

THE 328TH JUDICIAL DISTRICT COURT RULES OF PRACTICE

MONICA RAWLINS, PRESIDING JUDGE
FELISHIA R. YOUNG, ASSOCIATE JUDGE



The following Rules of Practice apply to all legal proceedings in the 328th Judicial District Court of Fort Bend County, Texas effective June 13, 2023, until further order the Court.

1. **GENERAL POLICIES**

These Rules of Practice shall apply equally to attorneys and self-represented 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 and self-represented litigants shall be included in all communications with the Court Coordinator, save and except for requesting hearing dates. 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 at the counsel table.
- g. Children in the Courtroom
Children are not allowed in the courtroom without Court approval. Do not bring a child to court to be interviewed 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.
- 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 and self-represented litigants 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 must be scheduled through the Court Coordinator via email at 328th@fortbendcountytexas.gov and added to the docket to be heard.
- b. ALL hearings and trials are scheduled to be conducted in-person, except for "Friday Zoom Docket", "Evening Zoom Docket", and "Submission Docket". There will be no hybrid Zoom/in-person hearings/trials.
- 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 and self-represented litigants 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 in a hearing being passed or the opposing side moving forward. Failure to appear by the estimated time of arrival may result 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. PARENTING CLASS/COUNSELING

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, Original Suits Affecting the Parent-Child Relationship, and Modifications) 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. Certificates of Completion shall be timely filed with the District Clerk's office.

- b. The Court at its discretion may refer parents involved in enforcement litigation, or a child involved in any type of custody litigation, to an education course or for counseling.

APPROVED IN-PERSON COURSES

- Escape Family Resource Center - (713) 942-9500 - www.learntoparent.org
- Depelchin Children's Center - (713) 730-2335 - www.depelchin.org
- Divorce As Friends - (713) 520-5370 - www.divorceasfriends.com

APPROVED LIVE ZOOM

- Positive Parenting Through Divorce - www.livevideocoparentingclass.com

APPROVED ONLINE COURSES

- <https://puttingkidsfirst.org>
- <https://kidsfirsttoday.com>
- <https://www.familyaffairs.org>
- <https://www.parentingchoice.com>
- <https://www.txparent.com>
- <https://www.parentclassonline.com>
- <https://coparentingintothefuture.com>
- <https://www.courtapprovedparenting.com>

4. 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. Failure to mediate may result in your hearing being reset. The mediator's report must be on file.
- b. Mediation is required **PRIOR** to any Temporary Orders hearing if the time estimate exceeds 1 hour, unless waived by the Court. Failure to mediate may result in your hearing being reset. The mediator's report must be on file.
- c. Except for Applications for Protective Orders, Motions for Enforcement/Contempt actions, and No Answer Defaults, mediation is required **PRIOR** to trial, unless waived by the Court. Failure to mediate may result in your case being reset or dismissed. The mediator's report must be on file.
- d. Mediation may be waived after filing a motion and showing of good cause.

- e. Parties may agree on a mediator or may file a motion for the Court to appoint a mediator. Fort Bend County Dispute Resolution Center “DRC” also provides mediation on an income based fee scale for each party and can be reached at www.fortbenddrc.org or 281-342-5000.

5. **DISCLOSURES FOR TEMPORARY ORDERS AND FINAL TRIAL**

Failure to Comply with the Rules Below May Result in the Hearing or Trial Being Reset or Dismissed.

a. **Temporary Orders Information**

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 two most recent payroll stubs. If children are involved, the Financial Information Statement **SHALL** contain sufficient information regarding each party's available health and dental insurance, including but not limited to the cost for the children, so the Court may render a medical support order regarding health and dental insurance for the children. This rule shall constitute a discovery request and failure to comply may be grounds for sanctions.

b. **Final Trial Information**

Each party's final Sworn Inventory, Financial Information Statement and financial information required under the Tex. Fam. Code including, but not limited to, the party's income tax returns for the past two years and the party's two most recent payroll stubs, 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 regarding each party's available health and dental insurance, including but not limited to the cost for the children, so the Court may render a medical support order regarding health and dental insurance for the children. This rule shall constitute a discovery request and failure to comply may be grounds for sanctions.

***Sworn Inventory**

Each party shall exchange and file a Sworn Inventory. Each inventory 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 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 statement 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 and the net worth of any claimed separate 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.

6. **EXHIBITS/WITNESSES**

- a. Exhibit List and Witness List **SHALL** be exchanged and filed with the clerk at least two (2) days prior to any hearing or trial.
- b. Exhibits shall be pre-marked, exchanged and copies provided to all counsel and self-represented litigants at least two (2) days **PRIOR** to any hearing or trial.
- c. Exhibits should be pre-marked identifying the offering party (Petitioner, Respondent, Intervenor, etc.) and using numbers only. For example, "Petitioner Ex. 1," but not "Petitioner Ex. A."

7. **HEARING SETTINGS**

- a. Request for hearing dates shall be made by emailing the Court Coordinator at 328th@fortbendcountytexas.gov **PRIOR** to filing a motion. The estimated time needed for the hearing should be included with the request.
- b. Notice and proof of notice to opposing counsel and self-represented litigants shall be pursuant to the Texas Rules of Civil Procedure.
- c. 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.

8. **TRIAL SETTINGS**

- a. Trial should occur within one year of the initiation of an original suit. Trial should occur within 6 months of the initiation of a modification suit.

- b. Request for trial dates shall be made by emailing the Court Coordinator at 328th@fortbendcountytexas.gov. The expected length of trial should be included in your email. All counsel and self-represented litigants must be included in the email. (The Trial Setting Request form is no longer being used and will not be accepted).
- c. Notice and proof of notice to opposing counsel and self-represented litigants shall be pursuant to the Texas Rules of Civil Procedure.
- d. Pretrial conferences for bench trials are set by motion only, scheduled through the Court Coordinator.
- e. 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 the Jury Trial Preparation Order shall be furnished to the Court and exchanged with all counsel and self-represented litigants at least three (3) days before the Pretrial Conference.
- f. Pretrial conferences are **mandatory** for all adoptions and shall be completed no less than seven (7) days prior to the trial start date. Everything in the Adoption Pretrial List should be completed and on file at least three (3) days before the Pretrial Conference. Adoptions are heard every Friday and must be in-person.
- g. For final trials before the Associate Judge, a Stipulated Waiver of Appeal from Associate Judge's Ruling/Recommendation must be filed with the District Clerk prior to your trial date.

9. **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
- SAPCR Prove-Ups
- Uncontested Prove-Up of Other Agreements
- Name Changes
- Contested Entry of Orders
- Motions for Continuance
- Motions for Referral to Mediation

10. **EVENING ZOOM DOCKET**

The Court has an Evening Zoom Docket on the first and third Tuesday of each month from 5:30 p.m. until 7:30 p.m. for prove-up of uncontested matters only. Counsel and self-represented litigants must sign up for this docket no later than 72 hours before the Evening Zoom Docket with the Court Coordinator, and all orders and closing documents must be filed 72 hours before the Evening Zoom Docket. Failure to file an order signed by all parties and file all required documents, shall result in removal from this docket. All parties must agree to be set on the Evening Zoom Docket.

Default judgments will not be considered on the Evening Zoom Docket.

11. **SUBMISSION DOCKET**

On Fridays of each week, at 8:30 a.m., the Court will have a Submission Docket. If the Court believes that an oral hearing is needed, the Court Coordinator will contact counsel and self-represented litigants with further instructions.

The following contested motions may be heard by submission:

- Motion to Consolidate*
- Motion for Continuance*
- Motion for Drug Testing (must have a supporting affidavit) *
- Motion to Enter/Sign Order **
- Motion for Genetic Testing*
- Motion for Judgment Nunc Pro Tunc*
- Motion to Compel/Waive Mediation*
- Motion to Reinstate*
- Motion to Retain*
- Motion for Substitute/Alternative Service
- Motion for Summary Judgment
- Motion for Withdrawal of Counsel/Substitution of Counsel

Notice

Movants must serve the notice of submission setting at least ten (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 three (3) days before the submission date, or longer if required by statute or rule. An amended motion requires a new 10-day notice of submission setting.

Responses

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

*Additional Requirements

The caption of the Motion must state either Opposed or Unopposed. Opposed motions shall contain a Certificate of Conference which (1) states that the parties have conferred with each other and in good faith have attempted to resolve the matter or (2) states that the parties have not been able to confer and detailing all efforts made to confer, including dates and methods of attempted communication.

**Contested Motion to Enter

Movant's Motion to Enter must have the Proposed Order as an exhibit. Nonmovant's Response must have a marked up copy of Movant's Proposed Order which identifies the proposed edits.

12. MOTIONS FOR CONTINUANCE

- a. For cases less than a year old, the first Motion for Continuance will automatically be granted.
- b. For cases more than year old, a Motion for Continuance shall be filed by submission or set for a hearing. The caption of the Motion must state either Opposed or Unopposed. Opposed motions shall contain a Certificate of Conference which (1) states that the parties have conferred with each other and in good faith have attempted to resolve the matter or (2) states that the parties have not been able to confer, and states in detail all efforts made to confer, including dates and methods of attempted communication. The Motion should contain if the parties have mediated and or if mediation has been scheduled and the date.
- c. Motion for Continuance must be set for submission or hearing at least ten (10) days prior to the trial date.

13. ENTRY OF ORDERS

- a. An entry date by submission will be set by the Court in its rendition or after the parties have announced an oral agreement. Entry by submission will be set on a Friday at 8:30 a.m., unless the Court sets another date and/or time.
- b. Proposed Orders must be sent to the opposing counsel or self-represented litigant five (5) days prior to the entry date, unless the Court sets a shorter time period.
- c. An objection to the Proposed Order must be filed by 12:00 p.m. on the day before the entry date. If an objection is filed, all counsel and self-represented litigants

need to appear at 8:30 a.m. via Zoom on the entry date or alternatively set a hearing for a contested entry. If an objection is not filed, the Court will review the Proposed Order as submitted.

- d. Failure to file a Proposed Order by the entry date and time may result in the case being dismissed.
- e. For finals orders, all required documents/information must be filed by the entry date. The Court will not sign an order until all required documents/information have been filed. Failure to file all required documents at the time of entry may result in the case being dismissed.

14. **PROVE-UP OF AGREED FINAL ORDERS AND OTHER AGREED ORDERS**

- a. Prove-Up of Agreed Final Orders may be set for hearing in person, on the Friday Zoom Docket, or on the Evening Zoom Docket. Agreed Orders for divorces and SAPCRs may also be proven up by a Prove-Up Affidavit/Declaration. Agreed Orders for Temporary Orders and other ancillary issues may be considered by submission.
- b. Prove-Up Affidavits/Declarations must include the same information that would be elicited during a prove-up with a witness in the courtroom and must contain the actual signature of the party.
- c. Prove-Up Affidavits/Declarations should be e-filed as a separate document at the same time as the Agreed Order along with all other necessary forms.
- d. Agreed Orders include temporary/ancillary issues as well as final orders for divorces, modifications, suits affecting the parent-child relationship, name changes and enforcements. (An agreed enforcement order that holds the Respondent in contempt must be set on a hearing docket).
- e. If an Agreed Order is submitted by Prove-Up Affidavit/Declaration, the appearances section of the Agreed Order must indicate that the parties did not appear in person and that the making of a record was waived (if applicable).
- f. If an Agreed Order is pursuant to a Mediated Settlement Agreement, the Agreed Order should not state the Court makes findings regarding the best interest of the child(ren) or just and right division of the community estate.

For example:

Incorrect: The Court finds that "X" is ...

Correct: The Court finds that the parties have agreed that "X" is ..., or
the parties agree that "X" is ...

- g. Agreed Orders must be signed by all parties, counsel, and self-represented litigants. Signatures are accepted pursuant to T.R.C.P. A Respondent must have made a prior appearance or filed a Waiver or Answer before the Court will consider an Agreed Order signed by a Respondent.
- i. Entries of Agreed Orders do not need to be set for submission or hearing unless the order is missing signatures from a party, counsel, or self-represented litigant. All required documents/information must already be on file or be filed when the Agreed Order is filed. The Court will not sign orders unless all required documents/information has been filed.

15. **DISMISSAL FOR WANT OF PROSECUTION (DWOP)**

A case may result in a DWOP for the following reasons:

- a. If the parties fail to mediate.
- b. If parties fail to appear at the scheduled pretrial conference.
- c. If the Petitioner/Movant fails to appear for trial.
- d. If a Proposed Final Order and all required information/documents have not been filed by the entry date.

The Court will also schedule **in-person** DWOP dockets for cases that have not been finalized. Unless a Motion to Retain has been granted prior to the dismissal date, a case may result in a DWOP for the following reasons:

- a. If the Petitioner/Movant fails to appear in person for the DWOP docket.
- b. If there is no announcement of ready with all preliminary matters addressed.

16. **REMOTE/ZOOM HEARING PROCEDURES**

- a. **Logging In**
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.
- b. **328th Judicial District Court Meeting IDs**

The Meeting ID for the Court is as follows:

Judge Rawlins	364 942 6075
Judge Young	430 748 6797

- c. Hearings/Trials
Only Hearings/Trials that are outlined in these rules may be set for Zoom Hearing/Trial. There will be no hybrid Zoom/in-person hearings/trials.

- d. Exhibits
Hearing Exhibits, except for rebuttal or those that cannot be anticipated, SHALL be pre-marked, exchanged with counsel and self-represented litigants, 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

Counsel should attempt to reach stipulations regarding Exhibit admissibility before the hearing.

FAILURE TO FOLLOW THIS PROCEDURE MAY RESULT IN EXHIBIT EXCLUSION.

- e. Decorum and Attire
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 the usual in-person courtroom decorum, demeanor and dress code rules shall apply.
- f. Noise and Distractions
Participants in Zoom proceedings should minimize outside noise and distractions.
- g. Waiting Room
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.
- h. Audio
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.

- i. Breakout Rooms
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.
- j. Dropbox
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 is encouraged to try and reach agreements regarding admissibility of Exhibits in advance.
- k. Subpoenas
All witness subpoenas should direct the witness to appear in the Virtual Courtroom and must include the Zoom Hearing Link and Meeting ID.
- l. 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.
- m. Recording Proceedings
IT IS ORDERED THAT RECORDING ZOOM PROCEEDINGS IS STRICTLY FORBIDDEN. ATTORNEYS, SELF-REPRESENTED LITIGANTS, WITNESSES AND ATTENDEES PARTICIPATING IN REMOTE HEARINGS, OR MEMBERS OF THE PUBLIC VIEWING A LIVE STREAM, ARE PROHIBITED FROM RECORDING, CAPTURING, SAVING, BROADCASTING, TELEVISIONING, OR PHOTOGRAPHING THE PROCEEDING IN ANY MANNER. FAILURE TO ABIDE BY THIS ORDER MAY RESULT IN CONTEMPT OF COURT PROCEEDINGS.

17. **SELF-REPRESENTED LITIGANTS**

- a. If you are using forms, a Final Decree or Order can not contain any blanks.
- b. All required documents pertaining to your case as listed in the 328th Judicial District Court Checklist for Entry of Final Decrees/Orders must be filed prior to the Court hearing your case.

- c. The Court and the Court's staff can not give you legal advice. The following resources may be helpful, but please seek independent legal advice for additional specifics:
- There is a Self-Represented Litigant Packet available on the Court's website that contains helpful information for those representing themselves in Fort Bend County Family Courts.
 - Free legal information and court forms for many family law matters can be found online at <https://texaslawhelp.org>.
 - Information may also be obtained by email at fbcselfrepprogram@gmail.com

18. **COURT APPOINTMENTS**

- a. For consideration for Court Appointments, each year, an Application for Court Appointments (located on the Court's website), must be completed and submitted to the Court Coordinator via email 328th@fortbendcountytexas.gov.

***The Deadline for Applications for 2023 was March 3, 2023.**

- b. In the absence of agreement, the Court will utilize the wheel for appointments. The Court may deviate from the wheel for good cause.

19. **NOTICE OF RIGHT TO DE NOVO HEARING**

- a. All parties are notified that, pursuant to Texas Family Code Sec. 201.015, if a case is assigned to an Associate Judge, the parties have the right to request a De Novo Hearing before a District Judge as set out in the Texas Family Code.
- b. The right to a De Novo hearing includes IV-D cases (Texas Family Code Sec. 201.1042)
- c. The right to a De Novo hearing includes Child Protection Cases Texas heard in the Coastal Bend Children Court (Family Code Sec. 201.2042)


20. **REFERRAL BACK TO PRESIDING COURT FROM COASTAL BEND CHILDREN COURT**

- a. Pursuant to Texas Family Code Sec. 201.204, "on the motion from a party or the associate judge, the associate judge may refer a complex case back to the referring court [the 328th Presiding Court] for final disposition...".

*The 328th Presiding Court considers all cases where termination is at issue on final trial as complex.

- b. If there is an objection on file to the Associate Judge hearing the final trial and a Stipulated Waiver of Appeal from Associate Judge's Ruling/Recommendation is not filed, the case should be referred back to the 328th Presiding Court.

Signed June 13, 2023


MONICA RAWLINS
PRESIDING JUDGE


FELISHIA R. YOUNG
ASSOCIATE JUDGE