

# **AUGUST 2025 CASELAW UPDATE**

(Cases from July 1–31, 2025)

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**DIVORCE:  
PROCEDURE AND JURISDICTION**

**Wife Not Entitled To A Hearing On Her Motion For New Trial; No Error In Allowing It To Be Overruled By Operation Of Law.**

1. *Ahrens v. Ahrens*, No. 04-24-00573-CV, 2025 WL 2058077 (Tex. App.—San Antonio 2025, no pet. h.) (mem. op.) (per curiam) (07-23-2025).

**Facts:** After the parties signed a mediated settlement agreement, Wife refused to sign the final decree of divorce. Husband filed a motion to enter, and Wife was unrepresented at the hearing on that motion. Subsequently, Wife filed a motion for new trial complaining that she did not know she could sign the decree to indicate her agreement as to form without also agreeing as to substance. She asked the trial court to remove the “as to substance” from the decree. Wife’s motion for new trial was overruled by operation of law. Wife appealed with the aid of appellate counsel.

**Holding: Affirmed.**

**Opinion:** Wife’s sole issue on appeal was a complaint that her new trial was allowed to be overruled by operation of law. Generally, the trial court need not hear a motion for new trial and may allow it to be overruled by operation of law. A hearing is required only when the motion “presents a question of fact upon which evidence must be heard.” Here, no question of fact was presented that would have required an evidentiary hearing.

**Default Divorce Decree Reversed Because Not Supported By Mother’s Pleading Or Her Evidence At Trial.**

2. *In re Marriage of Sanchez*, No. 07-24-00399-CV, 2025 WL 2167249 (Tex. App.—Amarillo 2025, no pet. h.) (mem. op.) (07-30-2025).

**Facts:** Mother filed for divorce on the ground of insupportability and did not request a disproportionate division of the community estate. She asked the court to appoint the parties joint managing conservators with neither parent having the exclusive right to designate the Child’s primary residence. She stated that the parties should be given equal periods of possession because the standard possession order would be “unworkable.” Father was served but filed no answer and did not appear.

At trial, Mother was the sole witness and stated “in passing” that Father had been convicted and imprisoned for indecency with a Child. The default decree awarded Mother all real property, an automobile, and the corresponding debt. Mother was appointed sole managing conservator. Father was purportedly granted a standard possession order, but the order did not include any terms for possession. Father timely filed a notice of restricted appeal.

**Holding: Affirmed in Part; Reversed and Remanded in Part.**

**Opinion:** Father argued the trial court erred in dividing the marital estate without evidence of values. Mother’s testimony indicated that the parties purchased the home together before marriage, which would mean that each party had an undivided 50% separate-property interest in the property. Thus, in awarding the home to Mother, the trial court likely divested Father of his separate-property interest in the home. Regardless, even if the home was community property, the trial court erred in dividing the estate with no evidence of values of any of the parties’ assets or debts.

Father also argued that the trial court erred in rendering orders for the Child that did not conform to Mother’s pleading. As a fundamental component of due process, a pleading gives the responding party the ability to identify the relief being requested to inform the decision of whether to contest the allegations. Father received no notice that Mother would be seeking sole managing conservatorship or something other than a 50/50 possession order.

Thus, the property division and SAPCR provisions were reversed for a new trial. The appellate court affirmed the trial court’s dissolution of the parties’ marriage.

**DIVORCE:  
ALTERNATIVE DISPUTE RESOLUTION**

**Wife Showed No Basis For Vacating Arbitration Awards Because She Failed To Establish Arbitrator Exceeded His Authority.**

3. *Pyle v. Wedekind*, No. 09-23-00200-CV, 2025 WL 2166586 (Tex. App.—Beaumont 2025, no pet. h.) (mem. op.) (07-31-2025).

**Facts:** During the parties’ divorce proceedings, Husband and Wife signed a mediated settlement agreement (“MSA”) and an agreement incident to divorce (“AID”) that the trial court incorporated into a final decree. The decree provided that in the event



of conflicts, the decree and AID would control. The MSA included an arbitration provision that included a disclosure regarding the likelihood of professional interactions between the arbitrator and attorneys.

Husband filed a motion to compel arbitration to enforce the AID. Wife opposed arbitration, asserting that a deadline in the AID had passed, and the arbitration agreement was no longer binding. The trial court ordered arbitration, and the arbitrator returned three awards, one of which awarded fees and sanctions against Wife, in part for failing to make a reasonable inquiry before bringing allegations that were not supported by facts.

Husband moved for the trial court to confirm the arbitration awards, and Wife sought vacatur on the grounds that the trial court should not have compelled arbitration. The court affirmed all three awards, and Wife appealed.

**Holding: Affirmed.**

**Opinion:** An arbitration award that exceeds the authority conferred by the agreement is void. However, in the absence of a clear agreement to limit the arbitrator's authority and expand the scope of judicial review, the appellate court may not exercise expanded judicial review. Absent an agreement for expanded judicial review, the appellate court will not reverse even for a mistake of law or fact.

Wife argued the AID included an arbitration deadline, and the trial court's arbitration ordered was signed 11 months after that deadline. The AID and decree stated that disputes would be resolved by binding arbitration on or before the deadline. The fact that the parties did not attend arbitration by that date did not necessarily preclude arbitration. The appellate court first reviewed the "deadline" to distinguish between "substantive arbitrability questions addressing the existence, enforceability, and scope of an agreement to arbitrate ..." and "procedural arbitrability questions addressing the construction and application of limits on that agreement ...[.]" such as "the satisfaction of 'prerequisites such as time limits, notice, laches, estoppel, and other conditions precedent to an obligation to arbitrate.'" Courts decide substantive arbitrability questions, while arbitrators decide procedural arbitrability questions. Other than the "deadline," Wife did not challenge the validity of the arbitration agreement. Because this deadline was a question of procedural arbitrability, it was a question to be decided by the arbitrator, and the trial court did not err in compelling arbitration.

Wife next argued the arbitrator exhibited evident partiality by declining to recuse himself based on his conduct during prior mediation and his failure to disclose relationships and business dealings. To exemplify partiality, Wife pointed to statements made by the arbitrator/mediator that Wife faced civil and criminal liability and implied that the deal being offered at mediation was Wife's best hope of avoiding those liabilities. The trial court was within its discretion to conclude the methods employed by the arbitrator did not demonstrate partiality, and without any record of the arbitration, Wife could not establish grounds for vacatur. Further, the AID and decree included a provision waiving appeal of arbitration. Additionally, the MSA included a waiver of disclosure of relationships and business dealings with members of the Family Bar. Wife produced no evidence of bias.

Wife further argued the arbitrator exceeded his authority by awarding sanctions because sanctions were not contemplated or authorized by the AID or decree. The arbitration order stated that the parties would be bound by the rules established by the arbitrator unless otherwise agreed by the parties. The arbitrator's docket control order stated that unless otherwise ordered or modified by the arbitrator, the Rules of Civil Procedure and Evidence would apply. The arbitrator had authority to issue Rule 13 sanctions.

**DIVORCE:  
PROPERTY DIVISION**

**Past-Due Child Support Was Father's Obligation Alone And Was Properly Not Considered In The Just And Right Division Of The Community Estate.**

4. *In re H.M.*, No. 05-24-00261-CV, 2025 WL 1909495 (Tex. App.—Dallas 2025, no pet. h.) (mem. op.) (07-08-2025).

**Facts:** During their divorce proceeding, Father agreed to a temporary order that set his child support to the maximum guideline amount for two Children. Because Father failed to pay any child support, Mother sought to enforce the unpaid child support. A final order applied the same child-support obligation. Father appealed pro se.

**Holding: Affirmed.**

**Opinion:** Among other complaints, Father challenged the division of the community estate. Although the property was divided roughly equally, Father characterized it as grossly disproportionate. "To the extent Father [was] suggesting he should have been awarded a larger portion of the marital estate to cover his past-due support obligations, his argument [was] not well taken. The support debt is his alone and not subject to reimbursement by the marital estate."

**Wife's Sister's Contradictory And Unclear Testimony, Without Any Supporting Documentation, Failed To Meet Clear-And-Convincing Standard To Overcome Community Property Presumption.**

5. *Liu v. Li*, No. 14-23-00810-CV, 2025 WL 1936929 (Tex. App.—Houston [14th Dist.] 2025, no pet. h.) (mem. op.) (07-15-2025).



**Facts:** In their divorce proceeding, Wife asserted Husband wasted community assets and identified several transactions he had made without her knowledge or consent. The final decree found that both parties wasted assets and committed actual fraud and divided the estate 55/45 in Wife's favor. The court additionally found that certain property in China was Wife's separate property and awarded Wife her attorney's fees. Husband obtained findings and appealed.

**Holding: Reversed and Remanded in Part; Affirmed in Part.**

**Opinion:** Husband challenged the constructive fraud findings in part because he asserted Wife failed to show that complained-of transactions were made with community funds. However, there is a presumption that property of the spouses is community property. It was Husband's burden to establish the funds were his separate property, not Wife's burden to show the funds were community property.

Husband additionally challenged the confirmation of real property in China as Wife's separate property because Wife failed to present clear and convincing evidence of the property's character. At trial, Wife's sister testified about the acquisition of the property, but the testimony was contradictory and unclear. It was not apparent whether community funds or inherited funds were used, whether the purchase was made by Wife or her parents, or whether the property was inherited or purchased. No documentary evidence was offered. Wife failed to disclose the existence of the property until confronted about the property by Husband. Wife's evidence did not meet the clear-and-convincing standard, and the trial court erred in characterizing the property as Wife's separate property. Because this error had more than a de minimus effect on the overall division, the entire division was remanded for further proceedings.

Finally, Husband challenged the attorney's fee award to Wife because the evidence was insufficient to support a finding that the fees were reasonable. Wife presented no evidence of reasonableness. However, because the trial court had authority to award fees and because the evidence was merely insufficient, that issue was also remanded to the trial court for further proceedings.

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#### **Wife Not Entitled To Findings Of Value On Assets For Which She Presented No Competing Evidence.**

6. *Hurt v. Hurt*, No. 14-23-00414-CV, 2025 WL 1982875 (Tex. App.—Houston [14th Dist.] 2025, no pet. h.) (mem. op.) (07-17-2025).

**Facts:** Wife's attorney withdrew on the day of trial, and Wife proceeded pro se. Husband presented two proposed property divisions for consideration, but Wife did not present one. The trial court awarded Husband the bulk of the assets and almost all the parties' debt. Wife appealed.

**Holding: Affirmed.**

**Opinion:** Wife complained that the findings of fact were insufficient to allow her to adequately present her appeal. Wife primarily complained about the lack of a finding of the value the trial court assigned to the community furniture. The court is only required to provide values for assets on which disputed evidence is presented. Although Wife vaguely testified that she believed the division was unfair, Wife offered no competing evidence and was not entitled to a finding. Moreover, the trial court accepted one of Husband's proposed property divisions, which included values. Thus, Wife was not required to guess at the reasons for the trial court's decision.

Wife additionally complained of the property division. However, when factoring in the parties' debts, the division was not as disproportionate as Wife claimed in her appeal.

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#### **Claims In Mother's Sixth Amended Petition Did Not Operate As A Surprise To Father And Were Improperly Struck From The Jury Charge; Trial Court Erred In Failing To Find Constructive Fraud Because Mother Raised The Presumption By Showing Improper Uses Of Community Funds, But Father Failed To Establish The Transactions Were Fair.**

7. *Wadhwa v. Wadhwa*, \_\_\_ S.W.3d \_\_\_, No. 14-23-00521-CV, 2025 WL 2044632 (Tex. App.—Houston [14th Dist.] 2025, no pet. h.) (07-22-2025).

**Facts:** In their divorce proceedings, Mother filed a motion for continuance of final trial, but at the continuance hearing, Mother's lead attorney failed to appear, so Mother herself requested a continuance, which the trial court reluctantly granted. The trial court stated on the record that it believed Mother and her attorneys had engaged in gamesmanship to delay trial.

Mother's live pleading at trial was her sixth amended petition, and the trial court granted Father's request to strike "new" claims from that petition. After a jury trial, Mother moved for a new trial based in part on her claims not being presented to the jury. The trial court denied Mother's motion, and she appealed.

**Holding: Reversed and Remanded in Part; Affirmed in Part.**

**Opinion:** Mother argued the trial court abused its discretion in denying her motion for new trial with respect to conservatorship. Specifically, she argued the trial court erred in striking her request for joint managing conservatorship and in submitting a jury



charge that prohibited the jury from finding she should have been appointed a joint managing conservator with the exclusive right to designate the Children's primary residence.

Parties may amend pleadings as they desire at such time as not to operate as a surprise to the opposite party, but any amendments within 7 days of trial can only be made with leave of court. Further, the court must grant leave unless the opposing party establishes surprise. The question is not whether the opposing party did in fact anticipate the change but whether the change could have been anticipated. The remedy to cure the disadvantage of surprise alone is a continuance, not an exclusion of the amendment.

In striking the request for joint managing conservatorship from Mother's sixth amended petition, the jury was presented with only two options: to appoint Father as a sole managing conservator or appoint the parties joint managing conservators with Father having the exclusive right to designate the Children's primary residence. The trial court agreed with Father's complaint that he was surprised because until the sixth amended petition, Mother had sought sole managing conservatorship and all exclusive rights. However, Mother's fifth amended petition also requested joint managing conservatorship, although no geographic restrictions were sought until her sixth amended petition. Yet, Father had pleaded for a geographic restriction on the Children's residence. Accordingly, there was no evidence to support the trial court's finding that Father was surprised by Mother's narrower request in her sixth amended petition. That finding was harmful because Mother lost her right to present her case to the jury. The trial court therefore erred in failing to grant Mother a new trial with respect to conservatorship. Additionally, because the determination of conservatorship would have impacted the determinations of child support, allocation of rights, and possession, Mother was also entitled to a new trial on those issues.

Mother additionally complained the trial court abused its discretion in failing to make a finding of constructive fraud because the overwhelming weight of evidence showed Father committed fraud against the community estate by secreting hundreds of thousands of dollars. Specifically, the trial court found that Mother produced no evidence of actual or constructive fraud. However, Mother showed ample evidence of Father's use of community funds without her knowledge or consent, which shifted the burden to Father to show that the transactions were fair to the marital estate. Father failed to carry that burden.

Father transferred community property ownership in a company to his father for nothing in return. The company was then sold for millions of dollars, resulting in Father's father acquiring nearly one million dollars. Father did not offer any explanation that would have supported a finding that this action was fair to the marital estate. Additionally, Father wrote a check to his mother for over \$200,000 without Mother's knowledge or consent, which raised a presumption of constructive fraud and shifted the burden to Father to establish the transaction was fair. Father claimed that the funds were his separate property, but he offered no evidence to support that claim. Rather, the evidence supported a finding the money was community property. Although Father testified to his accounting of the purpose of the funds given to his mother, he did not provide any documentary evidence to support his testimony and did not satisfy his burden. Father additionally took the Children on "fancy" expensive ski trips during the divorce proceeding while asserting the net worth of the community estate was negative. Father offered no explanation as to how these vacations were "fair" to the community estate.

Mother requested findings of fact and filed a notice of past due findings, but the trial court failed to issue findings. The appellate court abated the appeal for the trial court to sign findings, but those findings were insufficient. While the appellate court could have abated the appeal again, the evidence did not support the implied finding necessary to reverse the judgment, so an abatement was unnecessary.

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**Husband's Request For Annulment, Filed The Day Before Divorce Trial, Properly Refused Because It Substantively Altered The Case And Was Prejudicial To Wife; Property Owned By A Corporation And Two LLCs Could Not Be Included In Just And Right Division Because Not Part Of Marital Estate.**

8. *Bravo v. Bravo*, No. 05-24-00419-CV, 2025 WL 2053579 (Tex. App.—Dallas 2025, no pet. h.) (mem. op.) (07-22-2025).

**Facts:** Wife had three prior marriages (at least one in Mexico), and Husband had one prior marriage. Husband moved from Puerto Rico to the continental U.S. before marrying Wife and had formed businesses before marriage. He used separate property to purchase real property to be used by his separate property entities.

Husband and Wife both filed for divorce on the ground of insupportability. Wife later amended her petition to add the ground of cruel treatment. The day before trial, Husband amended his pleading to include a request for annulment based on his assertion that Wife failed to properly divorce two prior Husbands, including the one in Mexico. At trial, the court denied Husband's request to allow his amendment and proceeded with the divorce trial. The trial court signed a final divorce decree that divided the parties' property, including property held by Husband's business entities. Husband appealed.

**Holding: Affirmed in Part; Reversed and Remanded in Part.**

**Opinion:** In his first issue, Husband argued the trial court erred in not permitting his trial amendment to seek an annulment because Wife was not divorced from her prior marriage. Under Texas Rule of Civil Procedure 66, a trial court must freely grant a request to amend pleadings during trial unless the opposing party presents evidence the amendment would prejudice that party in maintaining an action or defense on the merits. An amendment is not mandatory if it asserts a new substantive matter that reshapes the cause of action. An amendment is prejudicial on its face if (1) it asserts a new substantive matter that reshapes the litigation; (2) the opposing party could not have anticipated the amendment; and (3) the amendment would detrimentally affect the opposing party's presentation of the case.



Husband first raised his annulment claim the day before trial. To support a claim for annulment, Husband would have had to establish fraud or duress that induced him into marriage. There is no common element between a request for a divorce based on insupportability and a request for annulment, so the amendment was a new substantive matter that reshaped the litigation.

Husband additionally asserted that Wife could have anticipated the claim. During a deposition, Husband brought up an issue of annulment or prior un-divorced marriages. However, while there were some questions posed to Wife on those topics, there was nothing to suggest Wife did not divorce her prior Husbands, did not believe she was divorced, or should have anticipated an annulment claim. Further, even if the deposition raised the possibility of an annulment claim, Husband did not explain why he did not immediately amend his petition at that time, rather than at the eve of trial.

Finally, the amendment would have detrimentally affected Wife's presentation of the case because she had no opportunity to respond to the claim, conduct discovery, or prepare a trial defense. Most of Husband's documents were obtained from Mexico and were in Spanish. Wife would likely have had to obtain her own records from Mexico and investigate their validity and impact on the case.

In his second issue, Husband complained of the division of the marital estate because it included assets of businesses in the division. While a spouse's ownership interest in a corporation can be characterized as separate or community property, corporate assets and liabilities are owned by the corporation, and absent a finding of alter ego, are not party of the marital estate. Similarly, property of an LLC—a separate legal entity—is neither community nor separate property of its members.

Here, the trial court made express findings that a corporate entity was 100% owned by the community estate and characterized 13 real properties and a bank account held by the corporate entity as community property to be divided between the parties. Additionally, although the court did not make express findings as to the ownership of two LLCs, it ordered that the LLCs' assets would be divided as part of the just and right division of the community estate. The trial court erred by including the corporation's and LLCs' assets in the division of property, and this error required reversal because it materially impacted the just and right division. Although Wife argued that the trial court could have determined the entities were alter egos of Husband, Wife did not plead alter ego or ask the trial court to disregard corporate formalities.

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### **Because Collection On Husband's Company's Loan Was Barred By Limitations, Husband Could Not Rely On That Alleged Debt To Devalue The Company.**

9. *Loyd v. Loyd*, No. 02-24-00284-CV, 2025 WL 2087932 (Tex. App.—Fort Worth 2025, no pet. h.) (mem. op.) (07-24-2025).

**Facts:** Before marriage, the parties signed a premarital agreement (PMA) that provided that there would be no community property created by the marriage. It additionally included provisions regarding Husband's existing business and the creation of a new business. Income was to be deposited into a joint account for necessary expenses of the couple.

Wife filed for divorce, and Husband counter-petitioned. Each party asserted the other had breached the PMA. After a final bench trial, the court rendered a final decree providing for the division of assets and rights and obligations regarding their two Children. Husband appealed, raising 11 issues.

### **Holding: Affirmed.**

**Opinion:** Husband asserted the trial court erred in making a declaratory judgment that a loan to his company was unenforceable and did not impact the company's valuation. Under the parties' PMA, Wife was entitled to a portion of the net value of Husband's company. Husband asserted his company had a negative value due to an outstanding loan to another of Husband's businesses that exceeded all other assets. However, the loan matured 9 years earlier, and Husband had not made any payments on it. The trial court did not err in finding the loan was barred by limitations and unenforceable.

Additionally, Husband argued Wife lacked standing to seek a declaratory judgment on this issue because she was not a party to the loan. However, Wife had standing to seek a declaratory judgment on that issue because a justiciable controversy existed regarding the amounts to which Wife was entitled to receive under the PMA and the resolution of this controversy turned on the validity of the loan.

Husband further argued that his two businesses were necessary parties that Wife failed to join in the divorce. However, Husband forfeited this complaint by failing to raise the issue in a verified pleading in the trial court.

Husband next complained of the trial court finding he breached his fiduciary duty to Wife. Husband asserted that because the PMA provided no community estate would be created, no fiduciary duty existed. Beyond appropriately managing, preserving, and disposing of community property, the fiduciary duty between spouses generally requires the "utmost good faith and frankness in their dealings with each other." Thus, even though no community estate was created during the parties' marriage, Husband nevertheless owed Wife a fiduciary duty of good faith and fair dealing.

Husband further complained the trial court erred in concluding he breached the PMA by failing to deposit his full salary from his company into the parties' joint account. Wife asserted that because Husband's company was a pass-through entity, he had the ability to determine his salary, and he greatly underpaid himself. Husband argued the PMA did not require him to set his salary at any specific amount. After analyzing the PMA's language, the trial court determined that "income" was defined as the earnings of the company minus certain expenses, regardless of Husband's "salary." Thus, because Husband did not deposit the full "income" due to him under the PMA, Husband breached the parties' PMA.

Husband complained the trial court erred in failing to find that Wife breached the PMA by depositing jointly owned funds in a separate account. However, Wife simply used a mobile deposit feature to deposit funds into her own bank account and always





immediately transferred the funds to the joint account. Additionally, Husband was fully aware of how Wife was handling deposits. The trial court did not err in finding no material breach occurred.

Husband argued the trial court abused its discretion in choosing not to require Wife to provide Husband an explanation of benefits before being reimbursed for 50% of uninsured portions of healthcare expenses for the Children. The decree required Wife to provide “all forms, receipts, bills, statement, **or** explanations of benefits.” (emphasis added). During the divorce proceedings, Husband repeatedly forced Wife to jump through hoops to receive reimbursement, and the trial court did not abuse its discretion by not explicitly requiring her to provide the explanation of benefits for every expense.

Finally, Husband complained of the trial court’s award to Wife of attorney’s fees in the SAPCR when the PMA provided that each party would pay his or her own attorney’s fees. However, the PMA explicitly provided that it did not affect either party’s right in any SAPCR, and a SAPCR is a separate and distinct suit from a divorce. The Family Code authorizes the award of attorney’s fees in a SAPCR.

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**Because Ownership Interest In Company Stock Was Community Property, It Was Not An Abuse Of Discretion To Award Wife A 60% Interest In Future Distributions After Divorce.**

10. *Brenner v. Brenner*, No. 03-23-00400-CV, 2025 WL 2087204 (Tex. App.—Austin 2025, no pet. h.) (mem. op.) (07-25-2025).

**Facts:** Husband worked as an oncologist, and Wife was a stay-at-home mother. Husband designed a drug to treat patients with breast cancer and owned a portion of the company owning the patent to that drug. After discovery of Husband’s adultery, Wife filed for divorce. The trial court signed a final decree of divorce after a bench trial. Husband appealed.

**Holding: Affirmed.**

**Opinion:** Husband first argued the court erred in characterizing as community property future payments to Husband from a company of which Husband was a stockholder. Husband did not dispute that his 30% stock-ownership interest in the company was community property. In the decree, the trial court awarded Husband a 40% interest in the stock and Wife a 60% interest. The court imposed a constructive trust, naming Husband as trustee and Wife as beneficiary. Husband was required to transfer to Wife her share of distributions within 5 business days of receiving any distributions. Husband argued that future distributions would be based on “milestones” of the company that would be based on his future labor and efforts after the divorce and that those distributions should have been prorated based on the amount of time the parties were married compared to the amount of time worked after divorce. However, all distributions based on the milestone payments would be distributed to all stockholders, not just to Husband. The trial court did not abuse its discretion in its treatment of distribution income based on the community’s interest in the stocks.

Husband additionally challenged the trial court setting his child support obligation in excess of the Family Code’s guidelines. The Austin court of appeals has “upheld above-guidelines support awards where the evidence of the needs of the child included evidence of professional therapy, household maid services, cable television, yard maintenance, caretaking of the home, cleaning supplies, vehicle maintenance, car insurance, life insurance, extracurricular activities, and outings like trips to the zoo or to theme parks.” Other appellate courts “have upheld support awards where the managing-conservator parent presented evidence that the child’s needs included expenses for private-school tuition, extracurricular activities, summer camps, gasoline, clothing, a car lease, an allowance, and half of the parent’s mortgage.” Here, Wife presented evidence that the Children needed a math tutor, and their other needs included expenses for a share of the housing payments, utilities, and food while in her care. She also noted expenses for medical, dental, orthodontic, and medical-health treatments; clothing; and the car payment and related expenses. In sum, Wife showed the Children’s needs were \$6,709 per month and requested \$5000 per month, which the trial court granted. The trial court did not abuse its discretion in setting the amount of Husband’s child-support obligation.

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**Mineral Rights Purchased During Marriage Found To Be Community Property Because Husband Failed To Establish The Purchase Could Be Traced To Funds Gifted From His Father.**

11. *O’Connor v. O’Connor*, No. 03-23-00407-CV, 2025 WL 2147786 (Tex. App.—Austin 2025, no pet. h.) (mem. op.) (07-30-2025).

**Facts:** During the parties’ marriage, Husband’s mother died, and Husband’s father became the trustee of a trust in her name. Husband’s father prepared a deed transferring mineral interests to Husband and his siblings. A few days after the deed was prepared, Husband’s father purportedly gifted each sibling funds from their mother’s estate to purchase the mineral interests. After hearing testimony and reviewing evidence, the court determined the transaction amounts presented by Husband were inconsistent, and Husband’s testimony regarding the transactions was not credible. The court concluded that the royalties Husband received during marriage from the mineral interest were community property. Based on Husband’s use of those royalties, the court reconstituted the community estate before making a just and right division. Husband appealed.

**Holding: Affirmed.**



**Opinion:** Husband asserted the trial court erred in failing to admit as evidence a handwritten note from his father discussing financial transactions related to estate planning. When attempting to admit the note, Husband authenticated the note by stating he was familiar with his father's handwriting and that the note related to transactions relating to estate planning. However, no offer of proof was made to describe the transactions allegedly discussed in the note or the intent behind making the transactions. Without that information, the appellate court could not determine whether the exclusion of evidence was harmful. Thus, Husband failed to preserve the complaint for appellate review.

Husband next asserted the trial court erred in failing to consider the presumption that a parent-to-child transfer of property is a gift. However, nothing in the record, including the court's findings, indicated that the trial court refused to consider the parental-gift presumption. The trial court discussed evidence rebutting the presumption.

Husband's primary argument was that the trial court erred in finding the mineral interests were community property. First, Husband asserted the mineral interest was gifted to him by his parents. Here, Husband's own evidence rebutted the gift presumption. The deed stated that the interests to Husband were sold for adequate compensation. Husband testified that he wrote a check to his mother's trust for the purchase and that his father gave Husband funds to purchase the interest. If the deed was a gift, those transactions would have been unnecessary. The evidence supported a finding that the mineral-interest deed was not a gift.

Next, Husband argued he adequately traced the purchase of the mineral interest from the gifted funds from his father. However, the copy of the check allegedly received from Husband's father did not have an account number, signature, or memorandum noting its purpose. Husband pointed to two transactions on a bank statement that were close to the amount of the alleged gift and mineral deed purchase, but the statement did not identify who participated in those transactions. Additionally, other transactions occurred between the two identified transactions. There was no line item on the statement indicating a check for the amount shown on the copy of the unsigned check was ever deposited.

Husband complained the court did not apply the appropriate tracing method. The findings did not identify the method used, and the appellate court will affirm if the judgment is supported by law and the record. Applying the community-out-first method, the trial court could have reasonably presumed that the purchase of the mineral rights was made with community funds. The clearinghouse method applies when a spouse can show that separate-property funds were deposited into a commingled account, and the same amount is used to make a purchase. Husband testified that he received a check from his father that he deposited and then used to make the mineral-rights purchase 10 days later. However, Husband did not provide clear documentation to show where the funds came from, nor did he provide documentation to support what the subsequent payment was for. While the clearinghouse method does not require the disputed transactions to be identical, the identical-sum-inference does. The transactions identified by Husband were not identical.

**SAPCR:  
PROCEDURE AND JURISDICTION**

**Father's Nonsuit Had No Effect On Mother's Pending Claim For Attorney's Fees.**

12. *Wright v. Womack*, No. 06-24-00081-CV, 2025 WL 1833399 (Tex. App.—Texarkana 2025, no pet. h.) (mem. op.) (07-03-2025).

**Facts:** An agreed order gave Mother the exclusive right to designate the Child's primary residence. Subsequently, Mother filed enforcement suits regarding possession and child support, the case was transferred to another court due to a judicial recusal, child support was modified, the case was transferred to another county based on the Child's residence, and a temporary order in another enforcement suit was rendered denying Father any contact with the Child until further order of the court.

A few months after the entry of that latest temporary order, Father filed a suit in the second of the three courts, alleging that all orders entered after the transfer to the new county were void and should be vacated. Mother filed a general denial and request for attorney's fees. Mother additionally filed a motion for summary judgment, asserting all Father's claims were barred by *res judicata*. Before the hearing on the summary judgment could be conducted, Father nonsuited all his claims. The trial court rendered judgment for Mother and awarded her attorney's fees. Father requested findings, but none were issued. Father appealed *pro se*.

**Holding: Affirmed.**

**Opinion:** Among other complaints, Father asserted the trial court erred in failing to issue findings despite his timely request for findings and notice of past due findings. However, no guesswork was required to determine the trial court's reasoning and did not prevent Father from presenting his appeal. Thus, any error was harmless.

Father additionally complained of the award of attorney's fees despite his nonsuit. A nonsuit cannot prejudice the right of any adverse party to be heard on a pending claim for affirmative relief, and a nonsuit has no effect on any motion for sanctions or attorney's fees.





**Father Entitled To “Reasonable Notice” (Not Necessarily 45 Days’) Before Reset Final Trial Because It Was Not A First Setting.**

13. *In re J.A.M.*, No. 05-24-00155-CV, 2025 WL 1909395 (Tex. App.—Dallas 2025, no pet. h.) (mem. op.) (07-09-2025).

**Facts:** In a suit to determine Father’s paternity of the Child, Mother sought child support and a family violence finding. Father asked the court to terminate his parental rights and not impose any child support on him. The OAG stated that it would be in the Child’s best interest to have two parents. The trial court granted Mother’s requested relief, and Father appealed pro se.

**Holding: Affirmed**

**Opinion:** Father argued that he was deprived due process because he did not receive 45 days’ notice before the final trial. Because the trial was reset twice, Father was entitled to “reasonable notice,” not a minimum time period. Father did not establish he did not receive reasonable notice of the reset final trial.

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**Requirement To Conduct De Novo Review Hearing Within 30 Days Is A Mandatory, But Not A Jurisdictional, Requirement.**

14. *In re T.A.*, No. 02-24-00509-CV, 2025 WL 2005512 (Tex. App.—Fort Worth 2025, no pet. h.) (mem. op.) (07-17-2025).

**Facts:** The OAG initiated a modification suit, and the parties agreed to temporary orders before an associate judge. Six months later, Father filed a request for de novo review of the associate judge’s ruling. No de novo hearing was conducted. The district judge subsequently conducted a final trial and rendered its ruling. Father appealed.

**Holding: Affirmed.**

**Opinion:** In his first issue, identifying himself as a sovereign citizen, Father claimed the trial court lacked personal jurisdiction over him. This argument lacked merit and was inadequately briefed.

Next, Father complained about the trial court’s failure to conduct his de novo review hearing within 30 days after his request. The 30-day deadline, while mandatory, is not jurisdictional. The court did not lose jurisdiction to consider the request for a de novo hearing after the expiration of 30 days.

Finally, Father complained that the trial court did not have plenary power to render final judgment because the temporary orders became final 105 days after they were signed, and the trial court’s plenary power expired at that time. While Father’s failure to timely request a de novo review of the temporary order led to the associate judge’s temporary order becoming an enforceable temporary order, it was a merely a temporary order and not rendered after a final trial on the merits of the suit—it did not dispose of all parties and claims. The temporary order specifically noted that certain findings were being reserved for trial.

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**Wife’s Death During Divorce Deprived Trial Court Of Any Subsequent Orders In That Proceeding, And Grandmother Could Not Intervene After Wife’s Death; However, Grandmother Could File New SAPCR If She Could Establish Standing.**

15. *In re Friedman*, No. 03-25-00228-CV, 2025 WL 2087209 (Tex. App.—Austin 2025, orig. proceeding) (mem. op.) (07-25-2025).

**Facts:** Due to lack of supporting documents attached to Husband’s petition, the facts stated in the court’s opinion were taken from pleadings and Husband’s petition but were not to be binding in any future proceeding in either the trial court or appellate court.

Wife and the Child moved out of the marital residence to live with Wife’s mother (“Grandmother”). Wife obtained a protective order, Husband filed for divorce, and Wife responded with a counterpetition. Both spouses alleged family violence, and Wife asserted Husband had abused the Child. A protective order may have been obtained by Wife in Maryland, but Husband denied the existence of any such order. Wife’s attorney filed a suggestion of Wife’s death in the open suits. Subsequently, Grandmother filed a SAPCR. After further proceedings and orders, Husband filed a petition for writ of mandamus.

**Holding: Writ of Mandamus Conditional Granted in Part; Denied in Part.**

**Opinion:** Husband’s pro se mandamus appendix was voluminous, but it failed to include necessary documents, including some of the orders he was attempting to challenge in the mandamus proceeding. Grandmother’s decision not to respond did not mitigate the petition’s inadequacies. The appellate court cannot grant a writ of mandamus without offering the other party an opportunity to respond to the petition, but a response is not mandatory. Additionally, Husband cited a case that could not be located by the court.

“However, because of the gravity of the issues presented [the appellate court took] judicial notice of the order file-stamped by the trial court and attached to [Husband’s] initial mandamus petition that was received but not filed in this cause.” An appellate



court can take judicial notice of facts that a trial judge could properly have judicially noticed and facts necessary to assess the appellate court's jurisdiction. A trial court is presumed to have taken judicial notice of its own records.

In his mandamus petition, Husband requested, among other requests, (1) all orders for enforcement and custody, including any orders in Grandmother's SAPCR be vacated for being void for lack of jurisdiction; (2) Grandmother be found to lack standing to file her SAPCR; and (3) find that Grandmother's "unlawful" possession of the Child could not create jurisdiction under the UCCJEA.

The death of either party to a divorce action prior to entry of a decree withdraws the court's subject-matter jurisdiction over the divorce action. A child's relatives cannot rely on a divorce action as a vehicle for seeking custody after the death of one of the parent-parties. Even if Grandmother could file her own independent SAPCR, she could not intervene in the divorce after Wife's death. Thus, as a matter of law, Wife's death deprived the trial court of jurisdiction over the divorce and that SAPCR, and any order issued after Wife's death—other than a dismissal order—was void.

However, Wife's death did not bar Grandmother from filing her own SAPCR, did not end the application for protective order sought on the Child's behalf because it was sought in a separate cause of action, and did not bar Grandmother from intervening in the existing application for protective order. The Child herself was considered an applicant for the protective order. Wife's death did not render void any orders issued in Grandmother's separate SAPCR, and the record provided by Husband did not provide sufficient information for the appellate court to determine whether Grandmother established standing or to review Husband's allegations of fraud.

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### **Temporary Orders Hearing Transcript Could Not Be Relied Upon During Appellate Review Because Transcript Not Admitted As An Exhibit At Final Trial.**

16. *In re C.L.M.*, No. 01-23-00919-CV, 2025 WL 2165184 (Tex. App.—Houston [1st Dist.] 2025, no pet. h.) (mem. op.) (07-31-2025).

**Facts:** The final trial in a SAPCR was conducted two years after the entry of temporary orders that appointed the parents joint managing conservators and required them to communicate via OurFamilyWizard ("OFW"). At the trial's outset, the court instructed the parties to refresh its memory clearly, not "beat a dead horse" with events occurring before temporary orders, and focus on what had occurred since the temporary orders. Neither party objected to this instruction or requested additional time for trial.

The parents did not coparent well. Mother had been diagnosed with bipolar disorder but did not consistently take medication. She communicated with Father outside of OFW despite court orders and spoke derogatorily about Father and his family. Mother testified that Father was controlling, had cheated on her, and once took her to obtain an abortion against her wishes. Mother testified she was the Child's primary caregiver. Father requested sole managing conservatorship, primarily because he was concerned about rights to make medical decisions. Father believed Mother did not consistently take the Child to appointments and did not communicate well with Father about appointments. Additionally, Father alleged Mother had threatened him with physical violence.

Most of the trial evidence was presented during Mother's case in chief. When Father began his case in chief, there was little time left, and the court indicated that it had clearly gotten the picture of the parties' inability to communicate. Father introduced testimony from his mother and then closed his case without requesting more time.

In its ruling, the court complimented Mother on improvements she had made since temporary orders, declined to find any family violence, appointed the parties joint managing conservators, and gave Mother the exclusive rights to determine the Child's primary residence and make educational decisions. Mother was ordered to continue participating in therapy and taking prescribed medication. Father appealed.

### **Holding: Affirmed.**

**Opinion:** In his appellate brief, Father cited to a transcript of a temporary orders hearing and affidavits attached to his pleadings. Mother moved to strike all of those references because they were not admitted as exhibits at trial. Testimony taken at a previous trial cannot be considered by a trial judge in a subsequent trial unless it is admitted at that subsequent trial. Thus, the temporary orders hearing transcript could not be considered on appeal.

Father argued that the affidavits could be considered on appeal because the trial court took judicial notice of its file. However, while the trial court could take judicial notice of the fact that Father filed affidavits, the court could not take judicial notice of the truth of any factual statements or allegations included in Father's pleadings or affidavits.

Mother additionally moved to strike Father's references to a timeline he created. Father asserted the timeline could be considered because the trial court admitted the exhibit as a shorthand rendition of Father's testimony. The trial court only admitted the timeline as a demonstrative aid. Because of that characterization, under the Rules of Evidence, the timeline bore no probative value, and the trial court could not have relied upon it when it issued its judgment.

Father first challenged the trial court's failure to find family violence, which would have rebutted the presumption that it would be in the Child's best interest to appoint Mother as a managing conservator. However, this question is reviewed for an abuse of discretion, and contrary to Father's assertion, the evidence was not "overwhelmingly" in favor of a family violence finding.



Father next argued the trial court's appointment of Mother as joint managing conservator with exclusive rights would significantly impair the Child's physical health or emotional development. However, applying the abuse-of-discretion standard, and considering the *Holley* factors, the evidence was sufficient to support the trial court's judgment.

Finally, although Father complained that the trial judge showed bias against him, he failed to identify any evidence of "deep-seated favoritism or antagonism that would make fair judgment impossible."

**SAPCR:  
CONSERVATORSHIP**

**Mother Invited The "Error" Of Appointing The Parties As Joint Managing Conservators Despite Her Allegations Of Family Violence.**

17. *In re Marriage of Fraker and Schubert*, No. 13-23-00340-CV, 2025 WL 2080605 (Tex. App.—Corpus Christi 2025, no pet. h.) (mem. op.) (07-24-2025).

**Facts:** The parties were married for less than two years and had one Child. Mother alleged family violence against Father. The divorce proceedings spanned five years. Mother initially denied Father access to the Child. Later, the parties agreed to Father having limited supervised possession. After a contested hearing, the Court granted Father limited unsupervised possession. The parties later agreed to a something close to a standard possession order for Father. A child-custody evaluator cited evidence that Mother was attempting to alienate the Child from Father and initially recommended joint managing conservatorship with Father having expanded standard visitation. However, in an updated report, the evaluator recommended that Father be the primary conservator, with Mother having an expanded standard visitation schedule. The trial court appointed the parties joint managing conservators, granted Father the exclusive right to designate the child's primary residence, and awarded Mother a standard possession order. Mother appealed with the aid of counsel.

**Holding: Affirmed.**

**Opinion:** In a single, multifarious issue, Mother asserted the trial court abused its discretion in giving Father the exclusive right to designate the Child's primary residence. Mother first complained about the appointment of the parties as joint managing conservators despite alleged evidence of family violence. However, Mother testified at trial that joint managing conservatorship would be appropriate and requested the same in her requested relief at trial. She, thus, invited the error and did not preserve the issue for appellate review.

Mother additionally challenged the evaluator's testimony. However, Mother's appellate complaints were not preserved because she did not raise objections at trial. Mother complained of the legal sufficiency of the evaluator's report because some of the underlying evidence regarding family violence was allegedly unfounded. Even if the court assumed this to be the case, the evaluator had many other concerns about Mother that shaped the evaluator's ultimate opinion, and some of those concerns were based on undisputed facts.

**Mother's Aggressive Communication Behaviors And Inability To Effectively Coparent Supported Giving Father The Exclusive Right To Designate The Child's Primary Residence.**

18. *Urbina v. Rangel*, No. 03-23-00449-CV, 2025 WL 2087207 (Tex. App.—Austin 2025, no pet. h.) (mem. op.) (07-25-2025).

**Facts:** Mother and Father had one Child during their relationship. The OAG initiated a SAPCR to appoint conservators and order child support. Father filed an original answer and counter-petition. At final trial, the court found Mother had twice violated the temporary orders regarding exchanges of information. The final order appointed the parents as joint managing conservators, gave Father the exclusive right to designate the Child's primary residence, ordered Mother to pay child support, and permanently enjoined either party from having the Child around unsecured firearms and from bringing firearms to exchanges of the Child. Mother appealed pro se, challenging all of these provisions except the appointment of the parties as joint managing conservators.

**Holding: Affirmed in Part; Dismissed in Part.**

**Opinion:** In temporary orders, Mother had the exclusive right to designate the Child's primary residence and received child support from Father. Mother argued the trial court "switched" custody based solely on email exchanges.

The Child's aunt testified to witnessing Mother slap the six-year-old Child in the face for lying and described the punishment as being disproportionate to the infraction. Mother sent threatening emails to the aunt when she learned of the aunt's intent to testify. Father also complained of Mother's heavy-handed discipline. Father described incidents of violence by Mother against him, including one that left him with a scar. Mother's aggressive communication behavior made coparenting difficult and increased legal fees in the SAPCR. Mother refused to turnover possession at least once and said she carried a gun with her to protect herself from Father.

Contrary to Mother's assertion, because this was an original SAPCR proceeding, the trial court was not required to find a material and substantial change before rendering a final order that differed from the temporary order. At a prior hearing, the



court warned Mother that she needed to change her communication style because it affected her ability to coparent and would negatively impact the Child's wellbeing. Mother appeared to be unwilling to make positive changes. The trial court did not abuse its discretion in "switching" custody.

Mother challenged the firearm restrictions as violating her Second Amendment rights. However, the U.S. Supreme Court has already found such restrictions to be constitutional. *United States v. Rahimi*, 602 U.W. 680 (2024).

Mother further challenged the calculation of child support because the low-income guidelines should have been applied to her. Mother testified that she made \$15 per hour and worked a maximum of 20 hours per work because that was all her job allowed. On cross-examination, she acknowledged to having an associate's and bachelor's degree and could work full time. Mother testified she would rather be with her daughter. The trial court could have determined Mother was intentionally under-employed.

Mother additionally challenged an award of attorney's fees to Father. However, the evidence supported the award, and the Family Code permits the award of fees in a SAPCR.

**SAPCR:  
CHILD SUPPORT**

**Father's Monthly Expenses Could Not Serve As Basis For Assessing His Net Available Resources For Child Support.**

19. *Mitchell v. Young*, No. 02-24-00292-CV, 2025 WL 1909327 (Tex. App.—Fort Worth 2025, no pet. h.) (mem. op.) (07-10-2025).

**Facts:** Father and Mother married and had a Child the following year. Father was 34 years older than Mother and had multiple advanced degrees, including being a licensed medical doctor and licensed attorney. Mother was a nurse. After about 5 years of marriage and 40 years practicing medicine, Father lost his job as a physician and did not regain employment. Shortly after that, Mother filed for divorce, and Father counter-petitioned.

At a bench trial, the appointed counselor recommended appointing a professional to be a tiebreaker due to a power struggle between the parents and inability to effectively coparent. Father had a history of diagnosing, treating, and prescribing medicine for the Child without consulting Mother or the Child's pediatrician.

A CPA testified as to Father's resources and expenses. Despite having multiple degrees, including a law license, Father claimed to not be able to find employment. He worked odd jobs, including taking a personal injury case and treating medical patients out of his home, but claimed to have no income.

The court appointed the parties joint managing conservators and entered a 50/50 possession schedule. Mother was granted the exclusive rights to designate the Child's primary residence and to make medical and educational decisions. Father was ordered to pay \$1250 a month in child support. Father appealed.

**Holding: Reversed and Remanded in Part; Affirmed in Part.**

**Opinion:** Father asserted there was insufficient evidence to support the trial court's finding of his net resources when assessing his child support obligation. The trial court determined that because Father's net expenses were \$7670.09, his monthly resources were \$7670.09. Although the CPA testified that Father had \$598,000 in a number of bank accounts and six real properties, there was no evidence regarding Father's liquidity, the valuations of his businesses, or the dividends or withdrawals from his various bank accounts. Thus, there was nothing in the record supporting an implied finding based on Father's assets. There was no evidence showing how Father paid his expenses. "Was he paying his expenses from interest and dividends or from return of principal or capital?" "Was Father receiving funds from retirement accounts, withdrawing from savings, obtaining dividends from investment or bank accounts, or existing on credit cards and loans?" Mother offered no evidence of Father's resources. The trial court erred in equating expenses to resources.

Mother argued that the evidence supported an intentional-unemployment finding, but even if true, that alone did not provide any evidentiary basis for assigning a number to Father's net available resources.

Father additionally complained of the court granting Mother exclusive rights. The evidence established that the parents could not reach agreements on many important issues, including education and medical decisions. The Family Code tasked the court with assigning rights and duties. Father did not establish any abuse of discretion.

**No Evidence Supported Conditions And Restrictions On Father Obtaining Unsupervised Possession Of The Children Notwithstanding No Record Being Made Of Interviews In Chambers With The Children.**

20. *Gillette v. Gillette*, No. 03-24-00485-CV, 2025 WL 1942949 (Tex. App.—Austin 2025, no pet. h.) (mem. op.) (07-16-2025).

**Facts:** During their divorce, Mother and Father could not agree on a possession schedule for their teenage Children. Father had not had a job in years, and Mother was the primary provider and caregiver. The Children's relationship with Father was strained, but it had gotten better during the divorce. Mother believed that was because the temporary orders required Father to set aside time for the Children. Mother advised the court that the Children did not oppose seeing Father but did not want a standard possession schedule. The court agreed to interview the Children and asked the parties if they wanted to make a record of the



interviews. The parties declined a record. Ultimately, the court signed a final order giving Father a less-than-standard possession schedule and required him to meet certain requirements before having unsupervised possession of the Children. Father appealed.

**Holding: Affirmed in Part; Reversed and Remanded in Part.**

**Opinion:** Father argued Mother's pleadings did not put him on notice that she sought less than standard possession. The parties could not agree on a possession schedule. Father's pleading stated a belief that the parents would agree to a possession order, but if they could not agree, he asked the court to make orders for possession. The pleadings were sufficient to put Father on notice that he would receive a possession schedule that was determined to be in the Children's best interest.

Father additionally argued that no evidence supported supervised visits until he completed anger management and battering intervention classes, or to give the Children complete discretion as to his possession time. The parties waived the making of a record of the court's interviews with the Children. Thus, to some extent the appellate court was required to presume the information gathered in those interviews supported the final order. However, no legal authority supports taking the child's desires to the extreme of giving the child complete discretion over possession. Mother testified that the Children were comfortable with seeing Father two weekends a month and their relationship with Father had improved. Mother did not testify that the Children had been or would be in danger with Father, and she agreed to appointing him a joint managing conservator. There was no evidence of a history or pattern of neglect or physical abuse of Mother or the Children. The trial court abused its discretion in placing the restrictions on Father's periods of possession.

**SAPCR:  
MODIFICATION**

**Evidence Supported Denying Mother's Petition To Modify The Parent-Child Relationship.**

21. *In re A.R.-M.B.*, No. 09-24-00195-CV, 2025 WL 1912002 (Tex. App.—Beaumont 2025, no pet. h.) (mem. op.) (07-10-2025).

**Facts:** Mother filed a petition to modify, asking for the exclusive right to designate the Child's primary residence and make educational decisions, to change the exchange location to a mid-point between Mother's and Father's residences, to terminate her child-support obligation, and to require Father to pay child support. After an evidentiary hearing with multiple witnesses, the trial court denied Mother's requested relief, and she appealed.

**Holding: Affirmed.**

**Opinion:** At trial, Mother admitted she had not attended any of the Child's school activities, and she made no efforts to have the school notify her after it denied her request to be put on "paperwork." Although Mother alleged she had concerns about the Child's food, medical care, and phone usage, she had not talked to Father about those concerns. Mother acknowledged to being behind on her \$150 monthly child support obligation, and that she was once \$5000 behind. Mother testified that she was married, got a divorce, but was now "common-law married" to her ex-husband. Mother acknowledged she once asked Father what had to be done to sign over her parental rights to the Child. Mother had instructed the Child to delete their text messages. Mother was often late to exchanges of the Child and once failed to return the Child, requiring Father to file a habeas petition for the Child's return.

**Mother Showed She Had Financial Opportunities In South Carolina That Would Allow Her To Better Care For The Children, And She Would Continue To Aid In Father Having Access To The Children, So Having No Geographic Restriction On The Children's Residence Was Appropriate.**

22. *Hughes v. Hughes*, No. 04-24-00453-CV, 2025 WL 2058072 (Tex. App.—San Antonio 2025, no pet. h.) (mem. op.) (07-23-2025).

**Facts:** During the parties' marriage, Mother stayed at home with their Children. During the divorce proceeding, Father failed to make multiple payments on the mortgage for the marital residence, and the water was shut off for nonpayment. Mother's father helped Mother financially for several months. Once the marital residence was sold, Mother lived with friends. She obtained a job at a daycare that included the benefit of reduced childcare costs. At trial, Mother explained that she wanted to move to South Carolina, where she could earn a better living and better support the Children. She had an aunt with a large home who lived there and could let Mother and the Children live with her. The aunt also offered free childcare while Mother worked. The aunt's home was in a top school district. Mother had job leads already, and one of the leads would increase her annual salary by about \$20k. Mother believed the Children could maintain a relationship with Father even if they moved because the airline tickets were inexpensive, and Mother would still occasionally travel to Texas to visit friends and family. Mother also found potential jobs for Father in North Carolina if he ever wanted to move to that state.

By the time of trial, Father was in arrears on child and spousal support. After separation, Father made numerous discretionary purchases, including that of a motorcycle. Father was living with a girlfriend and contributed to their shared housing and





groceries. Father had moved about a three-hour drive from the small community in which the family lived because of gossip around the community.

The trial court granted Mother the exclusive right to designate the Children's primary residence without a geographic restriction. Father appealed, *pro se*.

**Holding:**

**Opinion:** Father argued the trial court abused its discretion in not imposing a geographic restriction on the Children's primary residence. When determining whether to impose a geographic restriction, the court considers the *Lenz* factors: (1) the reasons for and against the move, including the parents' good faith motives in requesting or opposing it; (2) health, education, and leisure opportunities; (3) the degree of economic, emotional, and educational enhancement for the custodial parent and the children; (4) the effect on extended family relationships; (5) accommodation of the children's special needs or talents; (6) the effect on visitation and communication with the non-custodial parent to maintain a full and continuous relationship with the children; (7) the possibility of a visitation schedule allowing the continuation of a meaningful relationship between the non-custodial parent and the children; and (8) the ability of the non-custodial parent to relocate. In applying these factors to the evidence presented at trial, the court did not abuse its discretion in choosing not to impose a geographic restriction.

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**Evidence Of Mother's Refusal To Follow Orders, Suicidal Ideations, Inability To Coparent, And Doctor Shopping Supported Imposing Supervision Requirement On Her Periods Of Possession.**

23. *In re E.K.D.*, No. 07-24-00342-CV, 2025 WL 2078700 (Tex. App.—Amarillo 2025, no pet. h.) (mem. op.) (07-23-2025).

**Facts:** Nevada rendered an order giving the parents "joint legal custody" with a week-on/week-off possession schedule and a "mutual behavior order." Father filed a petition to modify, seeking the exclusive rights to designate the Child's residence and to make education and medical decisions. Mother filed a counterpetition seeking similar relief. After a four-day bench trial, spanning six months, the court appointed the parents joint managing conservators and granted Father the exclusive right to designate the Child's primary residence. Mother was given supervised possession and ordered to pay child support. Mother appealed with the aid of counsel.

**Holding: Affirmed.**

**Opinion:** Mother complained that the trial court based its supervised visitation requirement on Mother's violations of court orders rather than on the best interest of the Child. Mother violated court orders about two dozen times. Some violations were minor, such as failing to timely provide a new address. Others were more significant, such as going out of state, refusing to turn over the Child, and making demeaning remarks about Father via electronic communications with the Child. Mother also refused to identify herself at a hearing and sent *ex parte* communications to the court through social media. Mother filed multiple filings, including a "Writ of Divinia" and a notice that Mother had placed the Child into a trust. Mother testified that she agreed to follow court orders when they were in the best interest of the Child. She believed the Nevada order violated due process and was illegal, which is why she did not believe she needed to follow it. Additionally, the evidence showed Mother had suicidal ideations and exhibited paranoid beliefs about being followed and monitored, engaged in "doctor shopping" without consulting Father, and attempted to take the Child from Father's car without a supervisor being present, upsetting the Child. The evidence supported imposing a supervised visitation requirement.

Mother additionally complained of the trial court's imposition of maximum guideline child support. Mother testified that she received income from her father's business and refused to provide trust documents, bank records, or other financial information despite discovery requests and a court order compelling production. Mother reported \$7000 in monthly expenses for rent, car payments, and therapy alone, which far exceeded her claim that she only received \$2000 to \$4000 monthly from her father. Any error would have been the fault of Mother refusing to provide the necessary information to appropriately set child support.

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**Mother Determined To Be A Vexatious Litigant For Filing Pro Se Modification Petition 3 Weeks After Prior Final Order And Then Filing 16 Additional Motions In The New Suit.**

24. *In re E.K.D.*, No. 07-25-00153-CV, 2025 WL 2078701 (Tex. App.—Amarillo 2025, no pet. h.) (mem. op.) (07-23-2025).

**Facts:** Three weeks after a final order in another modification suit (that Mother appealed) [see above], Mother filed a new *pro se* petition to modify. Over the next two months, Mother filed 16 additional motions and pleadings. She filed a declaration of inability to pay costs, alleging no income, over \$8k in monthly expenses, about \$2k in assets, and over \$100k in debt. Father moved to declare Mother a vexatious litigant. At that hearing, the court asked Mother to provide evidence to support her inability to pay. Mother first claimed she was not afforded notice of this request and then claimed the court lacked jurisdiction over her. Based on Mother's refusal to provide proof of her financial resources, the court ordered Mother to pay costs. The court granted Father's motion to declare Mother a vexatious litigant and required Mother to post a security bond or face dismissal with prejudice on her pending motions. The order prohibited Mother from filing new pleadings for affirmative relief without first obtaining permission from the local administrative judge. Mother appealed *pro se*.





**Holding: Affirmed.**

**Opinion:** Father argued the appellate court lacked jurisdiction over the appeal because the vexatious litigant order was interlocutory. However, the Austin court of appeals has held that interlocutory appeals from prefiling orders designating a person as a vexatious litigant are permissible, and this case was transferred to Amarillo from the Austin court.

A court may designate a plaintiff as vexatious if the plaintiff has either: (1) commenced, prosecuted, or maintained five litigations as a pro se litigant in seven years with additional necessary findings; or (2) after a litigation has been finally determined against the plaintiff, repeatedly relitigated or attempted to relitigate the same issues against the same defendant. Contrary to Mother's assertion, the vexatious litigant scheme does not violate due process.

Mother argued that because attorneys have absolute immunity for actions undertaken while representing clients, parents appearing pro se should have similar immunity when acting in their child's best interest. First, the prefiling order did not prevent Mother from filing; it just required her to obtain permission first. Second, Mother misunderstood attorney immunity. Attorney immunity protects against civil liability to third parties, not against court authority over attorneys.

Mother next argued that her actions did not meet the definition of the vexatious litigant statute. However, Mother commenced a modification proceeding and maintained litigation through repeated motions to reconsider, stay enforcement, or declare orders void.

Mother finally argued that the trial court erred in denying her statement of inability to pay costs. Contrary to Mother's assertion, the trial court provided Mother with notice and asked her to bring documentation supporting her indigency affidavit. Mother refused to provide documentation. Mother's affidavit also included the contradictory claim that she had \$8000 in expenses with no income. The trial court did not abuse its discretion in finding Mother had the ability to pay if "she really wanted to and made a good-faith effort to do so."

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**Default Order Denying Father All Possession Reversed Because It Was Not Supported By Mother's Pleadings; However, Mother's Evidence At Trial Supported Appointing Her The Child's Sole Managing Conservator.**

25. *Edgley v. Ragland*, No. 01-23-00537-CV, 2025 WL 2076887 (Tex. App.—Houston [1st Dist.] 2025, no pet. h.) (mem. op.) (07-24-2025).

**Facts:** A modification order appointed the parties joint managing conservators and gave Mother the exclusive right to designate the Child's primary residence. Less than two months later, Mother filed a new modification petition, seeking sole managing conservatorship, a requirement that Father's periods of possession be supervised, and an increase to Father's child-support obligation. Father responded with a counterpetition and an allegation of family violence. He also sought sole managing conservatorship, supervised possession for Mother, and child support.

Father failed to appear at the final trial. The court signed a default order appointing Mother as the Child's sole managing conservator and did not appoint Father as a possessory conservator. The court ordered that Father have no possession of or access to the Child and ordered Father to pay child support. Father appealed.

**Holding: Affirmed in Part; Reversed and Remanded in Part.**

**Opinion:** Father asserted the trial court erred in ordering that he have no possession of or access to the Child when Wife did not ask for that relief in her petition. Although a party's pleadings are to be construed liberally, a default order must be supported by the pleadings. Mother did request sole managing conservatorship, but she did not request that Father be entirely denied possession. In fact, her petition asked that the parties be granted certain rights "during their respective periods of possession." Thus, the trial court erred in order Father have no possession or access because that was not supported by the parties' pleadings.

Father next argued the evidence was legally and factually insufficient to support appointing Mother the sole managing conservator. While the evidence at trial did not address every *Holley* factor, Mother did offer evidence to support the judgment. Father had secreted the Child from her for months, and Mother was not even able to talk to the Child on the telephone for a period of time. Father failed to show up for exchanges when it was Mother's time to pick up the Child. Additionally, Father failed to comply with temporary orders in this modification suit. Mother expressed concerns about Father moving often and engaging in alienation behavior. Father did not challenge the findings that he violated court orders, failed to appear at hearings, denied the amicus attorney access to the Child, and refused to co-parent with Mother. He also did not refute that law enforcement was involved in returning the Child to Mother. The evidence and unchallenged findings supported the appointment of Mother as sole managing conservator.



**SAPCR:**  
**ENFORCEMENT OF POSSESSION / CONSERVATORSHIP**

**Contempt Order Void For Trial Court's Failure To Admonish Pro Se Father Of His Right To Counsel When Mother Sought Confinement.**

26. *In re Inmon*, No. 03-24-00753-CV, 2025 WL 1839918 (Tex. App.—Austin 2025, orig. proceeding) (mem. op.) (on reh'g) (07-03-2025).

**Facts:** Father initiated a suit to modify the divorce decree, requesting changes to visitation times with the parties' only Child. Mother sought to enforce the decree. After a hearing on both motions, the trial court concluded Father violated the standing order by engaging in improper conversations about the lawsuit with the Child. The court awarded Mother \$35,000 in attorney's fees. After Father failed to pay the fees, Mother filed a petition to enforce payment of the fee award and asked for a contempt finding with punishment of confinement and fines.

The court held Father in criminal and civil contempt. For the criminal contempt, Father was to be confined for 180 days for each violation of (1) discussing the lawsuit with the Child and (2) failing to pay the ordered attorney's fees. For the civil contempt, he was ordered to be confined until the attorney's fees plus interest were paid in full. The sentence was suspended if Father paid the attorney's fees by a time and date certain. When Father did not pay, he was arrested and confined.

Father filed a petition for writ of habeas corpus, which was denied without opinion. Father obtained a new attorney, who filed a motion for reconsideration and, for the first time, asserted the trial court failed to admonish Father of his right to counsel and privilege against self-incrimination, and Father was not personally served with the petition. The appellate court granted the motion for reconsideration. Mother did not file a response.

**Holding: Writ of Mandamus Conditionally Granted.**

**Opinion:** In the absence of a knowing and intelligent waiver by a party of his right to counsel, made on the record, the trial court has no authority to hold the party in contempt. Father was not represented by counsel at the hearing. At the start of the hearing, Mother confirmed that she was seeking confinement, but not in excess of 180 days. The court stated that obviated the need for a jury trial. No further admonishments were made. The trial court failed to fulfill its statutory duty to admonish Father of his right to counsel on the record.

Because that issue was dispositive, the appellate court did not address Father's remaining issues.

**SAPCR:**  
**ENFORCEMENT OF CHILD SUPPORT**

**Father Could Not Be Confined For Contempt On The Ground That He Did Not Pay Temporary Interim Attorney's Fees Because A Person Cannot Be Imprisoned For Failure To Pay A Debt.**

27. *In re Hidalgo*, No. 14-25-00338-CV, 2025 WL 1805814 (Tex. App.—Houston [14th Dist.] 2025, orig. proceeding) (mem. op.) (07-01-2025).

**Facts:** In a divorce suit, Father was ordered to pay child support, spousal support, and interim attorney's fees. Three months later, the court signed an order finding Father failed to pay the interim fees. Subsequently, Mother filed a motion for enforcement, asserting Father had missed support payments and asking the court to hold Father in contempt and sentence him to confinement. After a hearing, the court held Father in contempt for failing to pay child support, spousal support, and interim attorney's fees. Father was sentenced to serve 180 days in the county jail. Father filed a petition for writ of habeas corpus.

**Holding: Writ of Habeas Corpus Conditionally Granted.**

**Opinion:** Father contended the contempt order was void because it was issued in violation of his right to due process and the constitution's prohibition against imprisonment for failure to pay a debt.

Here, the contempt order did not attach the underlying order or include the language of the provisions Father allegedly violated. The contempt order only vaguely referenced that temporary orders for support and fees existed. Additionally, the order contradicted itself by stating in one place that Husband violated the order by failing to make 5 child support payments and 4 spousal support payments but elsewhere in the order, it only referred to 2 missed child support payments and 1 spousal support payment. Further, the contempt finding based on Father's failure to pay interim attorney's fees was void because the constitution prohibits imprisonment for a debt. The appellate court held that because the trial court imposed one punishment for all the contempt findings, and because some of the contempt findings were void, the entire contempt order was void.



### **Trial Court Failed To Follow Appellate Mandate To Harmonize Two Provisions Of MSA That Presented Apparent Conflict.**

28. *Bouajram v. Bouajram*, No. 02-24-00261-CV, 2025 WL 1909325 (Tex. App.—Fort Worth 2025, no pet. h.) (mem. op.) (07-10-2025).

**Facts:** After a final decree was signed, the parties filed cross-appeals. One of the issues on appeal involved a dispute regarding purportedly conflicting provisions in the parties' MSA regarding to taxes. Part 1 stated that each party would be responsible for half the parties' tax obligation through the end of 2019. Part 2 stated that income taxes for 2018 and 2019 would be handled according to IRS regulations. The appellate court reversed and remanded the issue to the trial court with an instruction to sign a new final decree that harmonized the provisions to the extent possible.

On remand, Wife's proposed decree only included the indemnity term through 2017. Husband objected and proposed a decree stating that the indemnity term applied through 2019 but the IRS regulations term controlled to the extent it did not conflict with the indemnity term. The court signed Wife's version, and Husband appealed again.

#### **Holding: Reversed and Rendered.**

**Opinion:** In the first appeal, the appellate court determined that the parties' clear intent was to apply the indemnity term through the end of 2019. By not including that provision in the decree, the trial court failed to follow the appellate court's mandate.

Wife argued "that because there is no need for harmonization absent a conflict between the two terms and because [the appellate court agreed in the first appeal] that the indemnity term and the IRS regulations term can be harmonized, [the appellate court] implicitly determined that these two provisions actually conflict." "But harmonization is a tool courts use to resolve *apparent*, not *actual*, conflicts." Thus, the appellate court provided the trial court with the specific language to replace the erroneous language in the appealed decree.

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### **Mother Permitted To Remain In Father's Separate Property Residence Pending Appeal To Avoid Disruption Of The Children's Living Arrangements.**

29. *Schvartz-Poludniewska v. Schvartz*, No. 03-25-00214-CV, 2025 WL 2078184 (Tex. App.—Austin 2025, no pet. h.) (mem. op.) (07-24-2025).

**Facts:** The parties' final decree of divorce confirmed the marital residence as Father's separate property and granted him exclusive use and possession of the home beginning not less than 30 days after entry of the decree. Additionally, the parties were appointed joint managing conservators with Mother having the exclusive right to designate the Children's primary residence. Mother appealed the decree.

A week before Mother's deadline to vacate the residence, Father advised her that if she stayed in the residence beyond the deadline, he would consider that action to be trespass. Mother filed a motion in the appellate court to stay the requirement for her vacation of the residence pending the resolution of her appeal. She asserted that Father lived outside the U.S., and it would be in the Children's best interest to allow them to continue residing in the marital residence. A previous order had allowed Mother to remain in the residence under certain conditions, but those provisions were not carried forward to the final decree.

#### **Holding: Motion Granted in Part; Remanded in Part.**

#### **Majority Opinion:** (per curiam)

Texas Family Code Section 109.002(c) allows the appellate court to suspend enforcement of a non-termination SAPCR order even if the trial court has taken no action to do so or denied a similar request. Father argued that allowing Mother to stay in the home would deprive him of the use and enjoyment of his separate property. However, the portion of the order confirming the property as his separate property was "just as much a portion of the Decree that may be suspended" as any other portion. The appellate court held that suspension would be appropriate because it would keep the Children's living arrangements from being disrupted.

Father next argued Mother should be required to post a supersedeas bond pursuant to Texas Rule of Appellate Procedure 24. However, Family Code Section 109.002 provides a separate judgment-suspension authority, and Rule 24 was not necessary. Finally, Father argued that Section 109.002 requires a "proper showing" to support suspension and alleged Mother had not provided that showing. Preventing disruption to the Children's lives was sufficient to establish a proper showing.

The court next held that if Mother was allowed to reside in the residence, certain requirements should be imposed on her during that period. Because circumstances may have changed since the initial imposition of conditions, the appellate court remanded the issue to the trial court to determine the specific requirements that would be reasonable. The court advised that Mother "should exercise caution in her treatment of the former marital home and its contents while she is residing there during the abatement and remand." It further advised that if the parties believed additional temporary relief was needed, that relief should be sought in the appellate court.



Mother also sought a suspension to prevent turning over certain property to Father as ordered in the property division. However, nothing in Section 109.002 allows the suspension of the property division. Rather, Section 6.709, relating to temporary orders pending appeal in a divorce, imposes deadlines that had already passed. Moreover, Mother did not bring forth a record to show a need to restrain Father from alienating property.

**Dissenting Opinion:** (J. Ellis)

Mother failed to make a “proper showing” to support staying enforcement of specific portions of the Decree. While judgments for money and property can be superseded with a monetary bond, parties should not be able to avoid operation of a child custody order simply by posting bond. Thus, parties are required to establish a “proper showing” to support why a SAPCR order should be suspended pending appeal. The Family Code includes specific laws for temporary orders pending appeal and gives trial courts the ability to award one spouse exclusive occupancy of the parties’ residence pending appeal of a divorce decree. The court must take reasonable steps to ensure the property is protected, which may include setting an amount of security. While the statute relied upon by the majority has no deadline, the statute governing temporary orders pending appeal does have deadlines. Mother missed those deadlines.

No court has extended the statute to the length by which the majority did here. The majority treated Mother’s right to use the property as separate from the property division. This treatment divested Father of his fundamental right to use and possess his property and implicated homestead rights.

Moreover, per Father’s response to Mother’s motion, the oldest Child was close to graduation, and the middle Child was about to attend school in Europe. Mother and the youngest Child would be living alone in a 5-bedroom house with a pool and cabana. And, because the youngest Child attended a private school of Father’s choosing, Mother was not zoned to any specific neighborhood and could live anywhere within the geographic restriction of the decree. Further, depriving Father of the home deprived him of a place to stay when visiting the Children and rental income when he was not in the residence. Mother failed to provide any explanation as to why she could not find another home within her budget, which included over \$8000 a month in support from Father. “Inconvenience and expense” do not constitute a “proper showing.”

“Mother chose not to avail herself of the relief obtainable under [the temporary orders pending appeal statute] but instead chose to gamble on seeking relief no other court has ever awarded under [the statute relied upon by the majority]. And her gamble has apparently paid off.”

