



383rd District Court

Hon. Lyda Ness Garcia – Judge Presiding
Hon. Patrick D. Bramblett – Associate Judge

RULES OF PRACTICE

Effective **March 1, 2023**, the following rules of practice will apply to all legal proceedings in the 383rd District Court. These policies and procedures do not supplant the El Paso County Local Rules. They are subject to change.

The 383rd District Court adheres to the Texas Rules of Professional Conduct, the Texas Lawyer's Creed, and the Texas Code of Judicial Conduct. Violations will result in appropriate sanctions. Personal attacks and side bar remarks will not be tolerated.

383rd Judicial District Court Lyda Ness Garcia

Request for Settings: 383DC@epcounty.com

Exhibits for Proceedings: 383DistrictCourt@gmail.com

Zoom Link: <https://txcourts.zoom.us/j/97146165849> (Passcode: 422857)

Telephone: 915-546-2132

Fax: 915- 546-2020

383rd Associate Court Patrick D. Bramblett

Request for both Settings and Exhibits: 383FC2@epcounty.com

Zoom link: <https://txcourts.zoom.us/j/84969419408> (Passcode: 276297)

Telephone: 915-543-3871

Fax: 915-534-7726

The following rules apply to both attorneys and self-represented litigants.

1. GENERAL

- a. Each party shall consult the applicable state law(s), Supreme Court of Texas Emergency Orders and the El Paso County Local Rules for additional specifics and time deadlines.
- b. The court staff does **not** provide legal advice or participate in ex parte communications.
- c. Proceeding requests with the District Court and visiting Judges is preferred by email to David Herrera – Court Coordinator, Ana Sanchez – Court Administrator, and Jesse Carreon Assistant Court Coordinator, 383DC@epcounty.com (**Do not use this email address to submit exhibits. Please follow the instructions below.**)
 - i. DO NOT email the staff or the Judges personally. It will NOT expedite your request as ONLY requests through the designated email are scheduled.
- d. Proceeding requests with the Associate court is preferred by email to Gina Arias, Court Coordinator 383FC2@epcounty.com
 - i. DO NOT email the Court Coordinators personally. It will NOT expedite your request as ONLY requests through the designated email are scheduled
- e. The 383rd is a paperless court. Pleadings and other documents are routed electronically through the El Paso County District Clerk’s office.
 - i. Please ensure that you DO NOT enable the field restrictions in your proceeding request forms if you have them in pdf. There is information the Court may need to add.
 - ii. Please submit orders, separately from your Motions as we may need to electronically sign them. Ex. Motion to Withdraw should not have the Order attached in the same document.
- f. **All pleadings and/or documents must be filed with the District Clerk.** Questions regarding documents, files, filings, service, etc. should be directed to the District Clerk’s office. Please **DO NOT** include the Court or the Court Coordinator on any e-service requests.
- g. CASE ASSIGNMENTS: Case assignment will be assigned between the Associate Court and District Court. You will receive a referral order from the Court without request. Please file any objections within statutory guidelines so we can reassign.
- h. Suits Affecting Parent-Child Relationship with Office of the Attorney General involvement may be referred to Title IV-D Court at the Court’s discretion.
- i. Appropriate professional attire is required for all appearances whether inperson or on Zoom. Electronic devices should be in silent mode at all times and not referred to during proceedings. No food or gum chewing is allowed in the courtroom or during Zoom proceedings. Attorneys and

parties should NOT appear in their car or be driving. During in person proceedings or trials, attorneys may have beverage at counsel table.

- i. **No photos or videos are allowed, except in adoption cases.** Zoom proceedings may be broadcast live on the court's YouTube channel. **Recording or screenshotting of the proceedings on YouTube is strictly prohibited.** Please refer to the court's Zoom Proceeding Procedures for more information.
- j. **ZOOM AND IN-PERSON PROCEEDINGS:** While we are under the Supreme Court's COVID-19 Emergency Orders the Court retains the discretion to maintain proceedings via Zoom if they are under three (3) hours or for good cause shown. All enforcement proceedings seeking contempt, habeas and writs of attachment and hearings over three (3) hours shall be in person absent permission of the Court. All attorneys and parties are expected to appear at their scheduled time.
 - i. Zoom hearings: It is recommended that you enter the Zoom early so that we can have you in breakout rooms to talk before your case is called. Attorneys should ensure that their clients have proper connectivity and practice Zoom prior to said hearing. If exhibits are more than 25 pages, you must provide a jump drive or binder to the Court one business day prior to the hearing.
 - ii. In person Hearings: All participants should appear in person. This includes attorneys, parties and witnesses. DO NOT assume you will be permitted to have a hybrid hearing without permission from the Court or the Court grants Motion to Appear via Zoom. Ensure your subpoenas for witnesses include in-person language.
 - iii. Attorneys are responsible for ensuring that they do not have conflicting settings and resolving them before proceeding. **If there are extenuating circumstances, please contact the Court Coordinator or bailiff directly. In cases of Inclement Weather, please refer to the court's Inclement Weather Policy in Section 19.**
 - iv. Please review the **Zoom Proceeding Procedures** which are on the court's website in detail and disseminated herein. Please make sure all required pleadings filed with the District Clerk's office at least 24 hours before the date of your proceeding. If necessary, also send a copy to the designated exhibit email.
- k. INTERPRETATION: Familiarize yourself with the interpretation functions. Both Courts will be utilizing simultaneous interpretation. Please advise the Court as soon as the hearing is scheduled if an interpreter is needed. The following links provide detailed instructions on utilizing the interpretation function. Ensure your clients are familiar with the process and if they are in your office for the hearing ensure that you are not in the same room with them.

<https://epcounty.com/information/EPTXZoomGuide.pdf>

<https://epcounty.com/information/EPTXGuiaZoomEspanol.pdf>

2. EMAILS

The subject line of the email must include the cause number, the case name, and the type of setting requested. For example, “Cause Number 2021DCM0000, Smith v. Jones, Final Hearing Request”. Failure to include this information may result in delay in addressing your email. DO NOT copy coordinators or Judge’s personal email addresses as scheduling is only done from the designated Court email address.

All hearing requests will ONLY be accepted via email and will be addressed as they were received, prioritizing based on exigency determined by the subject line.

3. DOCUMENTS REQUIRING COURT SIGNATURE

All Order submitted MUST contain the Cause number and title of document. For example: 2023DCM1234 Final Decree of Divorce. Orders labelled as *skm235khng* or *Smith Divorce decree* result in delays in filings.

Orders must contain NO BLANKS. Please ensure that the date of hearing is included as well as the Court reporter or your order may present difficulties in enforcement or modification in the future.

Do not enable fields or DocuSign for proposed Orders. The county software does not allow us to edit it.

4. NOTICES:

The attorneys/participants shall ensure compliance with R. 21 (d): Notice of a court proceeding must include the information necessary for participants, attorneys, witnesses, court reporter, and jurors (the “participants”) to participate in the proceeding.

That information must include, but is not limited to:

- a. The location of the proceeding or instructions for joining electronically,
- b. The “court’s designated contact information,” and
- c. “Instructions for submitting evidence.”

5. UNCONTESTED PROCEEDINGS

- a. **UNCONTESTED DOCKET**: Agreements may be approved by Zoom proceeding on our Uncontested Docket held by the District Court on Friday mornings or by submission with affidavit(s). Orders **must be** submitted prior to the Uncontested setting
- i. If you prefer not to present the uncontested via zoom on Friday morning you may request a proceeding on an uncontested matter, please send an email to: 383DC@epcounty.com. The subject line of the email must include the cause number, the case name, and the type of proceeding requested. For example, "*Cause Number 2021DCMxxx, Smith v. Smith, Uncontested Final Divorce Proceeding*". The Court Coordinator will respond with available dates/times.
 - ii. Any sworn affidavit must be attached to the proposed order as an exhibit and must include the same information that would be solicited during a prove-up with the witness in the courtroom.
- b. **AGREED ORDERS**: Agreed orders must contain signatures of all parties and attorneys. All signatures must be distinctive written signatures or electronic signatures generated by the signing party.
- i. Agreed Orders must indicate (1) that the parties did not appear in person but agreed to the terms of the order as evidenced by their signatures; and (2) that the making of a record was waived if applicable.
- c. **DEFAULTS**: All default proceedings require the following documents to be filed before the proceeding date:
1. Certificate of Last Known Address per Rule 239a
 2. Non-Military Affidavit
 3. Return of Service (on file for a minimum of 10 days)
 4. A sworn inventory and appraisalment (divorce matters >\$50,000)
 5. Proof of service
- d. **NAME CHANGES (EXCEPT IN DIVORCE MATTERS)**: All requests for an adult name change require a fingerprint card. All documents the must be filed with the District Clerk's office prior to the final proceeding.
- e. **ENTRY OF JUDGMENT SUBMISSION DOCKET**: All initial Entry of Judgments will be by submission three (3) weeks after rendition on or before 4:00 p.m. in the respective Court. Thereafter the Court will determine the additional time required.

- i. Mandatory Entry of judgments are at a scheduled time and require attorneys or staff to appear
- ii. Entry of Judgment/Dismissals are at a scheduled time and require attorneys or staff to appear.
- iii. Contested Entry of Judgments are at a scheduled time before the Judge.

The following non-agreed/contested motions may be heard by submission; if an objection is filed, if a proceeding is requested or the court believes that a proceeding is needed, the court will contact the parties with further instructions:

- Motions for Adoption Evaluation
- Motions for Alternative or Substituted Service
- Motions to Consolidate or Sever
- Motions to Enter
- Motions for Judgment Nunc Pro Tunc
- Motions to Confer with Child
- Motions to Reinstate/Retain
- Motions for Withdrawal/Substitution of Counsel if signed by party
- Pre-trial submissions unless parties request a Pretrial before the Court

*Motions may be set concurrently with a proceeding for temporary orders, pretrial, or final trial if there is not enough time to set them by submission before the proceeding/trial.

Court E-files all Orders

6. SCHEDULING TEMPORARY ORDERS PROCEEDINGS

- a. Requests for contested proceeding dates **must** be made by sending an email to: 383DC@epcounty.com or 383FC2@epcounty.com. All attorneys and self-represented litigants must be copied. The subject line of the email must include the cause number, the case name, and the type of setting requested. For example, "*Cause Number 2021DCM0000, Smith v. Jones, Final Hearing Request*". The Court Coordinator will reply-all with the court's availability. **Emails requesting contested proceeding dates must include the total estimated time for the proceeding.**
- b. Notice and proof of notice to the opposing attorney or party shall be pursuant to the Texas Rules of Civil Procedure. Please refer to the court's **Zoom Proceeding Procedures** for a sample Notice of Zoom Proceeding. The Zoom meeting ID and password must be included in the Notice of Proceeding.

- c. Please talk to opposing counsel prior to your proceeding. We can open a break-out room before your proceeding for the parties to engage in settlement.
- d. **If your case is assigned to the Associate Judge for temporary orders over 2 (two) hours**, the Waiver of Appeal from Associate Judge's Findings and Recommendation form must be signed by all attorneys and parties and filed at least three business days prior to your proceeding. Failure to file the form may result in your case being removed from the Associate Judge's docket.
- e. Temporary orders will not be bifurcated. If one party requests Temporary orders after the first parties request, they will be heard together. This does not apply to Enforcements, Protective Orders or other Motions hearings unless they involve substantially the same testimony.
- f. Temporary Orders with the Associate Court may be limited at Associate Court's discretion.
- g. If a request for the Associate Court to confer with a child is made, the parties must sign a waiver of appeal to minimize the necessity of having the child confer with the District Court on de novo.
- h. The District Court may exercise discretion in scheduling a Final hearing in lieu of de novo after good cause is shown and time considerations and judicial economy are considered.
- i. In any proceeding for temporary orders in which child support or spousal support is an issue, completion and exchange of Financial Information Statements, copy of income tax returns for the last year, and the three most recent payroll stubs shall be exchanged prior to the commencement of the proceeding. Working copies of the Financial Information Statements are advised for the court.
- j. **Temporary restraining orders:** In divorce actions, ex parte temporary restraining orders should use the language included in section 6.501 of the Texas Family Code. If requesting extraordinary relief please clearly label as such in the Temporary restraining order and bold/highlight requests beyond standard maybe as per the Texas Family Practice Manual.
- k. The court WILL STRIKE certain proposed injunctions (such as exclusion of possession, imposition of geographic restriction, excluding of residence, attachment, alcohol or paramour injunctions) if not supported by an affidavit.
 - i. Writ of attachments should be in separate pleadings and documents supported by evidence. They should be utilized in very limited instances.

7. FINAL TRIAL SETTINGS

- a. Requests for trial dates must be made in accordance with paragraphs 2 and 4 above.
- b. Provide proposals and Inventories and Appraisals for ALL contested final proceedings with

complex property issues. The Court would request that proposed parenting plans be submitted which includes rights and duties, possession and proposed calculation of child support particularly when deviated from standard. Please ensure that you provide the Court an editable version.

i. You may e-file these and/or submit as exhibits.

c. **If your case is assigned to the Associate Judge for trial and the case is more than 2 (two) hours**, the Waiver of Appeal from Associate Judge’s Ruling/Recommendation form must be signed by all attorneys and parties and filed prior to proceeding a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. Failure to file the form may result in your case being removed from the Associate Judge’s docket.

d. **Scheduling Orders and Pretrial Conferences** are required for jury trials, terminations and adoptions, and bench trials with a total time estimate that exceeds **3 hours or half a day**. **They will also be scheduled upon request of counsel or the discretion of Court**. Pretrial conferences will be set no less than 30 days prior to the trial setting. Please ensure that you follow the new discovery rules.

i. Parties may request a Pretrial Conference with the Court for any length of proceeding or scheduled by the Court at their discretion.

ii. A nonappearance by attorneys and parties may result in the case being reset and/or dismissed.

8. ADOPTIONS

a. A pre-trial conference is required in all adoption cases. Proposed Orders shall be submitted to the court at the pretrial. The consummation date will be set at the pre-trial conference. To request a setting, please send an email to 383DC@epcounty.com. All attorneys and court-appointed advocates must be copied. Please include the cause number and case name in the subject line of your email.

b. Failure to file the required documents prior to the pre-trial conference could result in the pretrial conference being reset.

9. MEDIATION

a. Mediation will be ordered on a case-by-case basis, upon agreement of parties or for any Final Hearing that is more than 3 hours.

b. Mediation is required prior to final proceeding in all cases over 3 hours (except protective

orders, enforcement/contempt actions or on cases involving family violence). Failure to mediate before trial may result in the case being reset on the Court's discretion.

- c. The Court may waive a mediation requirement in response to motion and upon a showing of good cause. The motion must be heard by the Pretrial Date
- d. Parties may agree to resolve a case without formal mediation. *Please see the rules governing Agreed Orders above.*
- e. The El Paso County Dispute Resolution Center with licensed attorneys only (address and phone) will mediate cases for parties with proof of limited income at a reduced or nominal fee.
- f. Parties should make a good faith attempt to agree on mediators. If no agreement can be reached, a motion should be filed with the court and the court will choose a mediator from the wheel.
*The court may deviate from the wheel for good cause.

10. EXHIBITS – PLEASE READ CAREFULLY

- a. In all cases other than contempt proceedings and cases under a Scheduling Order, exhibits **should** be marked and exchanged **by 12:00 p.m.** the business day before the proceeding and mailed to the District Court at 383DistrictCourt@gmail.com and to the Associate Court at 383FC2@gmail.com. It is the Courts preference that you exchange exhibits to expedite your proceeding time. However, the exchange of exhibits on the day of proceeding or trial will be permitted and screen sharing enabled to facilitate proceedings as if we were in person. Evidentiary rules regarding exclusions or admission will apply. Those exhibits **MUST** be emailed to the Court before the conclusion of the proceeding or upon discretion of the Judge.
- b. Parties should submit a list of exhibits with description (ex. R.1 Photos of Children). Parties shall attempt in good faith to obtain an agreement regarding exhibit admissibility before the proceeding or trial.
- c. If child support or spousal support is contested BOTH parties shall bring copy of last tax return with attached schedules and W2s/1099s and three most recent pay stubs.
- d. **Court Copies:**
 - i. Exhibits for all proceedings **must** be delivered to the District court via email to: 383DistrictCourt@gmail.com or the Associate Court at 383FC2@epcounty.com or if voluminous on a USB Flash Drive or a binder. **Do not email exhibits to the Court Coordinator or to the Court Reporter.**

- ii. Exhibit emails **must** include a subject line of the exhibit email must include the cause number, party designation/name, and proceeding date. For example, "*Cause No. 2020DCM0000, Respondent Jones, January 1, 2021.*" All attorneys and self-represented litigants must be copied.
- iii. Please note advised that the Court Reporter and Judge may not have access to a color printer. Admitted exhibits will be printed and delivered by the Court to the Court reporter in black and white. If color is important, exhibits must be delivered on a USB Flash Drive as indicated below.
- iv. **AUDIO/VIDEO:** Please ensure that they can be opened. Audio and video files may also be on a USB Flash Drive.
- v. Flash Drives **must be received** by 12 the business day before the proceeding. Flash Drives must be clearly labeled with the cause number, party name and proceeding date.
- vi. Flash Drives may be delivered in person or mailed to:

383rd District Court
Attn: David Herrera or
Gina Arias
500 E. San Antonio Ave., Ste. 1101
El Paso, TX 79901

Please be mindful of the deadline when delivering by mail.

- vii. **All exhibits must be accompanied by an Exhibit List.** Exhibit Lists may be e-filed with the District Clerk's office, but the exhibits should NOT be filed.
 - viii. The only formats accepted are PDF for documents, JPG and PNG for images, and MP4 for audio and videos.
 - ix. 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*"
- e. 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).

- f. The party tendering the exhibits is responsible for ensuring that witnesses have copies of the exhibits for use during Zoom proceedings. 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 proceedings. The party tendering the exhibits is responsible for screen sharing and technology associated.
- g. For property divisions involving marital estates with numerous assets or debts, include with the exhibits an editable file (e.g., MS Excel) containing the party’s proposed property division.
- h. Failure to comply with these procedures may result in exhibit exclusion.

11. CONTINUANCES

- a. For cases pending more than one year, a request for continuance requires a motion and a proceeding (even if it is unopposed or agreed).

12. DISMISSALS FOR WANT OF PROSECUTION (DWOP)

- a. The first two Dismissals will be with Court staff and the third with the Court. You may contact staff before that date for scheduling orders or resolve the Dismissal before the Dismissals.
- b. Final Hearings/DWOP CANNOT be reset by agreement. It requires appearance to show good cause why it is not proceeding or why the Court should not DWOP. Note that you may get separate notice from the District Clerk that a Dismissal is scheduled but you will have also received notice from the Court that it is a Final as well.
- c. Court will DWOP if you do not show. The Court will be strict or reset of De Novos and set them for De Novo/DWOP at the first setting.

13. DISCOVERY DISPUTES

- a. The Court will require that the *Certificate of Conference* summarizes efforts made to communicate with opposing counsel or self-represented party regarding the discovery dispute. A lack of substantial efforts to communicate (e.g., leaving a single voicemail) may affect the outcome of the proceeding.
- b. Motion to Quash Deposition: If the motion is based on the unavailability of the lawyer or witness, the party filing the motion to quash must provide at least **3** alternative dates within the body of the motion for the taking of the deposition.

14. PROTECTIVE ORDERS

Standalone Protective orders filed by the County attorney will be referred to the 65th Judicial District Court. If there is an open corollary case, then the 383rd DC will retain these cases or transfer both to the 65th DC.

15. AMICUS/AD LITEM APPOINTMENTS

- a. To be eligible for Court Appointments in the 383rd, an *Application for Court Appointments* should be completed and submitted. Appointments are made based on the facts and/or conduct of the parties and as required by law.
- b. The parties may agree to an Amicus/Ad litem Attorney, but judicial approval is required. In the absence of agreement, the court will select an Amicus/Ad Litem from the wheel. *The court may deviate from the wheel for good cause.
- c. The Court may appoint an amicus on own motion.

16. DE NOVO

- a. Parties must comply with Texas Family Code § 201.015 regarding specificity or the Court may entertain a motion to dismiss by opposing counsel or on its own motion.

17. SUBSTITUTE SERVICE

Party must include Motion for Substitute Service and affidavits along with proposed orders. Diligent efforts to locate must be made and it is critical that Petitioner establish personal knowledge as to WHY service was attempted at a specific address and/or how they know Respondent resides there. Post/Publication should be a last resort as other creative methods are more likely to lead to notice. **DO NOT FORGET to request an ad litem when children are involved on sub service and prepare Petitioner to bear that cost.**

18. PARENTING CLASSES

- a. Parents and/or conservators in all contested cases involving children are required to complete a 4-hour parenting class. The certificates of completion must be filed with the District Clerk's office before the case is finalized.
- b. The Court recognizes and approves the following **in person** courses (in no particular order): Children First, Center Against Sexual and Family Violence — (915) 562-0077; <https://casfv.org/prevention-education/children-first-class>

C. The Court recognizes and approves the following **online** courses (in no particular order):

Putting Kids First

<https://puttingkidsfirst.org>

Texas Cooperative Parenting

<https://txparent.com>

Parent Class Online

<https://www.parentclassonline.com>

Co-Parenting into the Future

<https://coparentingintothefuture.com>

Family Affairs

<http://familyaffairs.org>

Kids First

<https://kidsfirsttoday.com>

Parenting Choice

<https://www.parentingchoice.com>

19. INCLEMENT WEATHER POLICY

- a. The 383rd District Court will follow the announcement of El Paso County School Districts.
- b. If El Paso school County Districts closes due to inclement weather, the 383rd District Court will also close unless all parties and attorneys are available.
- c. **Court Closure:** All cases set on a day that the court is closed due to inclement weather will automatically be reset priority setting.
- d. **Delayed Start:** If the El Paso Districts are on a “delayed start,” the 383rd will delay start as well. Please contact the Court Coordinator to confirm the time of your proceeding. Due to anticipated time constraints, the time allowed for each proceeding may be limited. If an attorney or party is unable to appear at the updated start time, a reset may be requested.