

245th Family District Court Policies and Procedures

IT IS ORDERED that the parties, Attorneys, witnesses, and any other persons attending proceedings held by the 245th Family District Court shall comply with the following:

1. Policies and Procedures Incorporated by Reference

Additional supplemental instructions and policies are published on each court's website and scheduling platform.

Courtroom Etiquette

Proper courtroom attire and demeanor are required when appearing in person or via zoom.

No food or gum chewing is allowed.

While in trial, parties, and attorneys may have beverages at the counsel table.

Children are not allowed in the 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 scheduled interview time.

2. Scheduling Information for the 245th

2.1. Scheduling Hearings - All requests for hearing with the exception of CPS, Pretrial or Final Trial for any E-filed Petition or Motion filed by an Attorney or Self-Represented litigant are to be requested using the eHearing portal on the District Clerk's Website (www.HCDistrictclerk.com). If you need additional information on how to schedule, go to the Court's website, and navigate to the eHearing instructions. For non-electronically filed motions by self-represented litigants, the party should contact the Court Clerk to schedule a hearing.

2.2. Off-Docket Approach - Attorneys may contact the Court Coordinator to inquire about the Judge's availability for an approach for questions of no more than 5 minutes. To ensure that there is no Ex-Parte communications, the court will not allow off-docket approaches if all necessary parties and/or attorneys are not present.

2.3 Pretrial Conference for Jury Trials

A pretrial conference is **required** for all jury trials and will be heard on Friday morning 10 days prior to your jury trial setting in person. Prior to the pretrial conference, the parties should file a Pretrial Conference Checklist. See the courts website for the checklist.

2.4. Pretrial Conference for Adoptions and Special Immigrant Juvenile Cases

A pretrial conference is **required** for all adoption cases and/or Special Immigrant Juvenile (SIJ) cases. Contact the Court Coordinator for a pretrial date at least 60 days prior to the trial setting. Failure to attend pretrial may result in the suit being dismissed for want of prosecution. Other matters may be set for a pretrial conference on a case-by-case basis if requested by the court or by the parties.

2.5 Protective Order Cases

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Protective order cases will be heard in the 245th District Court if (1) there is a case pending in the 245th District Court regarding the parties to the protective order matter, or (2) the 245th District Court is a court of continuing exclusive jurisdiction

3. General Docket Information

3.1 General Trial Docket

General trial dockets are held on Mondays at 9:00 AM and are in person. The court may preferentially set trial cases 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. Trial dates will be set by the court in automatically generated scheduling orders. You may also contact the court coordinator to request a scheduling order be generated.

3.1.2. Trial to Occur within One Year

Trial should occur within one year of the initiation of the suit.

3.1.3 Mediation Prior to Final Trial

Mediation is required before final trial. 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 15 days before final trial. The failure to mediate prior to trial may result in the dismissal of the case.

3.2. Proving Up Uncontested Matters (including Defaults and Mediated Settlement Agreements)

The court will hear uncontested matters Monday through Thursday from 8:30 a.m. to 9:30 a.m., in-person and via Zoom. Prove-ups are by appointment only and are held in the Associate Judge's courtroom. Please review the court's Uncontested Checklist and ensure that all required documents are filed at least three business days prior to the hearing date. ****Walk-In hearings are available on Fridays from 8:30 a.m. to 9:30 a.m., based on the Judges availability. ****

3.2.1 Agreement's Incident to Divorce - An agreement incident to divorce must be approved by the court unless the AID is binding under another rule of law and should be emailed to the Court Coordinator. 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.

3.3 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.

3.4 Temporary Orders

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Hearings for contested temporary orders after the parties have attended mediation are set on Tuesdays and held in-person. Hearings may be limited to one hour per party. A request for temporary orders in a modification case should be supported by an affidavit.

3.4.1 Mediation is required before temporary before the hearing, however, exceptions may be made in some instances and the court may waive the mediation requirement. Failure to mediate may not be used as an excuse to avoid a temporary orders hearing.

3.4.2 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 is shown.

3.5. CPS Hearings

CPS hearings are set on Wednesdays, with an exception for emergencies. Docket call shall be held in person in the Presiding Judge's courtroom. Final trials in CPS cases are held in person before the Presiding Judge.

3.5.1 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 the only attorney that shall appear for the client and the 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

3.6 Discovery Disputes

Discovery disputes are heard on Wednesdays at 1:30 p.m., in the Associate Judge's courtroom. (1) 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.

3.7 Enforcements

Enforcement actions are set on Thursdays at 9:00 a.m. and are heard in person. Parties with an agreement may prove up the agreement on the record. Attorneys and parties should have already conferred with each other, exchanged exhibits, and be prepared to try their case at the time it is called to trial.

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3.7.1 For child support enforcement cases, please provide a payment history from the Texas Office of the Attorney General.

3.7.2 If incarceration is requested, the moving party should file a proposed commitment order at least 3 business days prior to the hearing or no hearing shall be held.

4. General Policies for Hearings

4.1. Late Calls

Late calls should be made no later than 8:40 a.m. on the day of your hearing or trial via email to 245Late@justex.net. **Include the Cause number, party or attorney name, reason, and the estimated time of arrival.** Attorneys are responsible for ensuring that they have complied with local administrative regional rules regarding any conflicting settings. Any attorney sent to stand in for an absent attorney should expect to fully represent the client at the hearing or trial. Failure to announce a late call may result in the hearing being passed.

4.2. Exhibits

If you have any exhibits you intend to offer, they must be given directly to the court reporter, Ofelia Stevens, at least 3 business days prior to the hearing date.

If your exhibits total less than 25 pages, you may email them to the court reporter at 245Exhibits@justex.net at least 3 business days prior to your hearing date.

If your exhibits total more than 25 pages or you are presenting audio or video files, then you must deliver in person or courier the exhibits to the 245th District Court, Attention: Ofelia Stevens, at least 3 business days prior to your hearing date.

All exhibits, whether they are couriered, hand-delivered, or emailed, must be marked and accompanied by an Exhibit List. All printed exhibits must be marked for example, "Petitioner Ex. 01", stapled or bound and audio or video files must be downloaded to a separate thumb drive. Additionally, a copy of your exhibits should be provided to the testifying witness, and a courtesy copy provided for the Court's use. Any exhibits emailed to the court will not be printed.

ALL EXHIBITS DELIVERED TO THE COURT REPORTER FOR HEARINGS/TRIALS WILL BE DISCARDED IF THE HEARING/TRIAL DOES NOT GO FORWARD OR IS RESET BEYOND TWO WEEKS FROM THE ORIGINAL HEARING/TRIAL DATE. YOU MUST REDELIVER THE EXHIBITS FOR THE UPCOMING HEARING/TRIAL.

5. Hearings by Submission

5.1. No Oral Hearing

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A matter set for consideration by submission will be considered and ruled upon without an oral hearing.

5.2. Hearings that Must Be Set by Submission

The following contested motions must be set for hearing by submission (see exceptions below): a.

Adoption evaluation;

b. Appointment of attorney ad litem or amicus attorney;

c. Attorney's fees (interim fees or deposit of costs);*

d. Confer with child;*

e. Consolidate;

f. Continuance;*

g. Custody Evaluation;

h. Discovery disputes (compel discovery/deposition, motion for protection/to quash);**

i. Drug testing;*

j. Enter/sign order;

k. Genetic testing;

l. Judgment Nunc Pro Tunc;

m. Objection to remote proceeding;

n. Reinstate;

o. Retain;

p. Substituted service;

q. Summary judgment;

r. Transfers that are not mandatory (e.g. inconvenient forum); and

s. Withdrawal of counsel.*

** These motions can be considered by oral argument (not by submission) in the 245th District Court if an objection is timely filed.

5.3 Notice

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.

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

6. Entry of Orders

Entry is by submission and set on Fridays at 8:30 a.m. Please ensure that all documents listed on the Uncontested Checklist have been filed, otherwise, your case may be dismissed. It is the responsibility of attorneys or parties to verify within seven business days of filing a proposed order that the order has been

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signed by the Court. When an order is based on a mediated settlement agreement, the terms of the order must comply with the mediated settlement agreement.

6.1. Temporary/Interim Orders

Entry dates on Temporary/Interim Orders will be set by the Court in its rendition or at an oral announcement of an agreement.

6.2. Final Orders

Entry dates on final orders will be set by the Court in its rendition or at an oral prove-up of an agreement. Failure to enter the order on or before that date may result in the dismissal of the case.

6.3. Disputed/Contested Entries

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.

7. Dismissals for Want of Prosecution

The 245th 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.

8. Monitoring the Docket Sheet

It is the responsibility of the attorney and parties to monitor the case docket sheet for the court rulings. Docket sheets are available through the Case Search function on the District Clerk's Website.

9. Cases Involving Children

9.1. Use the child's entire name, do not use initials to identify children.

9.2. Parties to a custody dispute are encouraged to complete a four-hour parenting class prior to trial.

9.3. 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 \$300 per hour.

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10. Appointment of Attorney Ad Litem

In matters where service by publication is approved, 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 the courthouse door, where there are no children or property, the court may waive the appointment of an Ad Litem only after a motion and hearing have occurred.

11. Remote Hearings

11.1. Method

Remote proceedings will occur via Zoom effective April 1, 2023. Schedule a Zoom Hearing Date and Time by contacting the Court Coordinator, upon receiving a confirmation email, you will be provided your Zoom Meeting Details (link and Meeting ID).

11.2. THE FOLLOWING MATTERS WILL NOT BE CONSIDERED FOR ZOOM HEARINGS:

- a. Final Contested Trials with more than 2 witnesses
- b. Contested Temporary Hearings with more than 2 witness
- c. Habeas proceedings
- d. Enforcement proceedings
- e. Emergency TRO/Temporary Hearings
- f. CPS adversary hearings and final trials

11.3. Notice

It is the responsibility of the scheduling party to provide notice of the Zoom Meeting details (link and meeting ID) to all parties to the suit. A sample "Notice of Remote Hearing" is available on the court's website.

11.3.1 Obtain an AGREEMENT FROM ALL THE PARTIES to have a hearing via Zoom.

- a. **DO NOT** set a hearing without prior agreement of the other party/parties to conduct a hearing via Zoom.
- b. A Rule 11 agreement can be filed with the court to show said agreement was made prior to scheduling the hearing.
- c. Scheduling of hearing is only allowed AFTER respondent has appeared and Mediation (if required) has been scheduled to occur prior to the date being requested.

11.4 Exhibits for Zoom

Harris County local rules and Texas Family Code requirements for filings and pre-exchange of materials/exhibits apply. E-file exhibit list 3 business days prior to the date of Zoom Hearing. Do not e-file exhibits as it does not make them part of the record except for Summary Judgement matters. Exhibits needed for a Zoom hearing, should be sent to the court reporter for download.

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PARTICIPATING IN THE ZOOM VIRTUAL COURTROOM

Parties are responsible for the logistics of their remote appearance, technical difficulties that are not timely resolved, may result in a hearing being passed, and the inability to participate due to a lack of familiarity with Zoom, can be considered a failure to appear.

1. You will join the virtual courtroom at the scheduled time.
2. When you join a virtual setting, you will be in a virtual waiting room with all other parties, attorneys, and witnesses. When your case is called, the court will bring you into the virtual courtroom.
3. When you enter the virtual courtroom, your video is should be enabled and your audio muted, until the hearing begins.
4. You must display your name and your case number on the screen when you appear via Zoom.
5. Electronic devices not required for virtual hearings should be in silent mode.
6. Video recording, audio recording, and taking photographs of court proceedings are prohibited, except at the conclusion of an adoption case.
7. 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 proceeding 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

12. Court Appointments

12.1. Wheel

Wheels are used for appointments where the parties are not in agreement, although the court may deviate from the wheel for good cause.

12.2. Applications for Inclusion Counsel wanting to be placed on a wheel shall send the application located on the court's website to Melissa.Love@justex.net.

13. Birth or Adoption of Child

The birth or adoption of a child by lead counsel or a party shall create a rebuttable presumption that a 90-day-continuance should be granted upon request.