



**SECOND AMENDED STANDING ORDER OF THE 388TH DISTRICT COURT
REGARDING POLICIES, PROCEDURES, AND CONDUCT OF PARTIES
EFFECTIVE DATE (NOVEMBER 1, 2022)**

Effective November 1, 2022, the following policies and procedures shall apply to all proceedings in the 388th District Court and its ancillary court, Associate Family Court #1. This Second Amended Standing Order replaces both (1) the Amended Standing Order of the 388th District Court that went into effect February 1, 2021 and (2) the “Court Policies, Procedures and Rules of Practice” that went into effect January 1, 2021. Unless the context clearly indicates otherwise, all references to the Court or to the 388th District Court are also references to Associate Family Court # 1. A reference to “the Associate Court” is also a reference to Associate Family Court #1.

PART 1: GENERAL INFORMATION

388th Judicial District Court: Court Coordinator: Al Alderete.
Court Bailiff: Roy Davis.

For general inquiries, requests, or hearing settings, the 388th Judicial District Court can be contacted telephonically at 915-543-3850 or by email at 388thDC@epcounty.com.

Associate Family Court # 1: Court Coordinator: Carmen Avitia-Ortiz
Court Bailiff: Israel Beard

For general inquiries, requests, or hearing settings, Associate Family Court #1 can be contacted telephonically at 915-543-3859 or by email at 388thAC@epcounty.com

Email correspondence is to be sent to the general email address for the 388th District Court and for Associate Family Court # 1. This email address is not be used for evidentiary exhibits. Evidentiary exhibits are to be sent to email for evidentiary exhibits listed in Part 8 below (page 8).

PART 2: ASSIGNMENTS AND ORDERS OF REFERRAL

The 388th District Court is randomly assigned new family law cases filed with the El Paso County District Clerk and is also assigned cases in which it is the court of continuing jurisdiction. The 388th District Court divides the family law cases assigned to it with its ancillary court, Associate Family Court #1, except for adoption and name change cases wherein it exercises exclusive jurisdiction. Associate Family Court #1 is authorized to hear all aspects of a case assigned to it, except for contested trials or final hearings whenever a party objects to such a hearing in writing. In that case, the trial or final hearing shall be heard by the 388th District Court. Where appropriate, Associate Family Court #1 may refer the case back to the 388th District Court for disposition.

PART 3: EX PARTE ORDERS AND TEMPORARY INJUNCTIONS

3.01 Submitting Applications for Ex Parte Orders

All applications for ex parte orders shall be first presented for determination to the Judge of the 388th District Court or to Associate Family Court #1 before it is presented to any other Judge.

3.02 Limitations on Temporary Restraining Order ("TRO") Relief

In divorce actions, ex parte TROs should be limited to the relief authorized by § 6.501(a) and § 105.001(a) (3) and (4) of the Texas Family Code. Where extraordinary relief is sought, an affidavit must be executed with the TRO application that outlines why extraordinary relief should be granted.

3.03 TROs Signed To Be Joint and Mutual Wherever Possible

Where the opposing party to a TRO has been served, an attempt should be made to secure the agreement of that party to issuance of a TRO that is mutual before the TRO application is presented to the Court. A counter-petitioner who seeks a TRO must set forth in his TRO application a certificate of conference to show that an attempt was made to secure an agreed mutual TRO.

3.04 Duty of Attorney or Party to Extend TRO If Necessary

It shall be the duty of the attorney or pro se litigant to obtain a setting for purposes of extending a TRO before it expires. Attorneys or pro se litigants who have been granted a TRO shall be entitled, upon good cause, for extending a TRO for up to fourteen 14 days beyond the original TRO expiration date, provided that the Court is given at least 3 days advance notice of the date the TRO is scheduled to expire. Absent an agreement of the parties, a TRO shall expire and be of no further force and effect after one TRO extension has been granted.

3.05 Obtaining Temporary Injunctive Relief After TRO Expires

If such relief is warranted, only one TRO per party and one TRO extension shall be granted. To obtain relief once a TRO has expired, the party that obtained the initial TRO must request temporary injunctive relief pursuant to Texas Family Code § 6.502(a) of the Texas Family Code and/or pursue relief available under other applicable law.

PART 4: AGREED OR UNCONTESTED DIVORCE HEARINGS

Uncontested and Agreed divorces can be scheduled on short notice. To proceed forward on an agreed or uncontested divorce or on an agreed SAPCR, contact either Al Alderete (the 388th District Court Coordinator) or Carmen Avitia-Ortiz (the Associate Family Court #1 Coordinator) to schedule the uncontested or agreed divorce hearing or other uncontested hearing matter. The determination of which Court Coordinator to call depends on the court to which the case has been assigned.

PART 5: GENERAL PRETRIAL POLICIES

4.01 Executed Waiver for Hearings Over 2 Hours in Length.

If a temporary orders hearing or a final hearing/trial that is to be scheduled before Associate Family Court #1 that will likely take more than 2 hours to complete, all parties shall be required to execute a

waiver of the right to pursue a de novo hearing to the 388th District Court. Exceptions shall be made on a case-by-case basis for good cause shown.

4.02 Financial Information for Calculating Spousal and/or Child Support

Prior to any hearing on temporary orders, the parties shall exchange financial statements which lists the balance of funds held in all financial accounts, and all other liquid assets, to include stocks, bonds, and other financial instruments. The parties shall also exchange recent payroll stubs and related documents, to include available tax returns, and all other related documents which shows the current income earned by the parties.

4.03 Interim Orders

In the event a temporary orders hearing is scheduled before the responding party's answer date is due or before the responding party has had sufficient opportunity to retain counsel after being served with a divorce action or modification suit, the Court will enter only interim orders until the responding party has been given sufficient time to prepare for and litigate the merits of the case at a future temporary orders hearing.

4.04 Mediation required before any final hearing unless excused.

Mediation is required before the final hearing or trial of any contested case. Exceptions may be made on a case-by-case basis for good cause shown.

4.05 Attorneys Late for Court or Who Cannot Appear Within 15 Minutes.

Any attorney who anticipates he or she will be late for a Judges Conference, Pre-trial Conference, or other hearing **shall call the court coordinator** no later than 15 minutes prior before the Judges Conference or other hearing and state his or her expected time of arrival, the reason for the delay, and any other court(s) where he/she is required to appear. If an attorney knows his/her appearance will be

delayed more than 15 minutes due to a conflicting court appearance, he/she shall call the court coordinator after 1:30 p.m. the day before the hearing and so advise the coordinator of the conflict. Cases may be dismissed or reset if the attorney for the moving party does not arrive in the courtroom within thirty minutes of the time and date of the scheduled hearing.

4.06 Pre-trial Conferences

A Pre-trial Conference must be scheduled at least 14 days prior to any case that is scheduled for a final hearing or trial in all divorce, annulment, and adoption cases, and in all modification cases involving child custody. The purpose of the conference is to ensure that the parties are ready to conduct the final hearing or trial. At the Pre-trial Conference scheduled at least 14 days prior to the final hearing, attorneys and pro se litigants will be required to complete a Pretrial Conference Form in which the names, addresses, and telephone numbers of all trial witnesses to be called in the case-in-chief are listed and all trial exhibits are exchanged. On the same Pretrial Conference Form, the attorneys or pro se litigants shall also be required to provide a summary of anticipated issues that will be litigated at trial. The failure of a party to appear at the pretrial conference or properly complete the pretrial conference form shall be grounds for postponement of the trial, scheduling of a later pretrial conference, the exclusion of witnesses or exhibits, or other appropriate action or sanctions by the Court as more particularly set out in paragraph 5.05 below.

4.07 Consequences of Failure to Attend Pre-trial Conference or Judge's Conference

In the event an attorney for a party or a pro se litigant fails to appear for a Pretrial Conference or Judge's Conference, the 388th District Court may:

- a. Rule on all motions, dilatory pleas and special exceptions in the absence of such person;
- b. Declare as waived any motions dilatory pleas or special exceptions an party may be

authorized to assert;

- c. Advance or delay the trial setting according to the convenience or desires of the attorneys or parties who did appear for the pretrial conference;
- d. Pass and reset the pre-trial conference;
- e. Decline to set the case for trial, cancel a setting previously made, and/or
- f. Grant such other relief as may be appropriate.

4.08 Effect of Cancellation of Temporary Orders Hearing

The Court is authorized to proceed forward with the final hearing of a divorce or modification suit without rescheduling the temporary orders hearing unless the parties file a motion to continue the temporary orders hearing at least 7 days prior to the date scheduled for the temporary orders hearing. An Exception may be made by the Court based on good cause shown or for other considerations.

4.09 Entry of Judgments/Orders

Initially, orders or judgments rendered by the Court shall be placed on the uncontested docket and entered if the Court receives the final order or judgment with all parties' signatures before the date scheduled for entry of judgment. If the final order or judgment is not submitted on or before the last date for submitting the final order or judgment on the uncontested docket and no reason is provided for maintaining the case on the uncontested entry docket, the Court shall schedule a future date for submitting the final order or judgment for entry and the case shall be placed on the contested entries docket.

The entry of proposed orders or judgments rendered by the Associate Court shall utilize the same procedure. A repeated failure, without cause, to submit a final judgment or decree or other order on before the date scheduled for entry of judgment shall constitute cause for the Court of

Associate Court to impose monetary sanctions or other appropriate sanctions on the offending party or attorney.

4.10 Summary Judgment Motions and Other Dispositive Motions

The Court will address motions for summary judgment, motions to transfer venue, and all other dispositive motions on a case-by-case basis.

4.11 Enforcement Motions and Contempt

Prior to the commencement of hearing of enforcement motions, the Court will determine whether an attorney should be appointed for the alleged contemnor if the alleged contemnor is not represented by an attorney. For child support enforcement cases, the Court requires the parties to bring a payment history from the Texas Office of the Attorney General. If the moving party is requesting incarceration, the moving party is directed to prepare a proposed commitment order to the hearing. Commitment orders must be entered by no later than 2 o'clock p.m. on the date of incarceration.

PART6: DISCOVERY

All parties shall serve and complete discovery in accordance with the Texas Rules of Civil Procedure. Non-compliance with the discovery rules shall constitute good cause for the 388th District Court, in its discretion, to exclude evidence that should have been provided during the discovery period or adopt other discovery-related sanctions.

PART 7: ANNOUNCEMENT FOR TRIAL

In all contested matters set for trial or final hearing, counsel and/or self-represented parties are required to appear and announce whether they are ready for trial. If a party is not ready for trial, that party or the attorney representing the party shall transmit to the Court an agreed re-set form at

least 7 calendar days before the date scheduled for the final hearing or trial. If the parties cannot agree to reset the final hearing or trial at least 7 days before the date of the final hearing or trial, the party requesting the reset shall file a motion for continuance which sets forth the grounds or reasons for continuing the case. The Court, at the earliest practicable opportunity, schedule a hearing on the motion and rule on it before the start of the trial of the case. Emergencies or unanticipated grounds for continuing the final hearing or trial date that provide adequate reason or justification not complying with the 7 day filing deadline are excepted from the rule.

PART 8: EVIDENTIARY EXHIBITS

8.01 The Deadline to Exchange Exhibits and the Consequence of the Failure to Do So

Exhibits a party intends to introduce into evidence shall be served by email or physical delivery to the Court and opposing party on a business day and at least 48 hours before the date of the hearing. Where a party objects to the receipt of an exhibit based on a party's failure to comply with this rule, the 388th District Court may refuse to admit the exhibit if the party objecting to its admission can demonstrate that admitting the exhibit will result in unfair prejudice or surprise.

8.02 The Procedure for Submitting Exhibits

If the hearing conducted is an in-person hearing, any evidentiary exhibits are to be introduced (and the cover sheet listing these exhibits) to the Court at the time of the hearing.

If a hearing before the 388th District Court is conducted via Zoom, any evidentiary exhibits a party seeks to introduce shall be sent by email to 388thDCExhibits.gem@epcounty.com and received into evidence in their digital format. If a hearing before the Associate Family is conducted via Zoom, any evidentiary exhibits a party wishes to introduce into evidence shall be sent to 388thACExhibits.gem@epcounty.com. If the page length of all exhibits submitted exceeds 10

pages, the party shall be required to provide a hard or printed copy of the emailed exhibits to the 388th District Court or Associate Court. These copies of the exhibits that have been emailed are to be (1) stapled and/or otherwise bound or (2) provided to the District Court or the Associate Court on a flash drive. All copies of digital exhibits that are bound or submitted on a flash drive shall be provided to the District Court or the Associate Court by no later than 5 o'clock p.m. of the day before the hearing and are to be personally delivered to the bailiff of the 388th District Court or to the bailiff of the Associate Court. In all cases, a cover sheet listing all exhibits sought to be introduced is to be provided to the District Court or the Associate Court and opposing counsel.

It shall be the responsibility of the party/attorney seeking to introduce exhibits at a Zoom hearing to acquire the skills necessary to screen share and conduct all other functions of the Zoom application. It shall also be the responsibility of the attorneys appearing on Zoom to ensure that their clients know how to utilize the Zoom application. Attorneys that appear via Zoom shall ensure their computers, microphones, and all other devices are working properly prior to the start of the hearing so that any scheduled hearing is not unduly delayed.

8.03 Manner of Submitting Exhibits to the Court

In the case of Zoom hearings, all evidentiary exhibits shall be pre-marked. Failure to comply with this rule shall be grounds for not receiving the exhibit into evidence. In the case of an in-person hearing, a party wishing to introduce one or more exhibits shall wait until the actual hearing commences to mark and tender his or her exhibits into evidence.

In a zoom hearing, a party who intends to introduce into evidence an exhibit by email shall ensure that the exhibit is sent in a digitally distinct and separate PDF format so that it can be accessed individually and ruled upon as an individual exhibit. Also during zoom hearings, a party

who wishes to submit multiple exhibits during a trial or evidentiary hearing, a separate coverage page should be submitted to the 388th District Court or the Associate Court that lists or identifies each evidentiary exhibit that has been sent so that the Court can readily identify that exhibit.

For exhibits the petitioner wishes to introduce, the exhibit should have a “P” or “M” in the exhibit description to signify that it is the petitioner’s exhibit. For exhibits the respondent wishes to introduce, the exhibit should have an “R” in the exhibit description to signify that it is the respondent’s exhibit.

8.04 Introducing Filed Court Documents As Exhibits Not Permitted

The practice of introducing lengthy documents that have previously been filed in the case is not permitted. Judicial notice of these filed documents and records can be taken by the 388th District Court or the Associate Court without introducing these documents or records into evidence. An exception to this rule exists where a party wishes to introduce an excerpt of a document or record previously been filed in the case that does not exceed 5 pages in length. The excerpt of the document must be clearly marked and identified as an excerpt taken from document or record on file.

PART 9: DISMISSAL FOR WANT OF PROSECUTION

9.01 Actions Resulting In The Dismissal of a Case For Want Of Prosecution

- a. Failure of a party to appear for a hearing scheduled on a motion to dismiss without prejudice after receiving notice from the Court Administrator that the case has been pending without action for a lengthy period of time
- b. Failure of moving party or his counsel to appear for a trial, final hearing, pretrial hearing, or any other hearing scheduled in the case;
- c. Failure to comply with any stated or announced settlement agreement that is not either put on the record or reduced to writing within 30 days of being stated or announced so that judgment can be entered on the agreement; or
- d. For any other reason provided herein or by the Texas Rules of Civil Procedure;

Subject to other provisions of these rules, the District Clerk shall send a written notice of such dismissal to all parties or their counsel of record.

PART 10: WITHDRAWAL/SUBSTITUTION OF COUNSEL

No attorney shall be permitted to withdraw from any case without presenting a motion and obtaining from the Court an order granting leave to withdraw pursuant to Texas Rule of Civil Procedure 10. The attorney shall send a letter to the client's last known address advising the client of the time, date, place, and manner in which the motion to withdraw hearing will be conducted. The attorney shall also include in that letter a copy of the motion to withdraw that has been filed that contains all of the information required by Rule 10. The notice to the client shall be in person or sent by certified and regular first class mail, as required by Rule 10. The attorney shall fully comply with Rule 10, to include providing the client with the date and time of the motion to withdraw hearing and the Zoom number for the hearing and/or the physical location of the hearing if the hearing is in person. The same procedures apply to motions to withdraw that are filed with or heard by the Associate Court.

PART 11: COURTROOM DECORUM

11.01 Appearances and Attire

The Court applies the same dress code to in-court hearings as it does to Zoom hearings. Parties and witnesses are required to wear appropriate attire and to treat all Zoom hearings as an in-court experience. Witnesses inappropriately dressed may be denied the opportunity to participate by Zoom. No tank tops, torn jeans, sandals, flipflops, or t-shirts of any type will be allowed. No hats are permitted. Business attire is expected by attorneys who appear for hearings, whether by zoom or in-court.

11.02 No Food or Gum-Chewing

No gum chewing is allowed in Court or during Zoom hearings. Attorneys, parties, and witnesses shall not consume food in Court or during Zoom proceedings, unless extraordinary circumstances are shown to exist.

11.03 No Pets or Other Distractions Allowed

During any hearing conducted in Court or via the Zoom application, no pets or other distractions shall be permitted, unless the pet is a service dog.

11.04 Water and Beverage Policy

While in court hearing or during Zoom hearings, parties, attorneys and witnesses may possess and consume water or other beverages at counsel table.

11.05 Children in the Courtroom or Zoom Hearings.

Children may not be in the courtroom or appear on the Zoom screen without court approval. If the judge is to interview a child privately, notify the bailiff when you arrive at the Court.

11.06 Recordings, Videos, and Electronic Devices

No photos, recordings or videos may be taken at any time in Court on the Zoom Application without the prior approval of the Court in all cases except for adoption cases. No such prohibition applies in adoption cases.

PART 12: ATTORNEY AD LITEM AND AMICUS ATTORNEYS

12.01 An *attorney ad litem* will need to be appointed to represent a party served by publication, although exceptions may be made in cases where there are no children and no property of an appreciable value or amount has been acquired. Parties seeking such an exception to this ad litem rule should approach the presiding judge or associate judge and indicate in a filed pleading why an

exception should be made. An ad litem will not be waived in cases involving children. In each such case, the ad litem's affidavit of due diligence must be on file prior to finalization of the case.

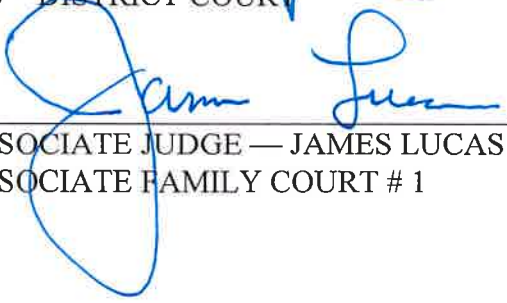
12.02 The court may appoint an *amicus attorney* in any case in which conservatorship or possession of or access to a child is in dispute.

This Second Amended Standing Order of the 388th District Court is effective for all divorce cases and Suits Affecting the Parent-Child Relationship (SAPCR suits) filed on or after

December 1, 2022.



PRESIDING JUDGE – MARLENE GONZALEZ
388TH DISTRICT COURT



ASSOCIATE JUDGE — JAMES LUCAS
ASSOCIATE FAMILY COURT # 1