



**388<sup>th</sup> DISTRICT COURT**  
**HON. MARLENE GONZALEZ, PRESIDING JUDGE**  
**HON. JAMES D. LUCAS, ASSOCIATE JUDGE**

500 East San Antonio Ave. – 9<sup>th</sup> Floor (902)  
El Paso, Texas 79901  
District Court (915) 543-3850  
Associate Court (915) 543-3859

**Court Policies, Procedures and Rules of Practice**  
**(Effective January 1, 2021)**

**Welcome to the 388<sup>th</sup> District Court of El Paso, Texas**

Effective **January 1, 2021**, the following court policies, procedures and rules of practice will apply to all legal proceedings in the 388<sup>th</sup> District Court and to its ancillary court, Associate Family Court #1.

The 388<sup>th</sup> District Court and Associate Family Court #1 adhere to the Texas Rules of Professional Conduct, the Texas Lawyer's Creed, and the Texas Code of Judicial Conduct.

**THE FOLLOWING POLICIES, PROCEDURES AND RULES OF PRACTICE APPLY BOTH TO ATTORNEYS AND SELF-REPRESENTED LITIGANTS.**

Social Distancing regulations apply at all times in the courtroom.

Until further notice, all hearings in the 388<sup>th</sup> District Court will be heard by Zoom or considered by submission, except as otherwise scheduled with leave of court.

Please do not appear in person at the courthouse unless you have received confirmation from the Court Coordinator that your case is set for an in-person hearing or trial.

## 1. GENERAL

- a. The court coordinator for the 388<sup>th</sup> Judicial District Court is Al Alderete and for Associate Family Court #1 is Carmen Avitia-Ortiz. The bailiff for the 388<sup>th</sup> Judicial District Court is Roy Davis and the bailiff for Associate Family Court #1 is Israel Beard.
- b. For general inquires and requests and hearings, the 388<sup>th</sup> District Court can be contacted telephonically at 915-543-3850 or by e-mail at [388thDC@epcounty.com](mailto:388thDC@epcounty.com). Associate Family Court # 1 can be contacted telephonically at 915-543-3859 or by e-mail at [388thAC@epcounty.com](mailto:388thAC@epcounty.com).
- c. NOTICE: The court staff cannot provide legal advice or participate in ex-parte communications (except as allowed by the law).
- d. **EXHIBIT AND DOCUMENT POLICY.** All attorneys and pro-se litigants shall submit evidentiary exhibits and trial-related documents by e-mail where possible. Exhibits for cases pending before the 388<sup>th</sup> are to be submitted using [388thDCExhibits.gem@epcounty.com](mailto:388thDCExhibits.gem@epcounty.com) as the e-mail address. Exhibits and trial-related documents pending before Associate Family Court #1 are to be emailed using [388thACExhibits.gem@epcounty.com](mailto:388thACExhibits.gem@epcounty.com) as the e-mail address. Emails of all exhibits shall be provided to the Court and to opposing counsel at least 48 hours before the hearing or trial. Evidentiary exhibits that cannot be e-mailed shall be delivered to the Court at least 48 hours before any hearing or trial. Opposing counsel shall be informed of the content evidentiary exhibits that cannot be e-mailed and are physically delivered to the Court before any hearing or trial.

All exhibits shall be preceded by a cover page that lists each exhibit to be submitted as evidence during the hearing or trial. This cover page should list the CASE NUMBER on the subject line and provide a brief description of the exhibits submitted for use in the evidentiary hearing or trial. **(DO NOT USE THE E-MAIL FOR COURT EXHIBITS TO SUBMIT MOTIONS OR REQUESTS FOR HEARINGS. ALL SUCH MOTIONS OR HEARING REQUESTS SHALL BE DISCARDED AND WILL NOT BE CALENDARED IF SUBMITTED ON THE E-MAIL FOR COURT EXHIBITS. FOR MOTIONS AND HEARINGS AND OTHER MATTERS - USE THE EMAIL ADDRESS PROVIDED IN SUBSECTION 1 (b) ABOVE.). ALL PLEADINGS AND/OR DOCUMENTS MUST BE FILED WITH THE DISTRICT CLERK.**

e. Court copies:

- i. No paper copies will be accepted. Exhibits for all proceedings **must** be sent to the court via email to: [388thDCExhibits.gem@epcounty.com](mailto:388thDCExhibits.gem@epcounty.com) or [388thACExhibits.gem@epcounty.com](mailto:388thACExhibits.gem@epcounty.com) 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. 2021DCM-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 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:

388<sup>th</sup> District Court  
Attn: Court Reporter – Terry Thummel  
500 E. San Antonio Ave., 9<sup>th</sup> Floor (Room 902)  
El Paso, Texas 79901

- f. Appropriate professional attire is required for all appearances whether in person or on Zoom. Proceedings that transpire shall be treated as an official court proceeding. No tank tops, torn jeans, sandals, flipflops, t-shirts of any type, with explicit or graphic emblems will be allowed. No hats, dark sunglasses, unless medically or religiously required shall be allowed. No food, or gum chewing is allowed.

- g. Electronic devices must be on silent mode at all times. **No photos or videos are allowed, except in adoption cases.** Zoom hearings may be broadcast live on the court's YouTube channel. **Recording or screenshotting is strictly prohibited.** Please refer to the court's Zoom Hearing Procedures for more information.

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## 2. **GENERAL DOCKET INFORMATION**

**CASE ASSIGNMENTS:** All cases ending in ODD numbers will be heard by Judge Marlene Gonzalez, Presiding Judge of the 388<sup>th</sup>. All cases ending in EVEN numbers will be heard by Judge James D. Lucas, Associate Judge – Associate Family Court # 1.

**Uncontested Docket – Monday-Friday - 8:15 A.M. to 8:45 A.M. and at other times subject to court availability.**

**MONDAYS - 9:00 A.M. to 12:00 P.M. Judges Conferences / Pre-trial Hearings**

**TUESDAYS, WEDNESDAYS, AND THURSDAYS – 1:30 P.M. - 5:00P.M. Final Hearings**

**TUESDAYS: 9:00A.M. to 12 Noon. Temporary Orders Hearing and Protective Order Hearings**

**WEDNESDAYS – 9:00 A.M. to 12 Noon. Enforcements/Contempt Hearings**

**THURSDAYS: 9:00A.M. to 12 Noon. Temporary Orders Hearings and Protective Order and Writs hearings.**

**FRIDAYS - 9:00 A.M. to 12:00 P.M. Contested or Regular Entries / Submission Docket**

**THESE DAYS ARE SUBJECT TO CHANGE DUE TO NECESSITY / AVAILABILITY.**

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3. **RULES OF PRACTICE IN THE 388<sup>th</sup> DISTRICT COURT AND ASSOCIATE FAMILY COURT # 1.**

District Court email address: [388thDC@epcounty.com](mailto:388thDC@epcounty.com)

Associate court email address: [388thAC@epcounty.com](mailto:388thAC@epcounty.com)

1. **Judges Conferences and Miscellaneous Motions Hearings.** Judges conferences and miscellaneous motions hearings relating to any contested or uncontested matter shall be scheduled on Mondays between 9 A.M. to 12:00 P.M. Other miscellaneous matters include: motion to withdraw as counsel; motion to confer with child(ren); motion for substitute services, relating to service of process; and any other matter that will not consume more than 15 minutes of court time.
  
2. **Hearings on uncontested divorces.** Uncontested divorces shall be held between 8:15 a.m. and 8:45 a.m. every day or at any other time either Court can schedule the case. If you would like to prove up an uncontested divorce or other uncontested matter at a different time than the 30-minute period scheduled every morning, you should contact Al Alderete (388<sup>th</sup> Court Coordinator) or Carmen Avitia-Ortiz (Associate Court Coordinator) to schedule such a hearing.
  
3. **Hearings on Temporary Restraining Orders, Temporary Orders, Additional Temporary Orders, and Protective Orders.** These hearings are scheduled on Tuesdays and Thursdays, from 9 A.M. to 12:00 P.M. Hearings on motions or applications for Temporary Restraining Order relief, for Temporary Order relief, or for Protective Order relief are limited to 30 minutes per party and shall not exceed 1 hour in total. If a party needs more than the 1 hour total allotted for such a hearing, that party shall be required to file with the Court and the other party a “Statement of Reasons” that sets forth good cause for scheduling any such hearing for longer than 1 hour, but in no event shall any hearing be scheduled for longer than 2 hours. Unless, the Court grants a request in a statement of reasons for scheduling a hearing for longer than 2 hours. In that event, paragraphs 4 and 5 shall apply. The “Statement of Reasons” must do more than assert generic boilerplate allegations; it must explain in sufficient detail why more time is needed.

A party requesting a hearing beyond the 1-hour period must articulate specific reasons supported by specific factual allegations that warrant granting a hearing longer than 1 hour. Any party requesting additional temporary orders shall likewise be required to file a “Statement of Reasons” explaining why an additional temporary order needed. If the other party disputes the need for additional time, that party can file an objection to scheduling any such hearing beyond the 1-hour time frame allotted for those hearings. The Court, for good cause shown, may extend any of the above-referenced hearings for up to an additional hour, up to a total of 2 hours. Only in exceptional or extraordinary cases will the court schedule a hearing that will exceed 2 hours in duration.

4. **Executed waiver for Temporary Hearings Over 2 Hours in Length.** All parties shall be required to execute a waiver of the right to pursue a de novo appeal prior to the commencement of any Temporary Orders Hearing assigned to Associate Family Court #1 for any case involving conservatorship or property issues that will exceed 2 hours in duration.
5. **Hearings Regarding Temporary Restraining Orders, Temporary Orders, and Protective Orders That Are Scheduled for or Exceed 2 Hours in Duration.** The parties to any hearing regarding Temporary Restraining Orders, Temporary Orders, or Protective Orders that is scheduled for longer than 2 hours shall be ordered to go to mediation before any such hearing is scheduled. In the event a hearing scheduled is for 2 hours or less, but the hearing cannot be completed in that time frame, the Court may (1) suspend the hearing and order the parties to attend mediation; (2) terminate the hearing and order the parties to comply with Standing Rules of the 388<sup>th</sup> District Court until such time as the final hearing can be conducted; (3) issue rulings based on the evidence that has been presented at the conclusion of the two hour period, provided the Court determines that sufficient evidence has been adduced for the Court to rule on the issues presented, to include issues that bear upon the best interest of the child or children; or (4) continue the hearing beyond the 2 hour maximum.
6. **Pretrial-Conferences.** A *pre-trial conference* is required for all final hearings, to include divorce or annulment cases, *adoption* cases, and all modification cases involving child custody. The pretrial conference shall be scheduled at the same time the final hearing is scheduled. Generally, the final hearing will be scheduled within 3 weeks of the date of the pretrial conference. The purpose of the pretrial conference is to ensure that the parties have complied with the Trial Preparation Order and the Courts a Standing Order. The pretrial conference is intended to ensure that the necessary pretrial conference form and evidentiary hearing exhibits have been filed. If no legal issues need to be addressed prior to the pretrial conference, the parties can comply with the Trial Preparation Order at the pretrial conference through e-mail submission. If any legal issue needs to be addressed, the party seeking the ruling on the legal issue must request and schedule a judge's conference. As part of the pre-trial conference, attorneys and pro se litigations will be required to comply with a Trial Preparation Order by completing a *pretrial conference form* in which each party lists his or her trial witnesses, lists his or her trial exhibits, and provides a summary of anticipated issues that will be disputed at trial. A pre-trial conference is required for all contested jury trials and will generally be scheduled on Fridays. A completed pretrial conference form shall be served on all opposing parties.
7. **Modifications suits and pleading requirements.** Parties shall plead sufficient facts and identify the legal basis for filing a suit to modify either child support or child custody so as to provide sufficient notice to the other party of the reason for the modification. Pleadings that do not comply with applicable pleading requirements may be challenged by special exception. Further, where the

undisputed facts in the case do not support a modification of the original decree of divorce or paternity decree, the parties are encouraged to file a motion for summary judgment.

8. **Temporary Order Relief Sought in Connection with Modification Suits.** As with the rules related to temporary orders, any modification hearing related to temporary orders (assuming such order is authorized and lawful) shall be scheduled for no longer than one hour, unless the party files a “Statement of Reasons” with the Court and obtains the approval of the Court to schedule a longer hearing. Opposing counsel is authorized to file an objection to any request for a modification hearing that will exceed one hour.
9. **Final Hearings.** Final Hearings include any hearing that will result in a final disposition of the case, whether that hearing be a divorce, annulment, adoption, or modification of child custody or child support. ***Mediation shall be required for all final hearings that are scheduled for longer than 2 hours.*** All final hearings that can be completed in two hours or less shall be scheduled on Tuesdays, Wednesdays or Thursdays between 1:30 P.M. and 5:00 P.M. Final hearings that are not scheduled for 2 hours or less shall be specially set by the Court. Exception may be made in certain cases if supported by statement of reasons filed within 10 days before trial.
10. **Executed Waiver Required When Scheduled Final Hearing Are Over 2 Hours in Length.** All parties shall be required to execute a waiver of the right to pursue a de novo appeal prior to the commencement of any Final Orders Hearing involving conservatorship or complex property issues that will exceed 2 hours in duration. Exceptions may be made on a case-by-case basis for good cause, supported by statement of reasons.
11. **When Mediation Excused.** The Court may excuse mediation otherwise required for any hearing under these rules if extraordinary reasons exist so as to excuse mediation. Exceptions may be made on a case-by-case basis for good cause, supported by motion. If a party is being denied possession of the party’s child, the court may waive the mediation requirement. A party’s **refusal** to attend or schedule mediation will not be used as an excuse to avoid a temporary orders hearing.
12. **The Contested Entries Docket.** The entry of proposed orders, decrees, or judgment that are contested shall be placed on the ***contested entries docket*** that will be held on Fridays between 9:00 A.M. and 12:00 P.M. All entries that are contested must be filed no less than 15 days before the date scheduled for entry of contested orders. Objections to proposed orders that are contested shall be filed no less than 5 days prior to the contested entry hearing date.
13. **The Uncontested Entries Docket.** The uncontested entries docket shall be on Fridays from 9:00 A.M. to 12:00 P.M. Any uncontested motions or agreed final decrees/orders may be placed on the uncontested entry docket. All unopposed

motions should be titled as such. In addition, the following motions may be placed on the contested or regular entries docket: motions to Substitute Counsel and motions for relating to service of process.

14. **Summary Judgment Motions and Other Dispositive Motions.** The Court will address motions for summary judgment and motions to transfer venue on a case-by-case basis. All other dispositive motions will also be addressed by the Court on a case-by-case basis. All such motions must be filed at least 15 days before the pretrial conference.
15. **Enforcement and Contempt hearings.** These hearings shall be conducted on Wednesdays between 9:00 A.M. and 12:00 P.M. For child support enforcement cases, the moving party is ordered to provide a payment history from the Texas Office of the Attorney General (FINA Report). If the moving party is requesting incarceration, the moving party is ordered to bring a proposed commitment order for the judge to sign at the hearing. Commitment orders must be entered by 2 p.m. on the date of incarceration.
16. **Discovery disputes** will be set on Fridays at 1:30 p.m., or any other day agreed to by the parties or that is available to the Court.
  - a. The Court expects counsel to make every effort possible to resolve any and all discovery issues without Court intervention.
  - b. If Court intervention is necessary, the following procedure must be followed:
    - i. The party seeking Court intervention must file a letter not to exceed two (2-3) pages (13-point font) explaining the nature of the dispute and include the date, time, and place of prior out-of-court discovery or scheduling discussion(s) and the names of all counsel participating in the discussion(s). This letter must be both e-filed and e-mailed to the respective court.
    - ii. after receiving the letter, the Court will schedule a ten (10) to fifteen (15) minute telephonic conference with the parties. The responding party will have an opportunity to file a one to three (1-3) page (13-point font) response forty- eight (48) hours prior to the telephonic conference; and
    - iii. at the conclusion of the telephonic conference, the Court may order further briefing and/or a submission/hearing date.
  - c. The Court will send notice to all parties of any discovery submissions/hearings. The parties will be limited to briefing not to exceed ten (10) pages on any discovery matter.



17. **Late Calls:** An attorney who fails to attend a judge's conference or pre-trial conference via Zoom or in person **should call the court coordinator** no later than 15 minutes prior to the scheduled judge's conference or pre-trial conference and state reasonable expected time of arrival, reason for delay, and any other court(s) where they are appearing. If an attorney knows their appearance at the time scheduled for a judge's conference or pretrial conference will be delayed due to a conflicting court appearance, the attorney should call the court coordinator after 1:30 p.m. the day before the hearing and provide the information listed above. *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 of the Judges Conference Call or Pretrial scheduled time.*
18. **Ex parte temporary restraining orders.** These orders should be joint and mutual, although exceptions may be made if supported by affidavit. In divorce actions, ex parte TROs should use applicable language from section 6.501 of the Texas Family Code. In SAPCR cases, the court may strike certain proposed injunctions (such as alcohol or paramour injunctions) if they are not supported by an affidavit. A TRO or a counter petition must be consented to by the opposing party and contain a certificate of conference. Alternatively, a counter- petitioner may notice the other side of a hearing for temporary orders
19. **Attorney ad litem.** These attorneys will be appointed to represent a party served by publication, although exceptions may be made in cases with no children and no property. Parties seeking such an exception should approach the presiding judge or associate judge. 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.
20. The court may appoint an **amicus attorney** in a case in which conservatorship or possession of or access to a child is in dispute.
21. All electronic devices should be in silent mode or turned off in the courtroom. No food or chewing gum is allowed in the courtroom. No photos, recordings or videos may be taken at any time without the prior approval of the Court, except in adoption cases. While in trial, parties and attorneys may have water or beverages at the counsel table.
22. Children may not be in the courtroom without court approval. If the court approves a request for a judge to interview a child in chambers, bring the child to the courthouse at the interview time. **DO NOT ENTER THE COURTROOM.** Please check in with Bailiff.
23. Exceptions to these rules may be made on a case-by-case basis. Suggested changes to these rules are welcome. If there is something you think we should do differently, please let us know.

24. The failure of an Attorney to appear at a previously scheduled pretrial conference and failure to have filed and completed the pretrial conference form required by the Court's Trial Preparation Order may result in the case being dismissed for want of prosecution.

#### 4. **PARENTING CLASSES.**

The court recognizes and approves of the following **online courses** (listed in no particular order):

**Kids First**

<https://kidsfirsttoday.com>

**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>

**Parenting Choice**

<https://www.parentingchoice.com>

#### 5. **DEFAULTS**

All default hearings require the following documents to be filed **before** the hearing date:

1. Proof of Service.
2. Return of Service (on file for a minimum of 10 days).
3. Non-Military Affidavit.
4. A sworn inventory and appraisalment (divorce matters >\$50,000).
5. Certificate of Last Known Address per Texas Rule of Civil Procedure 239a.

6. **INCLEMENT WEATHER POLICY.**

a. **Court Closure:** All cases set on a day that the court is closed due to inclement weather will automatically be reset priority setting.

b. **Delayed Start:** If the El Paso County School Districts are on a “delayed start,” the 388<sup>th</sup> Judicial District Court will also be on delayed start. Please contact the Court Coordinator to confirm the time of your hearing. Due to anticipated time constraints, the time allowed for each hearing may be limited. If an attorney of party is unable to appear at the updated start time, a reset may be requested.

c. The 388<sup>th</sup> Judicial District Court will follow announcement of the School Districts in El Paso County, Texas.

d. If the El Paso County School Districts close due to inclement weather, the 388<sup>th</sup> Judicial District Court will close unless all parties and attorneys are available.

**ZOOM HEARING RULES AND PROCEDURES.**

Until further notice, all hearings in the 388<sup>th</sup> District Court will be heard by Zoom or considered by submission, except as otherwise scheduled with leave of court.

Please do not appear in person at the courthouse unless you have received confirmation from the Court Coordinator that your case is set for an in-person hearing or trial

The 388<sup>th</sup> has two Virtual Courtrooms – one for Judge Marlene Gonzalez, Presiding Judge and one for Judge James D. Lucas, Associate Judge. The Zoom links for the Virtual Courtrooms will be posted on the court’s website. You may also access the Virtual Courtrooms by launching the Zoom app or by going to <https://zoom.us/> and selecting “Join a Meeting.” The meeting IDs are as follows:

**Judge Marlene Gonzalez – 388<sup>th</sup> Judicial District Court**

<https://txcourts.zoom.us/j/98010908133>

**Judge James D. Lucas – 388<sup>th</sup> Associate Family Court # 1.**

<https://txcourts.zoom.us/j/98966843908>

<p><u>To join the Zoom hearing by Video:</u></p> <p>Go to <a href="https://txcourts.zoom.us/j/">https://txcourts.zoom.us/j/</a> Join the meeting by typing in the Meeting ID.</p> <p>To appear by video on Zoom, you will need to have an electronic device with an internet connection. You may use a smart phone, iPad/tablet, or webcam/built in camera with sound and video. You will also need to install the free Zoom App before the conference begins.</p>	<p><u>To join the Zoom hearing by Phone/Audio only:</u></p> <p>Dial by your location or find your local number at <a href="https://txcourts.zoom.us/j/abnprcyMQz">https://txcourts.zoom.us/j/abnprcyMQz</a> +1 346 248 7799 US (Houston) +1 669 900 6833 US (San Jose) +1 929 205 6099 US (New York) +1 253 215 8782 US +1 301 715 8592 US +1 312 626 6799 US (Chicago)</p> <p>Then type in the Meeting ID.</p>
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Please visit [zoom.us](https://zoom.us) [zoom.us] and create an account, using your work e-mail address. You should also download and install the app on your computer, tablet and smart phone. If you cannot figure out how to do it, just remember this -- when you attempt to host or join a meeting from the Zoom webpage, it will ask you whether to open the Zoom app. Instruct it to open in the Zoom app and allow it to install the program. (No paid license is required at this time, although full functionality costs only \$15 per month.) It is crucial that you install the program/app rather than relying on the web browser. Please ensure that your clients and witnesses are able to appear remotely.

**Dress codes:**

**Attorneys:** Business Attire. Dress code for attorneys is unchanged from in-person proceedings. While we may be sitting at home or in our offices, we still represent the justice system, and must instill confidence in the witnesses, litigants, and viewing public. Use this opportunity to enhance, rather than degrade, public confidence in the legal profession.

**Parties and witnesses:** While we are not in court, the attire of parties and witnesses can detract from their important testimony. However, the Court is aware that this is a unique situation, that people are not working and may be home schooling and have other challenges more critical than dress. Counselors: Please do your best to address with your clients and witnesses. Inappropriate dress may result in a person not being able to participate by video.

## **POLICIES AND PROCEDURES**

1. Each party shall consult applicable state law(s), the El Paso County Local Rules, and the 388<sup>th</sup> District Court's Policies, Procedures and Rules of Practice prior to any zoom hearing. The policies will be the same for the 388<sup>th</sup> District Court and its ancillary court, Associate Family Court #1.
2. Parties are responsible for the logistics of their zoom appearance. Technical difficulties that are not timely resolved may result in a hearing being passed. A required appearance will not be excused due to a party's lack of familiarity with Zoom. Please download the Zoom App and practice logging in before your scheduled hearing.
3. Children shall not be present in the same room with any party or witness while a hearing is being conducted.
4. Exhibits: To avoid the possible exclusion of exhibits, please refer to the court's instructions on the filing of trial exhibits.
5. Notice: The **scheduling party** shall notice all necessary parties, per local and state rules, and file a certificate of service for each zoom hearing. A notice of a Zoom Proceeding must include the date and time of the hearing, as well as instructions for joining the Zoom Meeting.

## **PARTICIPATING IN VIRTUAL COURT ROOM**

6. When you join the virtual meeting, you will be placed in the "waiting room" with all other parties, attorneys, and witnesses. When your case is called, the Court will bring you into the virtual courtroom. Witnesses will be called as in any case, and the Court or Court Coordinator will bring them in one at a time from the waiting room.
7. Because the Zoom app works on all modern smart phones, tablets, and computers, **all parties, attorneys and witnesses are expected to appear by video, rather than merely by voice.** Only witnesses who appear on video will be permitted to testify, unless they are in the physical presence of a notary public.
8. Notes may be passed between lawyer and client, using the private chat feature. To do so, hit the "CHAT" button, then at the bottom of the chat window, pull down the recipient arrow and select your lawyer's/client's name. However,

such communication is prohibited during the taking of the respective client's testimony. If "the Rule" has been invoked, witnesses shall not use the chat feature and will only be permitted in the virtual courtroom while they are testifying. Witnesses may not refer to notes or paperwork while testifying, except as otherwise allowed.

9. A client may, upon request, confer in private with his or her attorney. The client should send a note via the private chat feature to their attorney, who may request a moment to confer. If the request is granted by the court, the attorney and client will be moved into a confidential "breakout room" to confer for a moment.
10. All hearings conducted via the Zoom App are subject to additional instructions as deemed appropriate by the court during the hearing.

### **NO RECORDING OF COURT PROCEEDING**

**NO PERSON, OTHER THAN THE COURT REPORTER, MAY RECORD A COURT PROCEEDING WITHOUT THE COURT'S PERMISSION. THIS PROHIBITION APPLIES TO ALL PERSONS, INCLUDING MEMBERS OF THE PUBLIC VIEWING COURT PROCEEDINGS ON ANY COURT'S LIVE STREAM AND TO PERSONS WITH THE ABILITY TO RECORD ANY VIRTUAL COURT PROCEEDING. ANY PERSON FOUND TO BE IN VIOLATION OF THIS ORDER FACES CONTEMPT PROCEEDINGS, INCLUDING A FINE OF UP TO \$500 AND A SENTENCE OF CONFINEMENT OF UP TO SIX (6) MONTHS IN JAIL FOR EACH ACT OF CONTEMPT OF COURT.**

### **POLICIES APPLY TO AGENTS**

No party, attorney, or witness may circumvent the terms of these policies by having another person perform a task prohibited for that party, attorney, or witness. For example, if an attorney is prohibited from communicating with a witness during a proceeding, the attorney's legal assistant or other agent of the attorney may not communicate with that witness during the proceeding.

Social Distancing regulations apply at all times in the courtroom.

**388<sup>th</sup> Judicial District Court – Judge Marlene Gonzalez**  
**Request for Settings:** [388<sup>th</sup>DC@epcounty.com](mailto:388thDC@epcounty.com)  
**Exhibits for Hearings:** [388thDCExhibits.gem@epcounty.com](mailto:388thDCExhibits.gem@epcounty.com)  
**Telephone:** 915.543.3850  
**Fax:** 915.543.3832

**388<sup>th</sup> Associate Family Court # 1 – Judge James D. Lucas**  
**Request for Settings:** [388<sup>th</sup>AC@epcounty.com](mailto:388thAC@epcounty.com)  
**Exhibits for Hearings:** [388thACExhibits.gem@epcounty.com](mailto:388thACExhibits.gem@epcounty.com)  
**Telephone:** 915.543.3850  
**Fax:** 915.543.3832

*These policies and procedures do not supplant the El Paso County Local Rules and are subject to revision.*

