

## **387<sup>TH</sup> DISTRICT COURT'S POLICIES AND PROCEDURES DURING COVID-19**

The following policies and procedures apply to all legal proceedings in the 387<sup>th</sup> District Court and are effective until further order of the Court.

The health and safety of our community, litigants, and staff is of the utmost importance. The 387<sup>th</sup> District Court intends to serve as many litigants and attorneys as possible during this pandemic, while also following all safety measures recommended or mandated by federal, state, and local authorities.

The Texas Supreme Court has responded to this public health crisis by authorizing district courts to make policies and modify certain rules and deadlines in the interest of justice and public safety. These policies are made pursuant to those Texas Supreme Court's COVID-19 Emergency Orders. Note that these policies are subject to change as the COVID-19 pandemic develops.

Thank you for your patience as we work through these challenges.

**1. NO TEMPORARY ORDERS HEARINGS WITHOUT PRIOR MEDIATION** – There will be no hearings scheduled for temporary orders unless the parties have previously attended mediation. The only exception to this rule is where the Court has granted extraordinary relief or signed an order waiving the mediation requirement.

**2. No in-person uncontested docket**—There will be no walk-in uncontested docket. Agreements may still be approved by submission with an appropriate affidavit.

**3. Agreements proved-up by affidavit or unsworn declaration**

a. The following matters may be proven-up by affidavit or unsworn declaration:

i. Agreed orders or mediated settlement agreements (MSAs) disposing of all issues and containing signatures of all parties;

ii. Orders containing the signature of one or more parties, provided that the respondent(s) executed general waivers, waiving notice and participation in suit.

b. Your affidavit or unsworn declaration must contain all testimony necessary to prove-up the essential elements of your cause of action.

**4. Essential Matters**—The most common essential matters are CPS cases, habeas corpus, writs of attachment for children, and cases where a respondent is in custody due to a warrant or capias. Hearings on essential matters will be given priority. Essential Matters are defined as:

a. Suits brought under Texas Family Code Title 4 (provided the temporary ex parte protective order was granted by the Court);

- b. Suits brought under TFC Chapter 157, Subchapter H (Habeas corpus and writs of attachment for children);
- c. Suits filed by a governmental entity under TFC Title 5 (CPS cases);
- d. Suits brought under TFC Chapter 33 (judicial bypass);
- e. Enforcements under TFC Chapter 157;
- f. Temporary Orders Hearings in which extraordinary relief was granted by the Court; and
- g. Other matters that may be designated by the Court at its discretion.

**5. Essential Matters that will be heard in person:**

- a. None at this time**

**6. Non-Essential Matters**—The current circumstances do not allow the 387<sup>th</sup> District Court to hear the same number of Non-Essential Matters as we did before this pandemic. Here are the accommodations we have made to help keep cases moving despite the current situation:

- a. Agreements may be proved up by affidavit or unsworn declaration. See No. 3, above.

- b. Zoom Hearings: The 387th District Court of Fort Bend County, Texas is conducting essential and non-essential hearings via video conference through the Zoom platform. To appear and participate in a 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 at: <https://zoom.us/download>. Unless the Court orders otherwise, all hearings will be livestreamed on YouTube.

**7. EXHIBITS - PLEASE READ CAREFULLY**

- a. In all cases other than contempt proceedings and cases under a Scheduling Order, exhibits **must** be marked and exchanged **by 12:00 PM** the business day before the hearing. The exchange of exhibits on the day of hearing or trial will not be permitted unless they are rebuttal exhibits or exhibits that could not have been anticipated. **Failure to timely mark and exchange exhibits may result in the exclusion of those exhibits.**

- b. Parties should attempt in good faith to obtain an agreement regarding exhibit admissibility before the hearing or trial.

**c. Court Copies:**

i. No paper copies will be accepted. Exhibits for all proceedings must be delivered to the court via email to: [387Exhibits@fortbendcountytexas.gov](mailto:387Exhibits@fortbendcountytexas.gov) or on a USB Flash Drive as specified below. **Do not email exhibits to the Court Coordinator or to the Court Reporter.**

ii. Exhibit emails **must** be received prior to the start of the hearing. The subject line of the exhibit email **must** include the cause number, party designation/name, and hearing date. For example, "*Cause No. 21-DCV- 000000, Respondent Jones, January 1, 2021.*" All attorneys and self-represented litigants must be copied.

iii. **LESS THAN 50 PAGES:** If a party's combined exhibits are **less than 50** total pages, submission by email only is sufficient. However, please be advised that the Court Reporter does not have access to a color printer. Admitted exhibits will be printed and delivered to the District Clerk's office in black and white. If color is important, exhibits must be delivered on a USB Flash Drive as indicated below.

iv. **MORE THAN 50 PAGES:** If a party's combined exhibits **exceed 50** total pages, the exhibits may only be delivered to the court on a USB Flash Drive.

v. AUDIO/VIDEO: Audio and video files **must** be on a USB Flash Drive.

vi. Flash Drives **must be received** by 12:00 PM the business day before the hearing. Flash Drives must be clearly labeled with the cause number, party name and hearing date.

vii. Flash Drives may be delivered in person or mailed to:

387th District Court  
Attn: Minnie Cadena  
301 Jackson Street (mailing address)  
1422 Eugene Heimann Circle (physical address)  
Richmond, TX 77469

**Please be mindful of the deadline when delivering by mail.**

viii. **All exhibits must be accompanied by an Exhibit List.** A sample Exhibit List can be found on the court's website. Exhibit Lists may be e-filed with the District Clerk's office, but the exhibits should NOT be filed.

ix. The only formats accepted are PDF for documents, JPG and PNG for images, and MP4 for audio and videos.

x. Each exhibit **must** be saved or attached as a separate file and the file name **must** include the exhibit number AND a brief description of the exhibit. For example, "*Petitioner Exhibit 5 - Bank Statements*"

d. The party tendering the exhibits is responsible for ensuring that files are saved correctly. Documents and photos should be as clear as possible and scanned upright (not sideways or upside down).

e. The party tendering the exhibits is responsible for ensuring that witnesses have copies of the exhibits for use during Zoom hearings. The Court Reporter will NOT forward or otherwise circulate exhibits to anyone other than the court. The "share screen" feature may be used during Zoom hearings. The party tendering the exhibits is responsible for screen sharing.

f. **Failure to comply with these procedures may result in exhibit exclusion.**

## **8. Steps to Obtain a Zoom Hearing:**

a. Schedule a Zoom Hearing Date and Time by contacting the Court Coordinator. You must indicate in your hearing request the following:

1. the type of hearing requested;
2. whether an interpreter is necessary and the required language; and
3. the anticipated time length of the hearing.

b. If approved by the Court, you will receive a confirmation email.

c. The scheduling party is responsible for noticing other party/parties of the video conference hearing and details for login. A Notice of Remote Hearing form with the Court's Zoom information is located on the Court's website and may be referenced for the information necessary to include in the Notice of Hearing. Additionally,

1. The Notice of Hearing must be e-filed; and
2. The Notice of Hearing Notice shall state:
  - a. The hearing is taking place by video conference; and
  - b. Must Contain the Court's Zoom conference details (link and Meeting ID).

## 9. Procedures for a Zoom Hearing

- a. The scheduling party is responsible for noticing all parties.
- b. The scheduling party is responsible for canceling the setting with the court if a hearing is no longer necessary, and shall notice other parties of cancelation.
- c. Fort Bend County Local Rules, 387<sup>th</sup> Rules of Practice, and the Texas Family Code requirements for filings and pre-exchange of materials/exhibits still apply.
- d. **PARTIES ARE REQUIRED TO NOTIFY THE COURT AT LEAST THREE DAYS PRIOR TO THE SCHEDULED HEARING IF A RECORD IS REQUESTED, AND COMPLETE THE REQUEST FOR RECORD FORM LOCATED ON THE COURT'S WEBSITE AND EMAIL THE COMPLETED FORM TO MINNIE.CADENA@FORTBENDCOUNTYTX.GOV.**
- e. Parties are responsible for the logistics of their remote appearance. Technical difficulties, that are not timely resolved, may result in a hearing being passed.

## 10. Participating in the Zoom Virtual Courtroom

- a. You will join the virtual courtroom at the scheduled time by clicking the link in the email "e-vite" or by entering the meeting ID and password.
- b. When you join a virtual setting, you will be appearing 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.
- c. Because the Zoom app works on all modern smart phones, tablets, and computers, each attorney is expected to appear by video, rather than merely by voice.
- d. When you enter the virtual courtroom, your video is automatically activated and your audio muted, until the hearing begins.
- e. Witnesses will be called as in any case, and the court will bring them in one at a time from the waiting room. Only people on video will be permitted to testify.
- f. Notes may be passed between lawyer and client, using the private chat feature. To do so, hit the "CHAT" button, and at the bottom of the chat window, pull down the recipient arrow and select your lawyer's name. However, such communication is prohibited during taking of client testimony. You are also prohibited from using

the chat feature to communicate with witnesses. Witnesses are only permitted in the virtual courtroom while they are testifying. You are not to hold notes or paperwork in your hands while testifying, just as though you were on the witness stand.

- g. You may, upon request, confer in private with your attorney. You should “slip a note” via chat feature to your lawyer, request a moment to confer. If your request is granted by the court, you will be moved into a confidential video room to confer for a few moments.
- h. Zoom proceedings are actual court proceedings conducted in a virtual courtroom. Hearings may be live streamed to the public, so participants must treat Zoom proceedings with the same respect as in-person court proceeding. **All of the usual in person courtroom decorum, demeanor and dress code rules shall apply.**
- i. Participants in the Zoom proceedings should minimize outside noise and distractions. Any children the subject of the litigation shall not be present in the same room as the parties while a hearing is being conducted.
- j. Attorneys and participants shall enter the hearing Waiting Room at least 10 minutes prior to the hearing start time.
- k. All Zoom proceedings are streamed to the Court’s YouTube Channel for live viewing only. Witnesses placed under “the Rule” are prohibited from accessing the Court’s YouTube Channel at any time while placed under “the Rule”. Live streaming may be viewed at:

Presiding Judge Janet B. Heppard YouTube Channel –  
[https://www.youtube.com/channel/UC1-eCaR0S\\_AZdOYOXmsJwjQ/live](https://www.youtube.com/channel/UC1-eCaR0S_AZdOYOXmsJwjQ/live)

Associate Judge Richard T. Bell YouTube Channel –  
[https://www.youtube.com/channel/UC-caB81t5YKCwjMftvb\\_y5w/live](https://www.youtube.com/channel/UC-caB81t5YKCwjMftvb_y5w/live)

OCA Directory - Court YouTube Channels – <https://www.txcourts.gov/programs-services/electronic-hearings-with-zoom/youtube-channel-directory/>

- l. **IT IS ORDERED THAT RECORDING OF REMOTE 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.**

- m. All hearings conducted via Zoom app are subject to additional instructions as deemed appropriate by the court during the time of hearing.

## 11. Submission docket

a. The courts will consider the following motions by written submission (i.e., no oral hearing. If the court believes that an oral hearing is needed, the court will contact the parties via docket sheet entry with further instructions):

- i. Motions for Adoption Evaluation;
- ii. Motions for Alternate or Substituted Service;
- iii. Motions for Appointment of Attorney Ad Litem, Amicus Attorney, or Custody Evaluation;
- iv. Motions to Confer with a Child;
- v. Motions to Consolidate;
- vi. Motions for Cost Deposit (private appointment);
- vii. Motions for Continuance;
- viii. Motion to Compel
- ix. Motions for Drug Testing;
- x. Motions to Enter;
- xi. Motions for Genetic Testing;
- xii. Motions for Judgment Nunc Pro Tunc;
- xiii. Motions for Reconsideration;
- xiv. Motions to Reinstate;
- xv. Motions for Summary Judgment (traditional or no-evidence);
- xvi. Motions to Mediate; and
- xvii. Motions for Withdrawal/Substitution of Counsel.

b. How to get a submission date:

- i. After filing your motion, contact the court for a submission date.
- ii. The submission date shall never be less than the amount of time required by statute or rule and shall be at **least** 10 days from the date of filing, except on leave of court.

c. Notice of submission SHALL:

- i. Be served on all necessary parties at least 10 days before the submission date (unless a rule or statute requires more than 10 days' notice);
- ii. Provide notice to the responding party 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.

d. Except on leave of court, any responses to the motion shall be filed at least three days before the submission date.

e. It is the responsibility of the attorneys or pro se parties to monitor the docket sheet for the ruling.

## 12. **Entry settings and motions to enter**

a. **If the order has all signatures:** File the proposed order before your entry date for the judge's signature.

b. **If the order is missing signatures: a motion to enter must be filed** and will be considered either by zoom or by submission. The motion to enter should contain your proposed order, signed by movant. If heard by submission, the party objecting to the form of the order must timely respond by addressing each objection to the order in the body of the response and attach the objecting party's proposed order signed by that party.

## 13. **Ex parte temporary injunctions**

a. The 387<sup>th</sup> District Court has signed a Standing Temporary Injunction Order which applies for all divorces and SAPCRs.

b. Requests for ex parte extraordinary relief not covered by the Standing Temporary Injunction Order may be submitted for consideration by the Court if supported by an affidavit.

14. **Contacting the Court**— Access to phones and voicemail is limited. The best method to contact the coordinator is through email. The coordinator's email is listed on the court's website. Due to the high volume of emails and voicemails, you may not receive an immediate response. We thank you in advance for your patience and consideration.

15. **Jury Trials**—The 387<sup>th</sup> District Court will attempt to accommodate jury trials so long as there is available space in the judicial center to comply with Supreme Court Orders.