



**MONICA RAWLINS, PRESIDING JUDGE
FELISHIA R. YOUNG, ASSOCIATE JUDGE
328TH JUDICIAL DISTRICT COURT**

RULES OF PRACTICE IN THE 328TH JUDICIAL DISTRICT COURT

The following Rules of Practice apply to all legal proceedings in the 328th Judicial District Court of Fort Bend County, Texas effective January 01, 2023, until further order the Court.

1. **GENERAL POLICIES**

These Rules of Practice shall apply equally to attorneys and pro se litigants. Each party should also consult applicable state law and the Fort Bend County Local Rules for additional specifics and time limits.

a. **Court Standards**

The 328th Judicial District Court adheres to the Texas Code of Judicial Conduct, Texas Disciplinary Rules of Professional Conduct, and Texas Lawyer's Creed. Violations may result in appropriate sanctions.

b. **Filing Documents**

The 328th District Court is paperless. Documents and pleadings shall be filed with the District Clerk. All questions regarding a file, filing, service, etc. should be directed to the District Clerk's office at 281-341-4509 or www.fortbendcountytexas.gov.

c. **Communication with the Court**

All communication with the Court shall be through the Court Coordinator via email at 328th@fortbendcountytexas.gov. Opposing counsel(s) and or/pro se parties shall be included in all communications with the Court. The Court staff does NOT provide legal advice or participate in ex parte communications.

- d. Court Room Attire
Appropriate professional attire is required for all court appearances, in person and ZOOM. Hats, sunglasses (unless prescription), jeans, shorts, or other inappropriate clothing are not permitted.
- e. Electronic Devices
All cell phones and/or electronic devices must be in silent mode or turned off in the courtroom. Taking photos, recording (video and/or audio), or screenshotting proceedings in the courtroom or on Zoom is NOT allowed, except with permission from the Court.
- f. Drinking and Eating in the Courtroom
Drinking, eating, and chewing gum are not allowed in the courtroom or on Zoom proceedings. The only exception is during trial where parties and attorneys may have water or beverages at the counsel table.
- g. Children in the Courtroom
Children are not allowed in the courtroom without court approval. If a request to interview a child in chambers is granted, a specific date and time will be provided.
- h. Peace Officers
A peace officer who is a party or who has any interest or personal connection to a case and is in possession of a weapon, shall turn over their weapon to the Bailiff for holding until directed by the Court and it will be returned at the conclusion of the court appearance.
- i. Remote Hearings
The Court follows the [328th DISTRICT COURT POLICIES FOR REMOTE PROCEEDINGS](#).
- j. Vacation Letters
Vacation letters shall be filed with the District Clerk per the Local District Court Rules. Proof of filing in another county is not sufficient. A courtesy copy of your vacation letter shall be provided to all opposing counsel/self-represented parties in your case.
- k. Holidays/Court Not in Session
The 328th Judicial District Court will not be in session on any official Fort Bend County holiday. Please consult the District Clerk's website to determine those dates.

2. **DOCKET**

- a. All cases that require a hearing including uncontested matters must be scheduled through the Court Coordinator and added to the docket to be heard.
- b. All hearings and trials are scheduled to be conducted in-person with the exception of “Friday Zoom Docket”, “Evening Zoom Docket”, and “Submission Docket”.
- c. All cases will be assigned to the Presiding Judge for docket call. Cases will be assigned to either the Presiding Judge or to the Associate Judge at the time of docket call.
- d. Docket call is at 8:30 a.m. unless otherwise scheduled by the Court. Attorneys and parties are expected to timely answer the docket, unless excused by the Court.
- e. Announcements of "pass", conflicts, or late appearances shall be communicated to the Court Coordinator and all opposing counsel/parties via email prior to 8:30 a.m. The email should include the cause number, estimated time of arrival, and specific information regarding the conflict or reason for the late appearance. Without a reasonable excuse for conflict or late appearance, the Court may deduct the duration of the delay from the late party's/counsel's time in the hearing. Failure to inform the Court of a conflict or late appearance, may result after a 30-minute wait time in a hearing being passed or the opposing side moving forward.
- f. Hearings may only be passed by the party setting the hearing or by the Court. Passing a hearing does not pass any other hearing set by another party.

3. **FRIDAY ZOOM DOCKET**

On Fridays of each week, beginning at 8:30 a.m., the Court will have a Zoom Docket for the following matters only:

- Agreed Divorce prove-ups (may also be submitted via prove-up affidavit/declaration)
- SAPCR prove-ups (may also be submitted via prove-up affidavit/declaration)
- Uncontested prove-up of other agreements
- Name Changes
- Contested Entry of Orders

- Motions for Continuance
- Motions for Referral to Mediation

4. **EVENING ZOOM DOCKET**

Beginning February 1, 2023, the Court will have an Evening Zoom docket on the first and third Tuesday of each month from 5:30 p.m. until 7:30 p.m. for the prove-up of uncontested matters. Counsel and/or pro se parties must sign up for this docket no later than 72 hours before the evening docket with the Court Coordinator, and all orders and closing documents must be filed 72 hours before the evening docket. Failure to file an order signed by all parties and closing documents, shall result in removal from this docket.

Default judgments will not be considered on the evening docket.

5. **SUBMISSION DOCKET**

The following contested motions may be heard by submission. If the Court believes that an oral hearing is needed, the Court will contact the parties with further instructions:

- a. Consolidate;
- b. Contested entry;
- c. Continuance; *
- d. Drug testing- must have a supporting affidavit;
- e. Enter/sign order;
- f. Genetic testing;
- g. Judgment nunc pro tunc;
- h. Mediate (Compel/Waive);
- i. Reinstate;
- j. Retain;
- k. Substitute/Alternative service;
- l. Summary judgment; and
- m. Withdrawal of Counsel/Substitution of Counsel

***The first Motion for Continuance filed in a case will be automatically granted if the parties have scheduled mediation and included that information in the motion.**

Notice

Movants must serve the notice of submission setting 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

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

6. **MEDIATION**

- a. Mediation is required PRIOR to any Temporary Orders hearing if conservatorship, possession and access, or geographical restriction is contested, unless waived by the Court.
- b. Mediation is required PRIOR to any Temporary Orders hearing if the time estimate exceeds 1 hour, unless waived by the Court.
- c. Mediation is required PRIOR to Trial, except for Applications for Protective Orders and Motions for Enforcement/Contempt actions, unless waived by the Court.
- d. Mediation may be waived after filing a motion and showing of good cause.

7. **TEMPORARY ORDERS/HEARING**

- a. When there are no contested parent-child issues, the Temporary Orders hearing is limited to 1.5 hours. When there are contested parent-child issues, the Temporary Orders hearing is limited to 3 hours. The Court will allocate time evenly between the parties.
- b. Hearing Dates should be requested from the Court Coordinator via email 328th@fortbendcountytexas.gov PRIOR to filing a motion with the estimated time needed for the hearing. If you do not request a date for the hearing in advance, the Court Coordinator will select a date for you without further notice.
- c. Notice of Hearing and proof of notice provided to opposing counsel/parties shall be pursuant to the Texas Rules of Civil Procedure.
- d. Terminations and Adoptions are heard on the 1st Friday of each month. (See the rules re: scheduling Termination/Adoption cases below).

8. **DISCLOSURE OF FINANCIAL INFORMATION WITNESSES & EXHIBITS**

- a. Temporary Orders — in any hearing for Temporary Orders in which child or spousal support is in dispute, the parties SHALL file and exchange PRIOR to

commencement of the hearing a Financial Information Statement, Income Tax Returns for the previous two years, and each party's three most recent Payroll Stubs. This rule shall constitute a discovery request and failure to comply may be grounds for sanctions.

- b. Final Information — each party's final Sworn Inventory, Financial Information Statement, Proposed Child Support Calculation, Proposed Division of Property, and Proposed Requested Relief SHALL be exchanged and filed with the Court no later than ten (10) days before commencement of final trial. If children are involved, the Financial Information Statement shall contain sufficient information so the Court may render a medical child support order regarding health insurance for the children. This rule shall constitute a discovery request and failure to comply may be grounds for sanctions.
- c. Sworn Inventories — shall list each item of property and its fair market value, each liability and amount, number of periodic payments in arrears, if any, property securing payment, and name of each creditor. Any property or liability shall likewise be characterized as separate or community. All beneficial interests in insurance and benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested or non-vested) shall be identified. Each party shall incorporate as an exhibit to the Inventory the last information furnished to the employee concerning the employee's rights and monetary interest in each retirement and savings plan. Each party shall also furnish sufficient information to enable the Court to render a Qualified Domestic Relations Order (QDRO), if applicable. Sworn Inventories shall list and total, in column format, all property values and liabilities. Each inventory shall show the net worth of the community estate.

NOTE: Proposed Division of Property may be submitted to the Court via the Court Coordinator in Excel format at least three (3) days prior to trial, with notice to all parties.

9. **EXHIBITS**

- a. Exhibits shall be pre-marked, exchanged and copies provided to all parties/counsel at least three (3) days PRIOR to any hearing or trial.
- b. Pre-mark Exhibits s using numbers only. Please do not mark your documents with letters. For example, "Petitioner Ex. 1," but not "Petitioner Ex. A."

- c. Exhibit List and Witness shall be exchanged and filed with the clerk at least (3) days prior to any hearing or trial.

10. **TRIAL SETTINGS**

- a. Trial should occur within one year of the initiation of the suit.
- b. The Court automatically generates trial dates.
- c. Pretrial conferences for bench trials are set by motion only, scheduled through the Court Coordinator.
- d. Pretrial Conferences are mandatory for all jury trials and shall be completed no less than seven (7) days prior to the trial start date. All information set forth in our Jury Trial Preparation Order shall be furnished to the Court and exchanged with all counsel and self-represented parties at least three (3) days before the Pretrial Conference.
- e. For trials before the Associate Judge, a Stipulated Waiver of Appeal from Associate Judge's Ruling / Recommendation form must be filed with the District Clerk prior to your trial date.

11. **DISMISSALS FOR WANT OF PROSECUTION (DWOP)**

The Court automatically schedules dismissals for want of prosecution (“DWOPs”).

- a. If the Respondent has not appeared, a case may be dismissed unless a return of service, a properly executed waiver, or answer is on file before the dismissal date.
- b. If the Respondent has appeared, the case may be dismissed unless: (1) the case has been settled and proven-up before the dismissal date, or (2) trial has been set and approved to occur within 90 days of the dismissal date.

12. **PROVE-UP OF AGREED DIVORCES AND OTHER AGREED ORDERS**

- a. Prove-up of agreed divorces and other agreed orders may be done by submission by affidavit or declaration or via Zoom on the Court's Friday Zoom Docket. Agreed Orders include temporary/ancillary issues as well as final orders for divorces, modifications, suits affecting the parent-child relationship, name changes and enforcements as long as the enforcement order does not hold the Respondent in contempt.

- b. Prove-up Affidavits must contain actual signatures of all parties/attorneys to be eligible to be proven up by Sworn Affidavit;
- c. The Appearances section of an order must indicate that the parties did NOT appear in person if submitted by affidavit/declaration and that the making of a record was waived (if applicable); and
- d. The affidavit or declaration should be e-filed as a separate document at the same time as the proposed order and must include the same information that would be elicited during a prove-up with a witness in the courtroom.

13. **ENTRIES**

Entries will be on Fridays by submission. Failure to file a Proposed Order by the entry date may result in the case being dismissed. Contested entries may be set for hearing.

14. **PARENTING CLASS**

IMPORTANT: Completion of a "Parenting Education Course" is required for all cases involving children as set forth below.

- a. Parents in all cases involving children (including Divorce and Original Suits Affecting the Parent-Child Relationship) are required to complete a "Parent Education Course" with an approved provider within 30 days of filing for Petitioner and 30 days after service for Respondent.
- b. Certificates of Completion shall be timely filed with the District Clerk's office.

APPROVED IN-PERSON COURSES:

- Escape Family Resource Center— (713) 942-9500; www.learntoparent.org
- Depelchin Children's Center — Stafford and Houston (713) 730-2335; www.depelchin.org
- Divorce As Friends, Stop the Conflict — (713) 520-5370; www.divorceasfriends.com

APPROVED ONLINE COURSES - the Court has approved the following online courses:

- www.puttingkidsfirst.org
- www.kidsfirsttoday.com
- www.family-affairs.org
- www.parentingchoice.com
- www.txparent.com
- www.parentclassonline.com
- www.coparentingintothefuture.com
- www.courtapprovedparenting.com

328th ZOOM HEARING PROCEDURES

Please refer to the Court's ZOOM VIDEOCONFERENCE POLICIES set forth in No. 1, above. For any hearing or trial conducted via Zoom, the following procedures shall apply (PLEASE READ CAREFULLY):

1. Logging in For Your Hearing — on the day of the Zoom Hearing, login using the appropriate link provided to you by the Court Coordinator. NOTE: You will be prompted to download the Zoom App, which you must do in advance to participate in the hearing.
2. Zoom Hearing Link and Meeting ID — in order to participate in the Zoom Hearing, you will need the meeting LINK and MEETING ID. The LINK and MEETING ID can be obtained from the Court Coordinator via email. IMPORTANT: keep the LINK and MEETING ID confidential, providing them only to necessary participants for the hearing, including counsel, self-represented parties, clients, witnesses, etc.
3. Exhibits — hearing/trial Exhibits, except for rebuttal or those that cannot be anticipated, SHALL be pre-marked, exchanged with counsel/self-represented parties, and EMAILED to the Court Reporter at sylvia.thompson@fortbendcountvtx.gov as separate PDF files at least three (3) days prior to the Zoom Hearing. Exhibits shall be saved as separate files, in PDF, MP4 or JPEG format, named and marked using the following FORMAT: Cause Number — Party Designation — Exhibit Number — Hearing Date

EXAMPLE: 20-DCV-123456 - Petitioner - Exhibit 12 - 03-25-2020

- a. Counsel should attempt to reach stipulations regarding Exhibit admissibility before the hearing.
 - b. FAILURE TO FOLLOW THIS PROCEDURE MAY RESULT IN EXHIBIT EXCLUSION.
4. Zoom proceedings are actual court proceedings conducted in a Virtual Courtroom. Participants must treat Zoom proceedings with the same respect as in-person court proceedings. All of the usual in-person courtroom decorum, demeanor and dress code rules shall apply.
5. Participants in Zoom proceedings should minimize outside noise and distractions.
6. Attorneys and participants shall enter the hearing Waiting Room at least 5 minutes prior to the hearing start time. Attorneys and participants will remain in the Waiting Room until the Judge takes the bench and commences docket call.
7. Audio will be muted in the Waiting Room until the Judge calls the docket or commences your hearing. Video will be active upon entry in the hearing Waiting Room. Attorneys may privately chat with each other. Chatting with (and text messaging) witnesses while they are testifying is strictly prohibited.
8. If requested, counsel and parties may be moved by the Court into a Breakout Room for private conferences, settlement discussions, etc. Breakout Room discussions are not recorded or live streamed, and only persons in the Breakout Room are able to hear the discussion. The Court is also unable to hear what is being discussed.
9. During Zoom Hearings, the Court will use a DropBox folder for each case's pre-filed hearing Exhibits. If admitted, those Exhibits will become part of the record. The Court will not review Exhibits prior to prove-up and admission into evidence. Attorneys should maintain their own copies of hearing Exhibits for use during the hearing. Counsel are encouraged to try and reach agreements regarding admissibility of Exhibits in advance.
10. SUBPOENAS — all witness subpoenas should direct the witness to appear in the Virtual Courtroom and must include the Zoom Hearing Link and Meeting ID.
11. RECORD — the Court will make a record of the Zoom proceeding. The Court will not provide copies of the hearing video or audio. As with any hearing or trial, transcript requests must be directed to the Official Court Reporter for the 328th District Court.

12. IT IS ORDERED THAT RECORDING ZOOM PROCEEDINGS IS STRICTLY FORBIDDEN. Attorneys, self-represented parties, witnesses and attendees participating in remote hearings, or members of the public viewing a live stream, are prohibited from recording, capturing, saving, broadcasting, televising, or photographing the proceeding in any manner. FAILURE TO ABIDE BY THIS ORDER MAY RESULT IN CONTEMPT OF COURT PROCEEDINGS.

The 328th District Court suggests you incorporate the following language into Notices of Hearing for proceedings conducted via Zoom. While not required, this language is suggested to ensure that all counsel, parties and self-represented litigants receive sufficient notice and are able to participate in the hearing.

NOTICE OF HEARING

This matter is set for hearing on the _____ day of _____ 2021 at _____ am/pm.

The hearing will be conducted via Zoom Video Conference.

To appear and participate in this hearing via Zoom, you must have an electronic device with an internet connection. You may use a smart phone, iPad/tablet, or desktop/laptop computer with a built-in webcam/microphone. It shall be the responsibility of counsel and self-represented parties to download the Zoom App prior to a proceeding and to ensure that all hearing participants have the ability to participate. Zoom is a FREE DOWNLOAD available at: <https://zoom.us/download>

Meeting ID: _____ - _____ - _____

To join the hearing via Zoom:

Please go to: <https://txcourts.zoom.us/join>

Then type in the above referenced Meeting ID.

To join the hearing by Audio/Phone:

Dial by your location or find your local number at <https://txcourts.zoom.us/u/abnprcyMQz>

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 929 205 6099 US (New York)

+1 253 215 8782 US

+1 301 715 8592 US

+1 312 626 6799 US (Chicago)

Then type in the above referenced Meeting ID.

SO ORDERED ON January 1, 2023.

Monica Rawlins
PRESIDING JUDGE

Felishia R. Young
ASSOCIATE JUDGE