

312th Family District Court Procedures

**Court Policies and Procedures — Effective February 20, 2023**

**General Court Times**

**Uncontested Docket – Mondays, Tuesdays, Wednesdays & Fridays - 8:15 a.m. to 8:45 a.m. and at other times subject to court availability. Hybrid format (ZOOM or IN PERSON) permitted.**

**Defaults – Mondays, Tuesdays, Wednesdays & Fridays - 8:45 a.m. to 9:15 a.m. and at other times subject to court availability. Hybrid format permitted.**

**Trial Docket - Mondays at 9:30 a.m. Hybrid format permitted for docket call only.**

**Contempt - Tuesdays at 9:30 a.m. IN PERSON ONLY.**

**Temporary Orders - Tuesdays & Wednesdays at 9:30 a.m. IN PERSON ONLY.**

**CPS Docket - Thursdays at 9:30 a.m. and 1:30 p.m. ZOOM ONLY.**

**Submission Docket – Thursdays & Fridays at 8:30 a.m.**

**Entry - Fridays at 9:30 a.m. Hybrid format permitted.**

**Discovery Disputes – Fridays at 1:30 p.m. IN PERSON ONLY.**

**Other Ancillary Matters – Tuesdays, Wednesdays & Fridays at 9:30 a.m. IN PERSON ONLY unless *prior* Court approval obtained.**

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IT IS ORDERED that the parties. Attorneys, witnesses, and any other persons attending proceedings held by the 312th Family District Court shall comply with the following procedures:

1. General Trial Docket — General trial dockets are held in hybrid format. Trial cases may then be preferentially set by the court during this general trial docket. Parties and attorneys should be prepared to start an IN PERSON trial at 1:30 p.m. on the same day.
2. Scheduling Hearings—Except for final trials, all hearing dates are scheduled by a party's attorney through the e-hearing system set up by the District Clerk's office. If you need additional information, go to the Court's website, and navigate to the e-hearing features. A self-represented party should contact the Court Clerk to set a hearing. The e-hearing system will be set up for the 312th on or before March 1, 2023. Until such time contact the Court Clerk to set a hearing.
3. Agreed Final Orders – An agreed final order may be proved-up by 1) appointment before the Associate Judge on the uncontested docket; 2) submission; OR 3) by filing an affidavit or unsworn declaration together with all of the necessary documents. DO NOT attempt to log into the virtual courtroom or appear in person to prove up an agreed final order unless the court clerk has given you an appointment. All necessary documents must be filed at least 24 hours before your appointment or submission date and time.
4. Defaults—Defaults are by appointment only and are held in the Associate Judge’s courtroom. Contact the court clerk for an appointment for prove-up of an uncontested matter. DO NOT log into the virtual courtroom to prove up a default matter unless the court clerk has given you an appointment. For default cases, all documents must be filed at least 24 hours before your appointment date and time.
5. Off docket approach—Attorney's may call the court clerk to inquire about the judge's availability for an approach for questions of no more than 5 minutes. To ensure that are no ex-parte communications, the court will not allow off docket approaches if not all the necessary parties and/or attorneys are present.
6. Contested Temporary Orders—Hearings for contested temporary orders after the parties have attended mediation are set on Tuesdays and Wednesdays and held IN-PERSON. A party may request a hearing date and time via the E-hearing system set up by the District Clerks Office. A request for temporary orders in a modification case should be supported by an affidavit. If you appear for temporary orders via zoom you will be reset for an in person setting and mediation is mandatory, prior to the temporary hearing date, unless waived by the court. Where there are no contested parent-child issues, the hearing is limited to 1.5 hours. When parent-child issues are contested, the hearing is limited to 3 hours.
7. Enforcements—Enforcement actions are held IN PERSON. Parties with an agreement may prove up the agreement on the record. A party may request a hearing date and time via the e-hearing system set up by the District Clerks Office. Attorneys and parties should have already conferred with each other, exchanged exhibits, and be ready and prepared to try their case at the time it is called to trial. For child support enforcement cases, please provide a payment history from the Texas Office of the Attorney General. If incarceration is requested, the moving party should file a proposed commitment order prior to the commencement of the hearing or no hearing shall be had. Commitment orders must be entered by 2:00 p.m. on the date of incarceration.
8. CPS hearings—CPS hearings are set on Thursdays at 9:30 a.m. and 1:30 p.m. except for emergencies. Docket call shall be held by Zoom in the Associate Judge’s virtual courtroom. Final trial in a CPS case is held by Zoom in the Associate Judge’s virtual courtroom.
9. Entry of Orders— please ensure that all documents listed as "Required Orders and Forms for Entry of Final Decree/Order" have been e-filed, otherwise your case may be dismissed on the date of the entry hearing. It is a responsibility of attorneys or parties to verify within seven business days of filing a proposed order that the order has been signed by the Court. When based on a mediated settlement agreement, the terms of the final order must comply with the mediated settlement agreement.

***Disputed and/or Contested Entry*** – If there is a dispute and/or contest regarding the entry of an order, a party MUST file a motion to enter and set the motion for hearing on the following Friday after the dispute is discovered, providing at least three-day notice to the other party pursuant to the Texas Rules of Civil Procedure.

***Agreements Incident to Divorce***—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. The AID may be provided to the Court for in camera review upon request – contact Court Coordinator.

1. Dismissals for Want of Prosecution - DWOPs are set on the court’s submission docket (no oral hearing will be held). If the respondent has not appeared, a case may be dismissed unless a return of service or a properly executed waiver is on file before the dismissal date.If the respondent has appeared, the case may be dismissed unless: (1) the case has been settled and proven-up before the dismissal date, (2) trial has been set and approved to occur within 90 days of the dismissal date, or (3) have a motion to retain granted prior to the date of dismissal
2. Discovery disputes—Discovery disputes are heard on Friday afternoons in the Associate Judges courtroom. (l) A request for hearing will not be granted unless the party requesting the hearing files a certificate of conference stating all efforts made to communicate with opposing counsel or the Pro-Se party regarding the discovery dispute, including but not limited to zoom or in person communications. A lack of substantial efforts to communicate (i.e. leaving a single voicemail) may affect the request for a hearing date. (2) Motions to quash depositions—if the motion to quash is based on the unavailability of the lawyer or witness, or a scheduling conflict, then the party filing the motion to quash shall provide at least three alternative dates within the body of the motion for taking of the deposition.
3. Mediation
4. Prior to temporary orders—Mediation is required before temporary orders hearings. Exceptions may be made in certain cases. If a party is being denied possession of the party's child(ren), the court may waive the mediation requirement. Failure to mediate may not be used as an excuse to avoid a temporary orders hearing.
5. Prior to final trial—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 final trial. The failure to mediate prior to trial may result in dismissal of the case.
6. Exhibits – Exhibits must be pre-marked and numbered using numerals. Exhibits must be pre-marked on the document and the title of each exhibit file shall correspond with the pre-marked exhibit. For example, “Petitioner Ex. 01” or “P-1”.

For all hearings exhibits must be exchanged by the parties by the 3rd business day before the hearing. Failure to timely exchange exhibits may result in the exclusion of those exhibits. Rebuttal or impeachment exhibits that were not exchanged before the hearing must be responsive to a matter raised by the other side.

*Providing to Court*

1. Create and email a file share link using your cloud storage service to the designated exhibit email listed on the court’s website. The subject line of the email shall state the full cause number, your party identification, and the date of the court proceeding. Do not use the share feature intended for collaboration that requires an account with that service.
2. For property divisions involving marital estates with numerous assets or debts, include with the exhibits an editable file (i.e., .xls) containing the party’s proposed property division.
3. The parties must provide a hard copy of the Exhibits and Exhibit list for the Court on the date of Trial or hearing, as well as a Witness copy.
4. Hearings by Submission -- A matter set for consideration by submission will be considered and ruled upon without an oral hearing. The following contested motions must be set for hearing by submission (see exceptions below):
5. Adoption evaluation;
6. Appointment of attorney ad litem or amicus attorney;
7. Attorney’s fees (interim fees or deposit of costs);\*
8. Confer with child;\*
9. Consolidate;
10. Continuance;\*
11. Custody Evaluation;
12. Drug testing;\*
13. Enter/sign order;
14. Genetic testing;
15. Judgment nunc pro tunc;
16. Objection to remote proceeding;
17. Reinstate;
18. Retain;
19. Substituted service;
20. Summary judgment;
21. Transfers that are not mandatory (e.g. inconvenient forum); and
22. Withdrawal of counsel.\*

\* These motions can be considered by oral argument (not by submission) in the 312th District Court if an objection is timely filed.

Notice of submission setting must be served at least 10 days before the date of the hearing, or more if required by statute or rule. The notice must state that: (1) the motion will be heard by submission; (2) no party may appear for the hearing in person; and (3) any response to the motion must be on file at least 3 days before the submission date, or longer if required by statute or rule.

Responses must be filed and served at least 3 days before the submission date, or earlier if required by statute or rule.

15. Pretrial conference

1. For jury trials—a pretrial conference is required for all jury trials and will be heard on Friday mornings in person. Prior to the pretrial conference, the parties should file a Pretrial Conference Checklist. See the courts website for the checklist.
2. For Adoptions and Special Immigrant Juvenile cases—a pretrial conference is required for adoption cases and/or in special immigrant juvenile cases. Contact the Court Coordinator for a pre-trial date. Ensure that your pre-trial conference is scheduled at least 60 days prior to the trial setting in the case.

16. Late calls—Late calls should be made no later than 9:10 a.m. on the day of your hearing or trial. Attorneys are responsible for ensuring that they have complied with local administrative regional rules regarding any conflict settings. Any attorney sent to stand in for an absent attorney should expect to fully represent the client at the hearing.

17. Cases involving children—in cases regarding children, use the child's entire name. Do not use initials to identify children.

18. Ex-Parte Temporary Restraining Orders—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 not supported by an affidavit. Supervised visits—When 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 supervisor unless good cause shown.

19. Appointment of attorney ad litem—in matters where service by publication occurs, an attorney ad litem shall be appointed to represent the party served by publication, the serving party should contact the court after the return of service and a copy of the actual publication has been e-filed. In matters where service occurs by posting on courthouse door, where there are no children or property, the court may waive the Ad Litem only after a motion and hearing to waive Ad Litem.

20. Appointment of amicus attorney— the court may appoint an Amicus Attorney in a case in which conservatorship or possession of and/or access to the child is in dispute. The Amicus Attorney shall bill the parties for work performed at a rate not to exceed $250 per hour. The Parties may agree to the appointment of an Amicus Attorney, however, the Amicus Attorney must be listed on the 312th Family District Court's wheel for appointment purposes.

21. Attorney Ad Litem in DFPS matters— In a DFPS matter, attorneys should submit a voucher for out of court work by the next hearing date in the matter. The attorney Ad Litem in a DFPS matter is only attorney that shall appear for the client and that Ad Litem attorney appointed shall not send a different attorney to stand in him/her, except in an emergency or with prior approval by the court.

22. Parenting class—Parties to a custody dispute are encouraged to complete a four hour parenting class prior to trial.

23. Courtroom demeanor— Electronic devices not required for virtual courtrooms should be in silent mode. Proper courtroom attire and demeanor is required when appearing in person or via zoom. No food is allowed. No gum chewing is allowed while appearing before the Court. Zoom appearances may not be made while the person appearing is driving a motor vehicle. While in a hearing or trial, parties and attorneys may have beverages at counsel table.

24. Children— Children are not allowed in the courtroom or virtual courtroom without the court's pre-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. Presence of other individuals while on Zoom- during Zoom appearances, attorneys and litigants must disclose the presence of other individuals who are within hearing distance of the attorney or litigant prior to the commencement of the preceding or at any time when another individual comes within said hearing distance. Failure to disclose the presence of such individuals may result in the court striking them as witnesses if they are called to testify. You must display your name and your case number on the screen when you appear via Zoom. [END]

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