.
- \* Please e-mail the exhibit link to the Court Reporter, Mekailah McChriston, at [mekailah\\_mcchriston@justex.net](mailto:mekailah_mcchriston@justex.net) prior to trial/hearing. Place the caption and style of the case and the date of the court proceeding in the subject line when submitting your exhibits. DO NOT email the exhibit link to the Court Coordinator.
- \* Do not e-file exhibits. Such e-filing does not make exhibits part of the record except regarding a summary judgment motion.

31. Exceptions to these rules may be made on a case-by-case basis. Suggested changes to these rules are welcome. If there is something you think we should do differently, please let us know.

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

*Linda Dunson*

*Presiding Judge – December 1, 2022*