

AUGUST 2026 CASELAW UPDATE

(Cases from July 1–31, 2026)

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**DIVORCE:
PROCEDURE AND JURISDICTION**

Wife's Amended Petition Filed Shortly Before Trial and Seeking, for the First Time, a Disproportionate Division Disallowed Due to Unfair Surprise To Husband.

1. *Krueger v. Krueger*, No. 02-25-00156-CV, 2026 WL 2130237 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (07-23-2026).

Facts: During their divorce proceeding, Husband deposed Wife and asked whether she intended to seek a disproportionate share of the community estate based on allegations of domestic violence, cruelty, assault, or fraud and whether she had any evidence to support such claims. Wife denied the existence of such claims and was instructed by counsel not to answer because her pleadings did not include such claims.

Ten days before trial, Wife filed an amended pleading raising several new claims and asking for a disproportionate division based on cruelty, family violence, adultery, and waste. Husband moved to strike Wife's amended pleading due to unfair surprise. The court granted Husband's motion to strike and his request to strike certain business records and affidavits.

Wife filed a motion to reconsider the strikes and requested leave to file a third amended petition. She also provided Husband with supplemental discovery answers and responses to production. The court denied Wife's motion and excluded the supplemental discovery. The bench trial focused on the division of the marital estate. After entry of a final decree, Wife timely requested findings, but none were issued. Wife appealed.

Holding: Affirmed.

Opinion: Contrary to Wife's assertion, she was not harmed by the lack of findings. Wife challenged the award of equity in the parties' marital residence. However, she was awarded exactly half of the equity based on Husband's valuation. The absence of findings did not prevent her from presenting her appellate complaint. Additionally, Wife's characterization and evidentiary arguments could be resolved without findings. Wife did not show how she was prevented from presenting her appeal or otherwise suffered injury due to the lack of findings.

Wife challenged the trial court's award to Husband of the marital residence and to her of her share of the equity in the residence—essentially challenging the trial court's valuation of the residence. Husband testified about the home's value and mortgage. Wife was awarded half of the equity based on that evidence. Pursuant to the property-owner rule, Husband was qualified to offer valuation evidence, and the trial court did not abuse its discretion in accepting that testimony. Although Wife's inventory was in evidence and provided a different value, she offered no evidence to explain how she reached her higher value determination.

Wife also challenged the court's award to Husband of a share of her separate property interest in a retirement account. However, the decree awarded a percentage of the "community-property portion" of the account. Wife was not divested of separate property.

Wife further complained of the trial court's exclusion of evidence supporting her claims of Husband's fault in the dissolution of the marriage. While a party may amend pleadings as they desire, parties must obtain leave of court if the amendment is less than 7 days before trial. Leave "shall" be granted unless the opposing party makes a showing of surprise. Here, taking into consideration Wife's deposition, the late amendments, and multiple new issues in the amendments, the trial court did not abuse its discretion in disallowing the amended pleadings. Further, having disallowed the amendments, the court did not abuse its discretion in excluding evidence of alleged fault.

Finally, Wife challenged the award of attorney's fees. Husband's attorney offered an affidavit describing the nature of work performed, identifying all the professionals who performed work and their respective rates, and setting forth the total number of hours worked by each professional as well as the timeframe during which the work was completed. Husband's attorney included numerous billing records. The evidence was sufficient, and the award was not excessive.

Post-Answer Default Decree Reversed Because Husband Did Not Receive 45 Days' Notice of Trial.

2. *In re Marriage of Mowafy*, No. 07-26-00166-CV, 2026 WL 2178986 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (07-28-2026).

Facts: Wife filed a petition for divorce, and Husband filed an answer and counterpetition. Although the court sent the parties notice of final hearing, Husband did not appear. After a post-judgment hearing, the court denied Husband's motion to set aside the default divorce decree. Husband appealed pro se.

Holding: Reversed and Remanded.

Opinion: Although the notice of hearing was not contained in the record, the court stated on the record the date of filing of the order setting final trial. That order setting trial was filed only 42 days before trial. Because Husband did not receive 45 days' notice of final trial, he was denied due process and entitled to a new trial.



Husband Not Entitled to Reinstatement After DWOP Because He Did Not Establish His Decision Not to Appear at a Pretrial Conference was Reasonably Explained, Given the Clear Instructions by the Court's Scheduling Order.

3. *Hines v. Hines*, No. 09-24-00263-CV, 2026 WL 2194781 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (07-30-2026).

Facts: Shortly after the court granted a continuance in the parties' divorce action, the parties filed a fully executed MSA. A few months later, just before an upcoming pretrial conference, Husband's attorney claimed to have emailed the trial court to determine whether an appearance was necessary. According to Husband's attorney, the court responded that no appearance was necessary at the pretrial conference, and the trial date (about a week later) was set for entry or dismissal.

That same day, Wife filed a motion to set aside the MSA based on alleged nondisclosures by Husband. Neither party appeared at the pretrial conference. A few days before the final trial date, Husband filed a motion for entry of a decree. The motion referenced an "attached" decree, but no decree was attached or in the record. On the date of trial, the court signed a dismissal for want of prosecution, stating, "[t]he parties and attorneys appeared but had passed pretrial conference indicating that they will have an agreed decree on their trial date and no agreed decree was ready (one side wanted to set aside the MSA)."

That same day, Husband filed a motion to reinstate the case asserting his failure to appear at the pretrial conference was a mistake. At a hearing on this motion, the court questioned Husband's attorney about the decision not to appear at the pretrial conference despite understanding Wife no longer agreed with the MSA. Husband explained he did not believe the pretrial conference was necessary because he was entitled to judgment on the MSA. The court denied Husband's motion to reinstate, and Husband appealed.

Holding: Affirmed.

Opinion: Husband argued the trial court was required to reinstate the case because his absence from the pretrial conference was due to accident or mistake or was reasonably explained. Husband relied on the coordinator's email stating there was no need to attend.

A court has authority to dismiss a case for want of prosecution under the Rules of Civil Procedure and common law. Under the Rules, a case may be dismissed when a party seeking affirmative relief fails to appear at a hearing or trial of which the party had notice or if a case is not disposed within the Supreme Court's time standards. The court also has inherent authority to dismiss a case when a plaintiff fails to prosecute his case with due diligence. The Rules also require a case be reinstated if a failure to appear was due to an accident or mistake or is otherwise reasonably explained—similar to setting aside a default judgment.

Here, the trial court's scheduling order contained a note in capitalized, bolded, and underlined letters that there was no need to appear at a pretrial conference if the only thing left to do was to enter a final decree based on an MSA, but the parties needed to appear at trial for entry or the case would be dismissed. The parties indicated that had an agreed decree to be entered on their trial date.

While there was some conflicting testimony as to when Husband's counsel became aware of the motion to set aside the MSA, it was undisputed that he was aware of Wife's complaints about certain undisclosed assets before the pretrial conference. The email exchange between Husband and the coordinator was not in the appellate record, so nothing in the record clarified whether the coordinator's response was sent before or after Wife filed her motion to set aside the MSA. Husband failed to establish the trial court abused its discretion.

Husband next argued he was entitled to judgment on the MSA. However, there was no transcript of the final trial proceeding, and the proposed order was not included in the record. Without a complete record, the appellate court could not review whether Wife presented any evidence of fraud, duress, or dishonesty to support setting aside the MSA. Again, the appellate court could not conclude the trial court abused its discretion.

**DIVORCE:
INFORMAL MARRIAGE**

Despite Conflicting Testimony, Wife Presented Sufficient Evidence to Establish the Existence of an Informal Marriage; Without Adequate Tracing Evidence, Husband Failed to Overcome the Community Property Presumption for Real Property Purchased During Marriage.

4. *Lara v. Medina*, No. 09-25-00011-CV, 2026 WL 2116974 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (07-23-2026).

Facts: Wife filed for divorce from Husband, but Husband responded and disputed Wife's claim the parties were married. The trial court bifurcated the issue of the existence of marriage from the remaining claims. After determining the parties were married, a second bench trial was conducted to divide the marital estate. After the trial court signed a final decree, Husband appealed.

Holding: Affirmed.



Opinion: Husband challenged the sufficiency of the evidence to support the existence of an informal marriage. Proof of an informal marriage requires the following three elements at the same time: (1) agreement to be married; (2) cohabitation in Texas after the agreement; and (3) representing to others in Texas that the couple is married.

Wife testified that the parties moved in together because they wanted to live as a married couple. She explained that in her culture, an official marriage was not required before considering themselves to be a married couple. Husband referred to her as “queen,” and Wife referred to him as “husband.” They celebrated their anniversary. Husband presented Wife to his family as his wife. After Wife moved out, Husband gave Wife a wedding ring in a box with the words “Forever Bride” to encourage her to return. Husband referred to the parties as husband and wife when they purchased their house when talking to the title company and attorneys. Wife was a stay-at-home mom for her children, while Husband provided for them financially. Wife filed her taxes as “head of household.” The parties filed separately because that resulted in a larger refund. The couple did not mingle finances, and Wife did not take Husband’s last name.

Husband claimed he asked Wife to move in with him because he felt sorry for her and her children. He said they shared a bed, but he was not in love with her. He denied calling her “queen” or ever introducing her to anyone as his wife. He denied that Wife’s children ever called him “dad,” but he acknowledged attending school meetings out of interest for the children. He agreed that he allowed Wife to use his credit and debit cards to buy food and necessities. He denied knowing anything about the ring box. He claimed the parties purchased their home as investment partners, not as husband and wife. He did not see the necessity in stopping her from referring to him as “husband.” When his family asked if they were married, Husband replied, “no.”

Other witnesses testified, some supporting Wife’s testimony, and others reporting they never heard Husband claim to be married.

Wife presented evidence the couple moved in together to be a married couple and offered other evidence supporting the elements to establish an informal marriage. While Husband presented some conflicting testimony, the trial court did not abuse its discretion in finding the existence of an informal marriage.

Husband additionally challenged the finding certain real property was community property instead of his separate property. He claimed the purchase was made entirely with his separate property. Wife countered that Husband failed to rebut the community-property presumption.

At trial, Husband asserted the property was uninhabited and had no utilities. He claimed to have purchased it with the proceeds from the sale of other separate real property. Husband’s bank records showed a deposit of about \$170k followed by a draft of about \$80k a few months later. He had no other documentary tracing evidence. Husband testified that his income was also deposited into that bank account and that account was his primary account. Wife was not a signatory on the account but had access to it because Husband allowed her to use his debit card to pay bills and buy necessities. Wife testified that after the purchase, Husband cleaned the property (including a mobile home on the land), installed utilities, and posted it for rent. The trial court was free to take Wife’s testimony as more credible and determine Husband failed to rebut the community property presumption.

Husband additionally challenged the exclusion of late-produced evidence. However, Husband failed to establish good cause not to apply the automatic exclusion of the evidence because he did not show lack of unfair surprise or unfair prejudice. Because this evidence was properly excluded, Husband did not have evidence to support his reimbursement claim, and the trial court did not err in denying Husband’s claim for reimbursement.

DIVORCE: PROPERTY AGREEMENTS

In Probate Proceeding, Son and Grandson’s Evidence that Wife’s Signature May have been Forged on Premarital Agreement was Sufficient to Defeat No-Evidence MSJ Regarding Son and Grandson’s Challenge to the Agreement’s Enforceability.

5. *In re Estate of Fugler*, No. 12-26-00244-CV, 2026 WL 2212549 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (07-31-2026).

Facts: After Wife’s death, her Son and Grandson challenged the enforceability of a premarital agreement signed nearly 30 years earlier. The representative of Husband’s estate filed a no-evidence motion for summary judgment in response to the Son and Grandson’s challenge. The executor of Wife’s estate did not file a response or join in the no-evidence MSJ. Son claimed Wife’s signature on the premarital agreement was forged and alleged the executor of Wife’s estate improperly handled documents relating to Wife’s estate. After the trial court granted the MSJ and entered a final order disposing of all claims and parties, Son and Grandson appealed.

Holding: Reversed and Remanded.

Opinion: By finally disposing of all claims and parties, the order granting summary judgment in favor of the representative of Husband’s estate also granted judgment in favor of Wife’s executor despite the executor not seeking summary judgment. Because the executor did not move for summary judgment, the trial court erred in granting a take-nothing judgment in the executor’s favor against Son and Grandson.

Additionally, the summary judgment filed by the representative of Husband’s estate did not specify any specific element of Son and Grandson’s claims for which they could produce no evidence. Because the motion was insufficient, the trial court erred in granting relief. Moreover, even if the appellate court were to construe the motion as sufficient, Son produced evidence from a



handwriting expert calling Wife's signature into question. Thus, Son and Grandson produced more than a scintilla of evidence to support their claims.

**DIVORCE:
TEMPORARY ORDERS**

Wife Could Not be Held in Contempt for Violations of a Rule 11 Agreement Committed Before the Trial Court Signed a Judgment on the Rule 11 Agreement.

6. *In re Acosta*, No. 14-26-00249-CV, 2026 WL 1905110 (Tex. App.—Houston [14th Dist.] 2026, orig. proceeding) (mem. op.) (07-02-2026).

Facts: During a divorce proceeding, the parties signed a Rule 11 agreement that provided they would each receive \$1750 from a business account on the 15th of each month, and Wife would keep a particular vehicle and be responsible for making monthly payments on the loan for that vehicle. Six months later, the trial court signed an order on the Rule 11 agreement. The following month, Husband filed a motion for enforcement by contempt alleging Wife had not made the business account payments for 8 months and had not made the vehicle payment for 5 months. The court found Wife in contempt and issued a money judgment for the missed business-account payments, an order for her to pay the amount due on the vehicle loan, and an award against Wife for attorney's fees. In a subsequent judgment suspending enforcement, the court referenced different amounts due for business-account payments and car loan because it calculated the amounts through "the present." Wife sought mandamus relief.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: A person cannot be held in contempt for actions before a court order. Husband sought contempt for alleged violations months before the trial court signed a judgment on the Rule 11 agreement. Only one alleged violation occurred after the trial court signed the underlying order on the Rule 11 agreement. Thus, the contempt findings for the alleged violations that occurred before that order were void. Further, because the trial court ordered a cumulative judgment for all the violations, including the ones from before the order on the Rule 11 agreement, the entire contempt order was void.

**DIVORCE:
PROPERTY DIVISION**

Court Could Not Sua Sponte Disregard Jury's Verdict Regarding Characterization of Properties.

7. *Sanchez v. Hernandez*, No. 01-24-00987-CV, 2026 WL 1899111 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (07-02-2026).

Facts: Wife assisted her son from a prior marriage to open a bail bond business. The license to operate the business was initially put in Wife's name because her son was not yet a U.S. citizen. To assist customers lacking collateral to secure bonds, Wife's son began purchasing property for the purpose. However, due to his lack of citizenship, the deeds would be in Wife and her current Husband's names until Wife's son secured citizenship. Wife's son paid for the properties, and neither Wife, nor her current Husband, contributed to the purchases. When Wife's son obtained U.S. citizenship, Husband and Wife transferred the properties to Wife's son "as agreed."

Five months later, Husband petitioned for divorce and included claims of fraud, theft, and conspiracy regarding the transfer of the properties to Wife's son. He claimed that his signature was forged on the warranty deeds. The court dismissed the all third-party claims before trial commenced. Wife's son testified at the jury trial. Husband appeared pro se, and his testimony was vague and conflicting regarding the bail bond business and purchase of the properties. The jury found Husband and Wife's homestead was community property, the properties used as collateral in the bail bond business were not community property. Wife did not commit fraud, and the transfer of the properties from Husband and Wife to Wife's son was fair and did not constitute constructive fraud against the community estate.

The trial court then sua sponte set aside the jury verdict and granted a new trial. The appellate court granted Mother's petition for mandamus relief and directed the trial court to vacate the new-trial order. The trial court vacated its order, but without prompting from the parties, explained its rationale for setting aside the verdict and asserted the documentary evidence was insufficient to support a finding that the bail bond properties were not part of the marital estate. The trial court asked the parties to decide whether they wanted to do another jury trial or try the issues to the bench. Wife objected to the directive that a new trial be conducted. Husband stated his desire for a new trial. The court stated it would make "a just and right determination of the property that the Court heard evidence on." No new trial was conducted. Rather, a year later, the court issued a new property division, including a finding that the bail bond business properties were jointly owned by Husband and Wife with each having a 50% interest as tenants in common. Wife appealed.

Holding: Reversed and Rendered.



Opinion: A jury's finding as to the character of property—whether it is community or separate—is binding on the trial court and the trial court may not disregard the finding. A trial court is thus bound by jury findings on the factual question of whether property is community or separate. And, a trial court is bound by a jury's finding that a transfer of property from a spouse to a third party is not a fraudulent transfer. When a trial court “sua sponte disregards a [jury's] finding, the court's action may be upheld only where the disregarded finding is immaterial.”

Here, although the jury was asked to determine whether the bail bond properties were community property, they were not asked to determine whether they were separate property of the spouses. Because this question was not presented to the jury, the trial court apparently believed there was error in the jury charge. However, no party objected to the jury charge or moved for a new trial on this basis.

The only claims advanced by Husband were (1) the properties were community property because the properties had been purchased with funds from his joint account with Wife and (2) the transfer of the properties from Wife to her son was a fraud on the marital estate. The jury rejected both claims finding that the properties were not community property, that Wife had not committed fraud on the community estate, and that the transfer of the properties to Wife's son was “fair.” Those findings were supported by legally and factually sufficient evidence.

It was an abuse of discretion for the trial court to disregard the jury's findings and declare without conducting a new trial on the matter that the properties were Husband and Wife's jointly owned separate property. “Other courts also have held that while a trial court may disregard a jury's finding as to the *division* of property, it may not disregard the jury's findings as to the *characterization* of property” (emphasis added). The trial court abused its discretion in contravening the jury's verdict that the properties were not community property and were not fraudulently transferred to Wife's son. There was no evidence presented at trial that either Husband or Wife had any ownership interest in the properties, that community funds were used to purchase the properties, or that the properties were the separate property of Husband or Wife.

Without Findings or Values Mother Could Establish No Abuse of Discretion with Respect to Property Division.

8. *In re A.S.L.*, No. 05-25-00545-CV, 2026 WL 1948987 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (07-02-2026).

Facts: The parties were married for 25 years. When their youngest Child was almost an adult, Mother filed for divorce. Mother had been a stay-at-home mom for twenty years, but neither party was employed at the time of separation. Mother chose to move from North Texas to Central Texas against Father's wishes. Mother moved to be closer to their adult child, who was attending school in Central Texas. Father asserted the move harmed his relationship with the youngest Child. After a final trial, the court rendered a final decree. Mother appealed.

Holding: Affirmed.

Opinion: Mother asserted the trial court abused its discretion in the division of the community estate. She complained that the court did not take into consideration credit card debt she accrued during the divorce while she did not have access to community funds.

Father paid down some of his credit card debt during the divorce but did not pay down hers. Father testified he had no control over the cards Mother was using and that she spent money on unnecessary items such as Disney trips and furnishing her new residence. Mother had paid off some of her credit cards but refused to pay off others. Father testified the parties had agreed to be responsible for their own credit cards while the divorce was pending.

At the close of evidence, the court indicated it would generally follow Father's proposed division that did not reflect credit card balances. Yet, the court modified that division to award Mother assets from a different IRA account than proposed by Father and also awarded Mother \$9000 on her credit card debt without explanation. The final decree lacked values for several assets and debts. The decree did not indicate whether the division was disproportionate. No findings were requested or issued. Mother failed to establish an abuse of discretion.

House Built During Marriage with Community Funds on Real Property Owned by Wife's Parents was Not Part of the Marital Estate; Husband Not Entitled to Reimbursement Because No Marital Estate Benefitted from the Building of the House.

9. *In re Marriage of Soma*, No. 12-25-00309-CV, 2026 WL 1983349 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (07-08-2026).

Facts: Husband and Wife initially lived in Washington state. They moved to Texas near Wife's parents, who owned over 200 acres in east Texas. Husband and Wife lived in an RV on Wife's parents' property for a while, and then, with Wife's parents' knowledge, built a house on the property for over \$200,000. The couple lived in the house until the divorce proceedings.

Because Husband claimed that Wife “asserted on the record a position that the marital residence [was] owned by” her parents, he amended his petition to add Wife's parents as co-respondents. He also included claims for a disproportionate share of the community estate, reimbursement to his separate estate, breach of fiduciary duty, actual fraud, and constructive fraud. Against Wife's parents, Husband included claims of conspiracy to commit fraud, fraud in the inducement, partition, breach of contract, unjust enrichment, quantum meruit, and promissory estoppel.



At the bench trial, Husband claimed he believed Wife's parents intended to gift the couple five to ten acres to live on. He claimed Wife's parents observed him physically staking off a piece of the property. Although Husband later had doubts about the gift, he never asked for a deed. When Wife's parents refinanced the acreage, they asked for Husband and Wife's permission to call the property a homestead to obtain better rates. Husband claimed to have "lost hope" at that point about Wife's parents keeping their promise regarding gifting the property. Among other factual disputes, Wife denied ever talking to Husband about an expectation of a gift from her parents.

While Wife's mother did not characterize the house as a gift to her, she testified that because the house was built on her land, it belonged to her, and she believed Husband and Wife understood that. Wife's mother agreed that she and her husband did not contribute any money to the construction of the house. Wife's father had died, and Wife's mother was his sole heir.

In the final decree of divorce, the court found the house was not part of the marital estate. Husband did not request Section 6.711 findings, and the findings did not contain findings regarding values. Husband appealed.

Holding: Affirmed.

Opinion: Husband first challenged the division of the community estate as being unjust. However, without findings regarding value, the court could not determine the percentage of the marital estate awarded to each party or whether the trial court abused its discretion in dividing the marital estate.

Husband next argued the court erred in failing to award him reimbursement for the value of the house. This argument was essentially a restatement of his first argument, which failed. To the extent he claimed that community property (money) was used to build community property (the house), there could be no reimbursement claim because it would be a claim of one estate against itself. Moreover, the house did not benefit Wife as Husband asserted because the house was not part of the marital estate at all. A reimbursement claim cannot be brought against an individual who was not a party to the marriage.

Wife Waived Her Complaint About the Court's Use of Husband's Value for Various Assets Because She Failed to Introduce Any Evidence of a Different Value.

10. *Saenz v. Pechler*, No. 14-25-00781-CV, 2026 WL 1983470 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (07-09-2026).

Facts: The final decree of divorce awarded Husband a greater share of community assets; however, when liabilities were included in the calculation, he received a net negative. Despite receiving a lesser share of community assets, Wife received a net positive. The divorce was granted on the basis of insupportability, and the court awarded Wife spousal maintenance for eighteen months. Wife was represented by counsel at trial but appealed pro se.

Holding: Affirmed.

Opinion: Wife complained about a lack of findings. While her request was timely, her notice of past due findings failed to include the date the findings were initially due, forfeiting her request.

Regardless, the appellate court was able to determine the division of the estate based on undisputed evidence. The division of the estate resulted in Husband being awarded negative \$36,000 and Wife being awarded an estate over \$50,000. Wife challenged the valuations and overall division.

Although Wife challenged valuation of stocks, she offered no competing valuation evidence at trial, and the trial court was free to credit Husband's valuations as reliable. Wife also challenged valuations regarding a mobile home situated on her parents' property. At trial, Husband testified he could afford the mortgage, but because of its location, he was not welcome on the property. He was willing to forfeit the home to a mortgage company that could remove the home from the property and refurbish the home for resale. This option would incur fees. Husband also testified that the depreciation of the home resulted in it being worth less than the mortgage owed on it. Wife challenged Husband's claim of the amount of fees to move and sell the house, but again, Wife offered no competing value.

With respect to spousal maintenance, Wife asserted she presented evidence of a disability that should have entitled her to greater maintenance. Husband presented evidence that Wife did not have mobility issues, was an EMT before marriage, and worked on the farm during the marriage. A vocational expert testified there was no evidence that a disability prevented Wife from obtaining employment. Wife acknowledged she was denied SSDI. The court did not find Wife was disabled but may have taken her condition into consideration when granting maintenance and awarding Husband a net negative estate.

Without Sufficient Evidence Regarding Valuation, Default Divorce Decree Reversed and Remanded.

11. *Hazlett v. Hazlett*, No. 05-25-00580-CV, 2026 WL 2079871 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (07-17-2026).

Facts: Wife filed for divorce. Husband did not answer or otherwise appear. Wife obtained a default divorce decree. Husband's motion for new trial regarding insufficient evidence was overruled by operation of law. Husband's notice of appeal was filed less than 15 days after his deadline to do so. However, because he also filed a motion for extension of time to file the notice of appeal, the appellate court accepted his notice as timely filed.



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

Opinion: Husband argued the trial court lacked sufficient evidence of value to determine a just and right division of the community estate.

When a respondent in a divorce proceeding fails to appear, the petitioner is nevertheless required to present sufficient evidence to support the petitioner's allegations.

At the prove-up hearing, Wife offered no evidence regarding values of real estate, vehicles, or other assets. The only evidence that arguably constituted property valuation testimony was as follows:

Q. Were you aware of the balance of [Husband's] 401K?

A. No.

Q. His annual salary was \$110,000, correct?

A. Correct.

Q. And he had an employer match of 5 percent; is that correct?

A. Correct.

Q. And he had been at that job for two years?

A. Yes.

Q. Do you believe it's reasonable to assume that he had around \$20,000 or more in his 401K?

A. Yes.

....

Q. And the current market value [of the marital residence], minus the mortgage, with the reimbursement for the cash distributions leaves a little shy of \$8,000 in equity, correct?

A. Correct.

Q. And you are asking for 100 percent of your 401K, correct?

A. Yes.

Q. The balance of that is under \$3,000?

A. Correct.

Wife's testimony regarding Husband's 401(k) amounted to no more than mere speculation and was not competent evidence. Wife failed to offer sufficient valuation evidence to support the divorce decree's property division.

The dissolution of marriage was affirmed.

Husband Failed to Show He was Entitled to Recovery from Wife's Parents Under a Theory of Unjust Enrichment.

12. *Soma v. Winborne*, No. 12-25-00307-CV, 2026 WL 2212810 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (07-31-2026).

Facts: Husband and Wife initially lived in Washington state. They moved to Texas near Wife's parents, who owned over 200 acres in east Texas. Husband and Wife lived in an RV on Wife's parents' property for a while, and then, with Wife's parents' knowledge, built a house on the property for over \$200,000. The couple lived in the house until the divorce proceedings. In a separate suit, Husband sued Wife's parents for fraud. Husband alleged that Wife's mother told Husband and Wife that if they moved to Texas, Wife's mother would convey a parcel of land to them to build a home on. Husband later amended his petition to include Wife's father's estate as a defendant and to add claims for equitable partition and unjust enrichment.

The court conducted a one-day bench trial for both this case and the divorce proceeding. Husband testified that Wife's parents had promised to give Husband and Wife five to ten acres and watched Husband stake out a piece of the land. After the house was completed, Husband and Wife applied for a homestead exemption. Husband claimed that he never requested a deed because he believed Wife's parents would keep their promise. He did not know there was a mortgage on the property and believed Wife's parents owned the property outright. However, Wife's parents later refinanced their mortgage and listed Husband and Wife's home as the parents' homestead. Husband then lost hope, moved out of the house, and returned to Washington.

Wife acknowledged the county tax rolls listed Husband and Wife as owners of the house but denied ever talking to Husband about an expectation of a gift of land or for compensation from her parents for the costs of construction. Wife's mother testified Husband knew about the mortgage because they had discussed it. Wife's mother denied ever promising a gift of land and testified that she believed Husband and Wife were gifting the house to her by building it on her property. Wife's mother was the sole heir pursuant to Wife's father's will. Wife continued living in the house and did not pay anything to her mother to reside in the house.

The divorce decree awarded the house to Wife. While it did not expressly deny Husband's unjust enrichment claim, it stated all relief not specifically granted was denied. It further stated Husband would take nothing as to his claims against Wife's mother and her father's estate. Husband appealed.

Holding: Affirmed.

Opinion: Husband asserted the court erred in failing to award him a claim for unjust enrichment against Wife and her parents.

Unjust enrichment is an equitable principle holding that one who receives benefits unjustly should make restitution for those benefits. Unjust enrichment occurs when a person has wrongfully secured or passively received a benefit that it would be unconscionable to retain. The unjust enrichment doctrine applies the principles of restitution to disputes that are not governed by a contract between the contending parties. A party may recover under the unjust enrichment theory when one person has



obtained a benefit from another by fraud, duress, or the taking of an undue advantage, although a right of recovery under unjust enrichment is not dependent on wrongdoing by the opposing party. However, to recover under an unjust enrichment theory, the benefits to the other party must be actually unjust under the principles of equity. Unjust enrichment is not a proper remedy merely because it might seem generally fair that some recompense be afforded to the claimant or because the benefits to the person sought to be charged amount to a windfall.

The Tyler Court of Appeals has previously held that unjust enrichment is not an independent cause of action but merely a remedy based in quasi-contract. Husband failed to adequately brief his complaint by failing to present a legal analysis to support his entitlement to relief. Moreover, under the abuse of discretion standard, the trial court's judgment was supported by sufficient evidence.

**DIVORCE:
ENFORCEMENT OF PROPERTY DIVISION**

Summary Judgment Dismissing Wife's Claims Improper Because She Presented More Than a Scintilla of Evidence Husband Fraudulently Transferred Property to His Daughter to Avoid Post-Divorce Collection Efforts by Wife.

13. *Rodriguez v. Torres*, No. 13-25-00509-CV, 2026 WL 2054208 (Tex. App.—Corpus Christi—Edinburg 2026, no pet. h.) (mem. op.) (07-16-2026).

Facts: Husband and Wife's divorce decree confirmed certain real property as Husband's separate property and awarded Wife damages for an IIED claim.

Wife filed an abstract of judgment for the IIED judgment in the county records. Husband thereafter transferred his real property to his daughter. Wife sought a declaration that the judgment lien effected by the abstract was valid and sought foreclosure of the properties to satisfy her judgment. Wife later amended her petition to include a claim that Husband and his daughter conspired to violate and did violate the Uniform Fraudulent Transfer Act.

Husband and his daughter filed for summary judgment. Husband claimed Wife had "already made a play for [his] real estate" in the divorce, making Wife's claims barred by res judicata. He further argued Wife could not prove fraudulent intent because he could do what he wished with his property. Finally, he argued there was no evidence he had knowledge of the abstract before making the gift to his daughter. The daughter similarly argued she had no knowledge of the abstract. After filing a response, which included a copy of the abstract, the trial court granted the motions for summary judgment and dismissed Wife's claims. Wife appealed.

Holding: Reversed and Remanded.

Opinion: The UFTA defines a fraudulent transfer as one made with "actual intent" to hinder, delay, or defraud a creditor. It provides a non-exhaustive list of factors ("badges of fraud") to consider in determining a parties' "actual intent." If a creditor's complaint is meritorious, the creditor may obtain avoidance of the transfer or obligation to the extent necessary to satisfy the claim, an injunction, attorney's fees, and other appropriate relief.

Although they did not make the argument in the trial court, on appeal, Husband and his daughter argued Wife lacked standing. Standing can be challenged for the first time on appeal. Husband and his daughter argued that the daughter had transferred the property to the church, so Wife was required to sue the church as the owner of the properties. However, under the UFTA, Wife was undisputably a creditor and had standing to challenge the transfers made by Husband.

Husband's claims of res judicata also lacked merit. Wife's suit was based on transfer that occurred *after* the divorce and could not have been litigated during the divorce proceeding. Moreover, in the divorce suit, although the trial court granted Wife a judgment for IIED, it lacked authority in the divorce proceeding to award her Husband's separate property to satisfy that judgment.

While Husband argued there was no evidence of "actual intent," Husband gifted the property "without receiving a reasonably equivalent value in exchange" and "became insolvent as a result of the transfer." This evidence was sufficient to raise a fact question as to Husband's "actual intent." Despite Husband and his daughter's argument that there were "badges of fraud" for which Wife had no evidence, Wife was not required to show evidence of every "badge" to generate a fact issue.

Because there was more than a scintilla of evidence to support Husband and his daughter's liability under the UFTA, summary judgment was improper.

**SAPCR:
PROCEDURE AND JURISDICTION**

Texas Had UCCJEA Jurisdiction Because No State was the Child's Home State, and the Child Had Significant Connections with Texas; Father Failed to Show Mother Engaged in "Unjustifiable Conduct" when She Moved to Texas with the Child.

14. *In re Marriage of Oliveira*, No. 13-24-00325-CV, 2026 WL 1902568 (Tex. App.—Corpus Christi—Edinburg 2026, no pet. h.) (mem. op.) (07-02-2026).



Facts: The parties were both from Brazil. They married in Texas, and their Child was born in Texas. The family moved to West Virginia with the hopes of resolving marital conflicts. Although they agreed to live in West Virginia for six months, Mother left early with the Child to go to Brazil and visit family. She returned to West Virginia briefly and then moved to Texas with the Child. Father did not give Mother permission for any of these moves. Mother sent Father a handful of emails after deciding to return to Texas informing him of the situation. Mother filed for divorce in Texas, and Father challenged Texas's jurisdiction over the Child. At a final trial, the parties continued to argue over which state had UCCJEA jurisdiction but agreed to terms for the divorce and property division. The trial court rendered a final decree that included provisions for the Child, and Father appealed.

Holding: Affirmed.

Opinion: Father challenged the Texas court's exercise of UCCJEA jurisdiction because (1) West Virginia was the Child's home state, and (2) Mother engaged in "unjustifiable conduct" in attempting to create jurisdiction in Texas.

At the time Mother initiated the Texas divorce proceeding, the Child had not lived in either Texas or West Virginia for six months. Thus, neither state was the Child's home state. A West Virginia judgment found it did not have UCCJEA jurisdiction over the case. The Child had spent most of her life in Texas, the parents lived in Texas before the Child's birth and had a strong church community in Texas. The Child had a dentist and pediatrician in Texas. Texas had UCCJEA jurisdiction based on the Child's significant connections with Texas.

Mother testified she moved from West Virginia to Texas due to the toxic nature of the parties' relationship. Mother's only connection in West Virginia was Father's family. The house in which the parties lived (Father's parents' house) was not suitable for raising a child. Mother kept Father apprised of where she and the Child were, what she was doing, and let Father know she was open to him visiting the Child. Mother did not want to allow Father overnight visits with the Child yet because she was weaning the Child off of breastfeeding. The trial court did not abuse its discretion in finding Mother had not engaged in "unjustifiable conduct." Moreover, Father failed to establish how Mother gained a jurisdictional advantage by having the suit heard in Texas rather than in West Virginia.

Father additionally challenged the lack of findings of fact and conclusions of law; however, he failed to show how he was harmed by a lack of finding. Father was not forced to guess at the reasons for the trial court's rulings, and Father was able to adequately present his appeal.

APPLYING THE FORMER SECTION 102.003(a)(9): Grandmother Established Standing Based on Her Sharing a Principal Residence with the Child for the Requisite (Though Non-Continuous) Period and Exercising Actual Care, Control, and Possession of the Child—No Affidavit WAS Required.

15. *Benedict v. Hill*, No. 03-24-00307-CV, 2026 WL 1992323 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (07-10-2026).

Facts: Mother and Father's divorce decree appointed them as joint managing conservators of their Child, with Mother having the exclusive right to designate the Child's primary residence. Mother's mother and stepfather ("Grandparents") filed a modification suit claiming standing based on care, control, and possession and on the grandparent standing statute (102.003(a)(9) and 102.004, respectively). Grandparents' affidavit stated they had exclusive care of the Child for about 5 months and that they had substantial contact with the Child for the Child's lifetime. Grandparents further alleged Mother and Father had engaged in family violence, and Mother had exhibited a history or pattern of child neglect. Grandparents asked to be appointed sole managing conservators or, in the alternative, joint managing conservators with Father. Additionally, Grandparents asked that Mother have no access to the Child or that Mother's access be continually supervised. Grandparents asked for specific further steps (e.g., therapy) to assist Mother and Father. Mother filed a plea to the jurisdiction, challenging Grandparents' standing.

A trial court signed temporary orders appointing all four parties as joint managing conservators, with the parents' visitation being supervised. That court then transferred the case to a new county, where Mother requested a hearing on her plea to the jurisdiction.

At that hearing, the evidence revealed that when the Child was an infant, Mother, Father, and the Child moved in with Grandparents. A guesthouse was built, and the young family moved into that. However, Grandmother continued providing substantial care for the Child. Some years later, Mother suffered a seizure that caused her to be hospitalized for months. After Mother recovered, Grandmother acknowledged that Mother "primarily" took care of doctor's appointments and schooling for the Child. Mother and Father characterized the Child's time spent with Grandparents as "part-time."

In written findings, the court found Grandfather (as a step-father to Mother) was not within the third degree of consanguinity with the Child, Grandparents' affidavit failed to state facts to support a finding that denying them access would significantly impair the Child's physical health or emotional well-being, Grandparents did not share a residence with the Child for at least 6 months before filing the petition, Grandparents' periods of possession were temporary and dependent on the parents' consent, there was no evidence Mother and Father abdicated their parental duties, there was no evidence Mother and Father did not adequately care for their Child, the fit-parent presumption was not overcome, and the Grandparents' lacked standing. Grandparents appealed.

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

Opinion: At the time of the underlying suit, the statutory changes had not yet taken effect. Section 102.003(a)(9) still included the word "actual," rather than "exclusive" with respect to "care, control, and possession." Because the suit was filed before that



statutory change, the prior statute applied to Grandparents' claim of standing under Section 102.003(a)(9). The former statute excluded non-parents who did not share a principal residence with the child, regardless of their care, control, and possession of the child.

Although the trial court found the Child did not reside with Grandparents for the requisite period, the appellate court disagreed. The undisputed evidence showed the Child lived with Grandparents "for a total period of six months between early 2020 and January 2022." Although the period was not consecutive, the six-month period need not be continuous and uninterrupted. Any breaks are probative to the best-interest inquiry, not the standing analysis. Mother argued the six-month period needed to be immediately preceding the petition. However, the Code specifically states that the 6-month period need not be continuous.

In addition to the shared residence, Grandparents were required to show they provided for the Child's daily physical and psychological needs, and they exercised guidance, governance, and direction similar to that typically exercised on a day-to-day basis by parents. Grandmother offered evidence to support this finding, but Grandfather did not. Thus, the trial court abused its discretion in finding Grandmother lacked standing but did not err in concluding Grandfather lacked standing.

In a footnote: "The [G]randparents acknowledge[d] that [Grandfather] lacked standing under [the Grandparent statute], as he is not [the Child's] biological relative."

Next, the appellate court addressed Grandparents' supporting affidavit. Because Grandparents were seeking conservatorship and not possession, they were not required (under the former statutes) to attach a supporting affidavit. Thus, a failure to attach an affidavit compliant with Section 153.432 was not a valid basis to dismiss Grandparents' suit.

However, since entry of judgment, the Legislature enacted Section 102.0031, which imposes in all non-parent suits a substantially similar affidavit requirement to that of 153.432. In the appellate court, Mother suggested the new requirement should have been applied. The new 102.0031 only applied to suits pending on or after September 1, 2025, which this suit was not. The appellate court expressed no opinion as to whether dismissal would be appropriate on remand.

Grandparents' Suit Dismissed Because They Failed to Present Evidence that the Children's Present Circumstances Would Significantly Impair the Children's Physical Health or Emotional Development.

16. *In re J.W.H.*, No. 07-25-00346-CV, 2026 WL 2122971 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (07-22-2026).

Facts: Father died when Mother was pregnant with their second Child. After Father's death, paternal Grandparents assisted with childcare while Mother worked at a café she owned and operated. Mother closed the café to focus on the needs of the oldest Child, who had begun acting out.

According to the oldest Child, Grandmother told him that Mother was on methamphetamine and was going to die or go to jail. The oldest Child had an outburst towards Mother and told her hated her and did not want her to be alive. Mother took the Child to Grandparents' house to discuss the incident.

Grandparents then initiated a SAPCR seeking managing conservatorship and the exclusive right to designate the Children's primary residence. They alleged standing under (1) the care, control and possession provision, (2) former Section 102.003(a)(13) based on Father's death, and (3) the grandparent-standing statute. In the alternative, Grandparents sought possession and access and alleged that denial of access would significantly impair the Children's physical health or emotional well-being.

At the time of the final hearing, Mother resided in Idaho with her fiancé. The court named Mother sole managing conservator and Grandparents possessory conservators, allowing them to have possession and access and electronic communication with the Children. Mother was ordered to share in travel costs. Mother appealed.

Holding: Reversed and Dismissed.

Opinion: Mother challenged Grandparents' standing. In its findings, the court stated Grandparents had standing "because the order requested [was] necessary because the children's present circumstances would significantly impair the children's physical health or emotional development." Based on that language, the appellate court inferred that the trial court based standing on the grandparent-standing statute.

To establish standing under this statute, the pleading party must present "satisfactory proof" of their significant-impairment claim, which has been defined as "proof established by preponderance of the evidence as the facts existed at the time the suit or intervention was filed." Thus, here, Grandparents were required to show by a preponderance of the evidence that specific, identifiable behavior by Mother would probably cause significant impairment to the physical health or emotional development of the Children.

Here, the trial court found Mother was not fit based on marijuana use and leaving the Children unattended. The court further found Mother compromised the educational development of the Children and cohabitated while unmarried. While there may have been some valid concerns about the older Child's dyslexia and related issues post-filing, at the time of Grandparents' petition—the relevant snapshot of time—no evidence indicated Mother had taken or failed to take any specific action that harmed the older Child's educational development. Additionally, Mother was not cohabitating with her fiancé at the time of Grandparents' petition. The allegation of leaving the younger Child unattended occurred long before Grandparents' petition. Mother had been 45 seconds away in her café, and she was watching the Child in his crib via a baby monitor. CPS ruled out neglectful supervision and had no reason to believe Mother did it again. By the time of Grandparents' petition, Mother was no longer operating the café. This allegation did not involve "present circumstances." Finally, Mother admitted to using marijuana at the café but testified she did not use it around the Children, and it did not affect her parenting. CPS had tested Mother for drugs, and the results were



negative. The evidence showed no negative effects on the Children due to Mother's past use of marijuana. Although Grandmother testified she was concerned about Mother's drug use, she did not contact CPS or law enforcement. Further, she believed Mother was "a good mom" and "a fit parent." Grandmother testified Mother's drug use would not be "a big issue" if Mother would give her access to the Child, and "if [she] could see [her] grandkids, none of us would be here."

The evidence of Mother's marijuana use did not rise to a level demonstrating that the present circumstances of the Children would significantly impair their physical health or emotional development. The link between a parent's conduct and harm to a child "may not be based on evidence that raises mere surmise or speculation of possible harm." The factors relied upon by the trial court did not meet Grandparent's burden to establish standing. Thus, the appellate court reversed and dismissed Grandparents' suit.

Default SAPCR Judgment Reversed Because No Record was Made of the Final Hearing.

16. *In re M.R.L.*, No. 04-24-00523-CV, 2026 WL 2180437 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (07-29-2026).

Facts: Father filed a SAPCR, and Mother filed a counterpetition. Father filed a motion to set the matter for final hearing for about two weeks out. Less than five hours later, Mother's attorney filed a motion to withdraw that included the trial date from Father's motion. The certificate of service indicated that Mother was served by electronic filing manager and email. Mother did not appear at trial. The default order included recitations about appearances and stated the "record was waived by the parties with the consent of the court." Mother appealed.

Holding: Reversed and Remanded.

Opinion: The Family Code requires a record be made in contested SAPCRs unless waived by the parties with consent of the court. The failure to abide by this requirement constitutes error on the face of the record requiring reversal. Here, Mother was not present and could not have consented to the waiving of a record.

Trial Court Could Not "Transfer" Child Support Proceeding to Arizona Because Father Still Lived in Texas.

17. *In re OAG*, No. 03-26-00523-CV, 2026 WL 2191908 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (07-30-2026).

Facts: In an original SAPCR initiated by the OAG, Mother was appointed temporary managing conservator with the right to designate the Child's residence without regard to geographic location. Father was appointed a possessory conservator and ordered to pay child support. Two years later, Mother and the Child moved to Arizona. Four years after that, Father moved for enforcement of possession and asked for a modified temporary order appointing the parents as joint managing conservator and giving him the exclusive right to designate the Child's primary residence. Mother filed a special appearance and motion to transfer the case to Arizona, relying on the UCCJEA. Based on Mother's proposed order, the trial court "transferred" the entire case to Arizona on the basis of inconvenient forum. The OAG sought mandamus relief.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: The Family Code provides for intrastate transfers inside Texas, not transfers of suits to other states. Additionally, under UIFSA, Texas retained jurisdiction over child support because Father continued to reside in Texas. Because the challenged order was not a final order, it was not appealable, so mandamus was the only vehicle for relief.

Mother asserted the inclusion of the child-support language in the temporary order was inadvertent and could have been corrected via a judgment nunc pro tunc, rather than mandamus. The appellate court disagreed and held the error was a judicial error, rather than a clerical one.

**SAPCR:
CONSERVATORSHIP**

Father Not Required to Establish a Material and Substantial Change to Support Final Order that Deviated from Parties' Earlier Rule 11 Agreement Concerning Possession and Conservatorship; Appellate Fee Award Remanded for Failure to Present Evidence About Expected Services and Rates for Those Services.

18. *Brown v. Brown*, No. 02-25-00209-CV, 2026 WL 1993056 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (07-09-2026).

Facts: The parties were married about 13 years and had one Child when they counter petitioned for divorce. When final trial began, the parties announced they had settled many issues, and their agreement was read into the record, resulting in a pronouncement of divorce. Child support and issues regarding a receivership to sell the marital residence remained unresolved.



When Mother failed to respond to discovery requests regarding her net resources, Father moved to compel and for sanctions. Later, Father filed a suit to enforce because Mother violated possession orders. Father asked he be named sole managing conservator and filed a petition for writ of habeas corpus because Mother was withholding the Child.

At the hearing on Father's motions, he asked for a modification of the agreed conservatorship and possession orders based on a material and substantial change since the parties' agreement. The trial court granted Father's requested relief, appointed Father sole managing conservator, and required Mother's access be supervised. At a hearing to sign the final decree, Mother (pro se at that time) objected to the inclusion of conditional appellate attorney's fees because the court had not previously made that award. She otherwise raised no objections to the final decree. Mother appealed through counsel.

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

Opinion: Among other complaints, Mother argued the trial court abused its discretion by awarding appellate fees when they were neither pleaded for nor supported by evidence of reasonableness and necessity. Mother waived her argument regarding the lack of pleading by failing to raise it to the trial court. However, an evidence-sufficiency complaint may be raised for the first time on appeal.

At the hearing in which the court awarded the fees, Father's attorney testified that he requested \$15,000 for an appeal to the intermediate appellate court and another \$15,000 if the case was appealed to the Texas Supreme Court. Father's attorney testified that he believed this request to be reasonable and necessary. This evidence was insufficient because it did not provide information about the particular services that would be needed or the reasonable hourly rate for those services. Accordingly, the issue of appellate fees was remanded for further proceedings.

Mother additionally argued the court erred in modifying the parties' agreement as to conservatorship and possession. However, when the parties' initial agreement was read into the record, the court asked them if they were in agreement with the terms and informed them that the orders would "be put very soon into written form." At that hearing's conclusion, the court used non-final terms about the order that was "going to be" reduced to writing. Moreover, the agreement did not resolve all the parties' issues, including child support. Accordingly, the court did not render judgment when the parties read their agreement into the record. Because this was an original suit affecting the parent-child relationship and not a modification suit, Father was not required to establish a material and substantial change in circumstances to support the final conservatorship and possession order.

Mother's remaining issues were waived for her failure to bring her complaints to the attention of the trial court.

Mandamus Relief Granted Because Court Appointed Father as a Managing Conservator Despite Credible Evidence of Violence Against a Child and Because Order Requiring Mother Travel for all Exchanges was Not Based on the Child's Safety and Welfare.

19. *In re Coronado*, No. 11-26-00196-CV, 2026 WL 2117287 (Tex. App.—Eastland 2026, orig. proceeding) (mem. op.) (07-23-2026).

Facts: Mother had two pre-teen children before her marriage to Father. The third Child was born shortly after the parties married. Mother learned Father spanked and slapped the middle child so hard that it caused the child bruising. Father had also spanked the oldest child and threatened to physically discipline and humiliate the oldest child "like in county [jail]." Mother reported the abuse and was granted a protective order. The older children spoke to law enforcement and forensic interviewers, leading to Father's arrest for the felony offense of injury to a child. Mother offered photographs and text messages to support her allegations. She also testified that Father had pushed and shoved her. Mother asked the court to name her sole managing conservator.

Father pleaded the Fifth seven times during the hearing. He agreed he texted in graphic detail his plans to discipline the oldest child. At the hearing's conclusion, the court appointed Mother and Father joint managing conservators of the Child with Father's periods of possession to be supervised. The court issued temporary orders requiring Mother to transport the Child for Father's periods of possession because she was "the one that moved." The court stated that Mother could not have been trying to hide from Father because Mother went to where her family was, and Father would look there for her. The court told Father it was forced to require Father's periods of possession to be supervised. Mother filed a petition for mandamus relief.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Mother asserted the trial court clearly abused its discretion by appointing Father as a joint managing conservator. The Family Code prohibits appointing a parent as a joint managing conservator in light of credible evidence of a history or pattern of past or present child neglect, or physical or sexual abuse by one parent directed against the other parent, a spouse, or a child. Texas courts have held that "a single act of violence or abuse suffices to show a history of physical abuse." Mother presented evidence that at a minimum, Father struck the oldest child with such force that it caused bruising. Mother presented photographs of the child's injuries and text messages to corroborate her testimony. Father repeatedly asserted his Fifth Amendment privilege, permitting negative inferences. Uncontroverted evidence demonstrated Father was arrested for injury to a child, which the trial court credited as "some evidence [Father] committed" the offense. The trial court abused its discretion in appointing Father as a joint managing conservator.



Mother additionally challenged the court's ruling that exchanges of the Child occur at Father's residence. Based on the trial court's statement, the ruling was made solely based on Mother's move out of the county and "[bore] no discernible relation to the safety and welfare of [the Child] and was therefore a clear abuse of discretion."

**SAPCR:
MODIFICATION**

Despite Mother's Initial Violation of Order by Taking Child, Evidence Supported Modifying Orders to Remove Grandmother as Managing Conservator and Eliminate Grandmother's Rights of Possession and Access.

20. *Williams v. Hickman*, No. 01-22-00907-CV, 2026 WL 2089384 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (07-21-2026).

Facts: When Mother went to prison, the Child began living with maternal Grandmother. When Mother was released, Grandmother attempted to reunite Mother and the Child, but the attempts were unsuccessful. Grandmother sought and received sole managing conservatorship. Mother and Father were appointed possessory conservators. The possession schedule was subsequently modified a year later, but the conservatorship was not changed by the modification order.

A year after that, Mother filed a new modification suit seeking to remove Grandmother as a conservator and to appoint Mother and Father as joint managing conservators. After a bench trial, the court removed Grandmother as a conservator and eliminated her rights of possession and access. Grandmother appealed.

Holding: Affirmed.

Opinion: Although Grandmother complained that the order exceeded the relief sought by Mother, Grandmother failed to raise that issue in a motion for new trial and waived it for appellate review.

Grandmother next argued the trial court abused its discretion in granting a modification because the evidence was insufficient to support a finding of a material and substantial change since the prior order or that the requested modification was in the Child's best interest. At the time of the prior order, the Child lived with Grandmother. One day, Mother's younger sister told Mother that Grandmother slapped the Child in the face for not saying "yes, ma'am." Based on this information, Mother took the Child despite not having the legal right to do so. Mother had already filed a petition to modify and to transfer the case to a different county. At the hearing on the motion to transfer, the court granted the transfer and sua sponte issued a temporary order appointing Mother and Grandmother joint managing conservators and gave Mother the exclusive right to designate the Child's primary residence. A CPS worker testified about having concerns with the Child living with Grandmother.

By the time of trial, the Child had lived with Mother for over a year. The Child reported to be "kinda sad" about not seeing Grandmother but felt happy living with Mother and his siblings. The Child was doing well in school. The court interviewed the Child in chambers. Viewing the evidence under the abuse of discretion standard, the evidence was legally and factually sufficient to support the modification order. The appellate court noted it did not condone Mother's taking of the Child. However, the evidence supported a material and substantial change and that the modification was in the Child's best interest. Additionally, the court noted Texas's public policy to assure Children have frequent and continuing contact with parents who have shown the ability to act in the child's best interest.

Evidence Supported Inference that Parties' Relationship Significantly Worsened Since Prior Order and Constituted a Material and Substantial Change to Support Modification.

21. *In re C.E.R.*, No. 05-24-01486-CV, 2026 WL 2101334 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (07-21-2026).

Facts: A final divorce decree included provisions for the parties' Children, including giving each parent the individual right, subject to the other's agreement, to consent to medical and psychiatric/physiological treatments. Mother was ordered to pay child support. The whole family was required to participate in therapy or counseling sessions.

About a year-and-a-half later, Mother (a physician) moved to reduce her child-support obligation because she had left her prior employment and opened her own practice. A temporary order reduced the obligation, and a final order maintained that reduction.

In response to Mother's modification suit, Father (an attorney) asserted no material and substantial change existed to warrant the reduction of child support but also asked for new orders regarding the safety and welfare of the Children. Father also requested a permanent injunction to prevent Mother from entering his residence.

In a one-day bench trial, the court heard from three mental-health providers. Father claimed there was an increase in violence between Mother and the Children; Mother had decreased her cooperation with Father concerning the Children's homework, activities, and healthcare; and Mother failed to complete court-ordered therapy. At the conclusion of the hearing, the court admonished both parties about ongoing conflicts and took the matters under advisement.

Through two memorandum rulings, the Court ordered Mother to participate in Dialectical Behavior Therapy (DBT) and ordered Father and the Children to continue therapy. The standing orders regarding children were made permanent injunctions. Mother was ordered to reimburse Father for medical expenses within 60 days. Additionally, Father was given exclusive rights to



make decisions regarding the Children's medical and psychiatric/physiological treatments, as well as education. A parenting facilitator was appointed. Mother's attorney was ordered to circulate a draft of a final order by a date certain.

Because no draft order was received from Mother, Father's attorney submitted a proposed order for signature. After the court heard and ruled on Mother's objections, Mother filed a motion for reconsideration, for new trial, to reopen evidence, and for temporary orders pending appeal. A few modifications were made to Father's proposed order before being signed by the trial court. Mother appealed.

Holding: Affirmed.

Opinion: Mother first challenged the order modifying conservatorship, possession, and family therapies because Father did not plead or prove a material and substantial change. She further argued that because Father presented no evidence of the circumstances at the time of the parties' final decree of divorce, the trial court could not have found evidence of a material and substantial change. Mother asserted that the extensive restrictions in the divorce decree (the prior order being modified) indicated the parties' animosity was ongoing and not a changed circumstance.

Contrary to Mother's assertion, the record showed the parents ability to coparent had become significantly worse since the entry of the divorce decree. Based on Father's allegations of the destructive relationship between the parties, the appellate court could infer the relationship had worsened since the decree. Additionally, Father testified the Children were showing signs of increased stress, including increased aggression by one of the Children against his brother and Mother. One of the mental-health providers testified the aggression towards Mother was a problem. The court did not abuse its discretion in modifying the divorce decree.

Mother next argued that the trial court erred in granting Father relief not supported by his pleadings. Specifically, Father did not plead for (1) reimbursement of medical expenses, (2) changes to the therapeutic provisions in the decree, or (3) permanent injunctions beyond Mother entering Father's home.

Without any other evidence or testimony, Father testified Mother was "behind \$3475.22." In the memorandum ruling, no amount was included for the medical-expense reimbursement order. At the entry hearing, Mother complained about the lack of a dollar amount in the ruling, but she did not re-raise her objection regarding the pleading deficiency and, thus, waived the complaint for appellate review.

Mother testified at the modification hearing that she stopped participating in therapy because she could no longer afford the named therapist. The family therapist suggested that DBT would be beneficial to Mother. Another mental-health provider concurred. The trial court did not abuse its discretion in ordering DBT for Mother.

With respect to Mother's complaint regarding injunctions, "[the Dallas Court of Appeals has] explained that a trial court tasked with crafting orders in the best interest of minor children is not constrained by Rule [of Civil Procedure] 301's requirement that judgments conform to the pleadings." The trial court did not abuse its discretion in finding the standing order injunctions should be permanent for these parties.

Mother additionally requested affirmative relief from the appellate court. Mother asserted that the six-month delay between the trial and order entry could create a problematic "window of time in the parties' history" during which events would not be considered in future modification proceedings. Mother failed to preserve this complaint, and even if she had, the issue was speculative and not ripe for appellate consideration. Moreover, this question was rendered moot by a subsequent modification proceeding pending this appeal.

Mother further argued the trial court failed to give adequate consideration for inconsistencies in the final order and the plenary power deadline. The trial court did not incorporate certain oral rulings into the final order. However, these discrepancies were addressed in the subsequent modification proceeding pursued during the pendency of this appeal and were likewise moot.

SAPCR:
REMOVAL OF CHILD / TERMINATION OF PARENTAL RIGHTS

Evidence Legally Insufficient to Show a "Continuing Danger" Prevented a Return of the Child to Mother Because There was No Evidence of a Causal Relationship Between Mother's Conduct and TDFPS's Concerns About the Child.

22. *In re T.R.C.*, ___ S.W.3d ___, No. 09-26-00019-CV, 2026 WL 1953219 (Tex. App.—Beaumont 2026, no pet. h.) (07-06-2026).

Facts: Mother had two minor children. The older Child was diagnosed with diabetes before he was two years old. When the children were about three and four years old, their parents divorced. About two years later, their father died. After a report regarding "problematic behavior" of the older Child, TDFPS became involved. After a trial, the court terminated Mother's parental rights to the older Child and appointed TDFPS as that Child's permanent managing conservator. Mother appealed.

Holding: Reversed and Remanded.

Opinion: Mother asserted the evidence was legally and factually insufficient to support a finding TDFPS made reasonable efforts to return the Children to her before trial, but a continuing danger prevented the Children's return. While this provision (TFC § 161.001(f)(1)) is relatively new, the Beaumont court noted in this opinion that other appellate courts have explained that "reasonable efforts" and "continuing danger" already existed in the Code.



TDFPS testified that the Child's condition of diabetes presented a continuing danger. However, Mother had an understanding of how to monitor the Child's condition and when to seek intervention. The Child's condition was not caused by Mother, and there was no evidence that it worsened only when in Mother's care. Other factors—such as the Child sneaking snacks while playing late-night video games—could have contributed to spikes and could not be wholly caused by Mother's lack of refrigeration (for the insulin) due to homelessness or inadequate supervision. Testimony linking Mother's actions to the Child's spikes were merely “possible” and only “suspicions,” which was legally insufficient to support a finding of a causal link between Mother's conduct and the Child's blood-sugar spikes.

Additionally, while TDFPS claimed Mother exposed the Child to danger by removing the Child from hospitals against medical advice, there was no medical testimony to support that claim. TDFPS asked the court to infer that leaving against medical advice is always dangerous and that Mother would continue to make the same decisions in the future despite her compliance with the family service plan. TDFPS failed to present clear and convincing evidence that Mother's past conduct constituted a continuing danger.

TDFPS additionally argued there was a continuing danger because Mother was unable to handle the Child's aggressive and violent behaviors. However, no witness answered the question of what was provoking the Child. TDFPS essentially asked the court to infer Mother was the cause. However, the Child exhibited negative behaviors at school, in the hospital, and with foster parents. Although a psychological report described the Child's behaviors, it did not clearly state probable causes of the behaviors. Most of the suggested therapies were not attempted before placing the Children back with Mother for a monitored return. While there was evidence of some of the Child's bad acts, there was no evidence to substantiate any suspicions that Mother was to blame.

TDFPS did not offer evidence to controvert Mother's assertion that the reason for the Child attending many schools in a short time period was because Mother was attempting to find a school that could meet the Child's needs. Although Mother wanted CPS involvement while she was homeless, that did not support a “continuing danger” at the time of trial when Mother had substantially complied with her service plan.

While Mother tested positive for methamphetamine once at the beginning of the litigation, every subsequent test was negative, and there was no evidence that Mother suffered from impairments in attention, memory, or executive functioning that could lead to poor decision-making.

Overall, the evidence was legally insufficient to support a finding that a continuing danger prevented returning the Children to Mother, and her first issue was sustained.

Mother additionally argued the court abused its discretion in appointing TDFPS as a managing conservator without rebutting the fit-parent presumption. Because Mother's first appellate issue was sustained, the appellate court agreed that—in light of recent statutory amendments—the fit-parent question also needed to be remanded to the trial court for further proceedings. Moreover, the trial court failed to make the requisite findings set out in the new TFC § 153.002(c), which requires an order denying a parent relief in favor of a non-parent to explicitly state facts supporting the finding that the fit-parent presumption was overcome.

Trial Court Not Required to Make New Section 153.002(c) Findings Regarding Overcoming the Fit-Parent Presumption Because Conservatorship Determination was Made by a Jury.

23. *In re P.J.*, ___ S.W.3d ___, No. 14-26-00072-CV, 2026 WL 2052123 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (07-16-2026).

Facts: When the Child was three years old, Mother began dating Boyfriend. Mother sometimes claimed to be unofficially married to Boyfriend, but other times, she said they were no longer in a relationship. Although TDFPS had been involved with the family on occasions, prior reports were ruled out or unable to determine. A home fire resulted in the Child suffering severe burns over 40% of his body. There were unsubstantiated suspicions Mother and Boyfriend were doing drugs at the time of the fire. During the Child's initial treatment for his burns, Mother was inattentive and did not know where the Child was for about nine days. After the Child was stabilized and in recovery, Mother did not place urgency on physical therapy and surgeries to improve mobility and reduce scarring for the Child.

Boyfriend was caught on video by a public library camera punching the Child in the face. Mother denied knowing Boyfriend punched the Child and claimed that the injury on the Child's forehead was just an accident. The Child was removed by TDFPS. Mother signed an acknowledgement of rights before an investigation began. Boyfriend refused to sign the same acknowledgement.

The Child was placed with his maternal Aunt, who worked with adults with disabilities. She assisted the Child with getting treatment and gave the Child space and boundaries. After a year with Aunt, the Child said he still loved his Mother but wanted to live with Aunt. The Child's Father was in prison and communicated with the Child occasionally. Aunt reported that she did not sense any negative emotional reactions from the Child after his communications with Father.

At the jury trial, TDFPS announced it was not seeking termination but believed appointing Mother or Father as a managing conservator would significantly impair the Child's physical health or emotional development. The jury found that TDFPS should be the Child's managing conservator, and Mother and Father should be possessory conservators. After the court signed an order consistent with the jury's verdict, Mother requested and obtained findings. Mother appealed.

Holding: Affirmed.



Opinion: Mother first argued the court erred in not having the jury identify specific facts supporting the finding that the parental presumption was rebutted and that failing to appoint TDFPS as sole managing conservator would significantly impair the Child's physical health or emotional development. Mother cited the new Texas Family Code Section 153.002(c) as the basis for this complaint. This statute [which used to only state that the child's best interest is paramount] now requires an order granting a non-parent's requested relief to include findings about how the fit-parent presumption was overcome:

- (c) In a suit between a parent and a nonparent, the nonparent may overcome the presumption under Subsection (b) by proving by clear and convincing evidence that denial of the relief requested by the nonparent would significantly impair the child's physical health or emotional development. If the court renders an order in the suit granting relief to the nonparent, the court shall state in the order:
 - (1) the specific facts that support the court's finding that denying the relief requested by the nonparent would significantly impair the child's physical health or emotional development;

However, Family Code Section 105.002 [entitled "Jury"] provides that a party is entitled to a verdict by the jury on the issue of conservatorship, and the court is not permitted to contravene that verdict. Reading the two statutes together, the trial court is not required to state specific facts when the jury determines conservatorship and impliedly makes the findings by means of its verdict. Any finding of fact on this question would have been superfluous to the jury's verdict and would not be useful because the trial court would not know what facts the jury relied upon.

Mother additionally argued the court erred by including the *Holley* factors and Section 263.307 factors regarding best interest in the jury instruction given the new statutory and constitutional amendments regarding the fit-parent presumption. The appellate court relied on prior precedent to find this was not an abuse of discretion.

Mother further challenged TDFPS's claim that she signed her acknowledgement of rights before the investigation. Mother asserted that evidence from the investigation should not have been admissible given her failure to receive adequate notice and that the jury should have received an instruction that it could disregard evidence if the evidence was obtained without notice. She compared the situation to criminal investigations. Assuming without deciding there was a factual issue regarding Mother's receipt of notice, there is no civil statute comparable to the criminal statute Mother relied upon on appeal.

Mother further challenged the sufficiency of the evidence. TDFPS and Mother disagreed as to the burden of proof required and the standard of review. Mother asserted that because TDFPS was a non-parent, then under the new statutes, TDFPS had to prove its case by clear-and-convincing evidence. TDFPS argued that it was not a "non-parent" and was only seeking conservatorship, so it only needed to prove its case by a preponderance of the evidence. While TDFPS asserted, as the appellee, it was not required to preserve its assertion that the preponderance-of-the-evidence standard applied, it did not object to the jury instruction that referenced the "clear and convincing" burden. Accordingly, the appellate court applied the clear-and-convincing in its review. Even applying this heightened standard, after reviewing the entirety of the record, the appellate court held the evidence sufficient to support the verdict.

Mother also challenged the amount of her child support obligation. Evidence showed Mother was capable of earning minimum wage, and she offered no evidence to rebut this presumption.

She further complained of the admission of certain pieces of evidence; however, the complained-of evidence was cumulative of other evidence.

Finally, Mother challenged the restrictive possession schedule. Sufficient evidence supported a finding that the restrictions were in the best interest of the Child.

FAMILY VIOLENCE / PROTECTIVE ORDERS

Without Evidence of When Alleged Violation Occurred, Boyfriend Failed to Prove Girlfriend Violated Agreed Temporary Protective Order.

24. *Lydick v. Herrera*, No. 03-25-00279-CV, 2026 WL 1829830 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (07-03-2026).

Facts: Boyfriend and Girlfriend had been dating for about six months. After returning to Boyfriend's home from dinner intoxicated, they started arguing. Boyfriend learned Girlfriend lied about vaping. When Girlfriend was gathering her things to leave, she bumped into a cart, and Boyfriend yelled at her about potentially scratching cars. Boyfriend then punched Girlfriend in the face and tried to pin her to the ground. Girlfriend admitted to hitting Boyfriend back and causing his nose to bleed but claimed it was in self-defense. Boyfriend returned to his residence and locked the doors with Girlfriend's car keys still in the residence. Girlfriend banged on Boyfriend's door to get her keys and injured her hands in the process.

Boyfriend claimed Girlfriend had intentionally pushed a cart into a customer's car and then attacked him when he tried to stop her. He called 911 after locking himself in his home.

Although police body cam footage indicated the police at least partially believed Girlfriend's story, only Girlfriend was arrested. After Girlfriend was released, she gave her statement to the police, and Boyfriend was prosecuted for family violence. Boyfriend obtained an ex parte protective order. The parties agreed to temporarily extend the order when it expired. Boyfriend later moved to enforce that agreed order and hold Girlfriend in contempt. After hearing evidence, the court denied all of Boyfriend's requested relief. He requested findings and appealed.

Holding: Affirmed.



Opinion: Boyfriend argued Girlfriend's testimony was contradictory and noted that only Girlfriend's hands were injured, while his were not. The police noted on body cam footage that "one good wallop" could have caused Girlfriend's black eye, and her hands were injured while banging on Boyfriend's door. The trial court as factfinder could have reasonably believed Girlfriend's version of events.

Boyfriend next argued Girlfriend violated the protective order by posting on social media Boyfriend's mugshot with the caption, "Not his first rodeo." Boyfriend offered no evidence regarding the timing of this post, so there was no evidence the order was in effect at the time of posting. The trial court did not abuse its discretion in denying the protective order.

Respondent's Online Actions Disclosing Personal Details About Applicant Supported the Court's Decision to Grant a Protective Order Based on Stalking.

25. *Cash v. Cash*, No. 14-25-00724-CV, 2026 WL 1983471 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (07-09-2026).

Facts: After Applicant and Respondent divorced, Respondent began posting personal, confidential, or humiliating information about Applicant on social media platforms. Applicant filed for a protective order and alleged a history of domestic violence. Both parties were pro se at trial. After hearing evidence, the court issued a five-year protective order. Respondent appealed.

Holding: Affirmed.

Opinion: Respondent asserted Applicant was not entitled to a protective order based on stalking because Applicant failed to show that Respondent engaged in a course of conduct that would cause a reasonable person to fear bodily injury or death. However, a person commits the offense of stalking if that person "on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct" that, as relevant here:

- (1) constitutes the offense of harassment;
- (2) causes the other person ... to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- (3) would cause a reasonable person to ... feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

Here, Applicant testified she received therapy for the domestic violence she experienced during the marriage. Respondent tracked Applicant during the marriage using Apple Watch data, mocked Applicant on Facebook Live, and deployed third parties to locate Applicant. Respondent allegedly created a digital file of Applicant's medical information, including a sexual assault. Respondent tried to intimidate Applicant and ultimately shared the file with other people. Respondent had hundreds of thousands of social media followers and shared Applicant's address with Respondent's followers. Applicant lived with her minor son, and the disclosure of her address caused Applicant to be concerned for their safety. Respondent posted inappropriate pictures on Instagram that could have hurt Applicant's reputation in her public job. Respondent posted recordings of Applicant's therapy sessions.

Although Respondent offered a different version of events, the trial court was free to find that Applicant was the more credible witness. Additionally, Respondent's appellate argument focused on fear of bodily injury or death and ignored the rest of the legal definition of stalking. The trial court did not abuse its discretion in granting the protective order.

Lifetime Protective Order Affirmed Because Boyfriend Could Not Establish Any Reversible Error Related to Service of Citation.

26. *Foster v. Wise*, No. 01-24-00510-CV, 2026 WL 2117520 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (07-23-2026).

Facts: Girlfriend applied for a protective order against Boyfriend based, in part, on physical abuse. Boyfriend failed to appear, and the court signed a default lifetime protective order. Nearly six months later, Boyfriend filed a restricted appeal.

Holding: Affirmed.

Opinion: Boyfriend asserted the citation was defective because it was not "signed by the clerk of the court under the court's seal." The clerk's signature was in a stylized font without a preceding "/s/." However, the Rule requiring the "/s/" (Rule 21(f)(7)) only applies to documents that are electronically served, filed, or issued by a court or clerk. The citation was not *electronically* served, filed, or issued. It was hand delivered. Boyfriend did not explain why the rules for electronic documents should have applied here. "Although a signature is traditionally 'the name of the signer, handwritten in ink,' a signature may also be 'written in pencil, typed, printed, made with a rubber stamp, or impressed into the paper.'" Boyfriend did not cite any authority that a specialized definition of signature was required in this case.

Boyfriend additionally complained that the while the return of service referenced the date an amended application was filed, it did not specify whether the original or amended application was served on him. Boyfriend asserted this error deprived



the trial court of personal jurisdiction over him. On the facts of this case, the discrepancy did not matter because both applications requested the same relief. The only difference was that the amended application included additional evidence. When a party has been served with an original petition, for purposes of jurisdiction, new citation for an amended petition is necessary for a non-appearing party only when the amended petition seeks a more onerous judgment than prayed for in the original petition.

MISCELLANEOUS

Father Could Not Rely on Rule 76a to Seek an Interlocutory Appeal of Denial of His Request to Unseal Divorce Records Because Rule 76a Does Not Apply to Family Code Cases.

27. *In re V.I.P.M.*, No. 05-23-00690-CV, 2026 WL 2021439 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (07-13-2026).

Facts: The parties' divorce was finalized more than 10 years earlier. During the divorce litigation, Mother obtained a sealing order. Additional litigation ensued after the divorce. About 4 years before this appeal, Mother filed a suit to change the parties' Child's name. Father responded (pro se) and filed a motion to unseal the divorce records. After receiving an oral denial of his request to unseal the case, Father appealed and noted that no written order had been signed yet.

When questioned about jurisdiction, Father informed the appellate court that a written order had been signed without his knowledge, and the appellate court received a supplemental record with that recently signed order.

The appellate court again questioned jurisdiction because it appeared that Texas Rule of Civil Procedure 76a did not apply to the order denying Father's requested relief. Meanwhile, the trial court granted the name change, and Father also appealed that order. Father succeeded in that appeal on a technicality. *In re V.I.P.M.*, No. 05-23-00355-CV, 2025 WL 303957, at *1 (Tex. App.—Dallas 2025, no pet.) (mem. op.). Father had attempted to remove the case to federal court, and although the case was remanded back to the state court, the state court lacked jurisdiction to grant the name change during that removal process. As of the date of this opinion, no new order in the name change case was issued after the prior order was vacated.

Again, the appellate court questioned its jurisdiction in the sealing case. Father filed a responsive jurisdictional brief, but Mother did not.

Holding: Dismissed.

Opinion: The trial judge's order denying Father's motion to unseal court records did not dispose of all pending parties and claims in the case. Because the prior name-change order had been vacated, that case remained pending in the trial court.

In his jurisdictional brief, Father cited Rule 76a(8) as the basis for jurisdiction. That Rule provides that "[a]ny order ... relating to sealing or unsealing court records shall be deemed to be severed from the case and a final judgment which may be appealed by any party." However, Rule 76a specifically excludes documents filed in Family Code suits from its definition of "court records." Thus, the sealed records were not "court records," and the order denying Father's motion to unseal did not relate to sealing or unsealing "court records."

Father made an equal treatment argument based on the Fourteenth Amendment; however, the questioned rule does not burden a fundamental right or suspect class. Under the rational-relation test, the drafters of Rule 76a could have reasonably concluded that sealing orders in Family Code cases should not trigger a right of interlocutory appeal because such cases are unusually time-sensitive and should not be interrupted by interlocutory appeals.

Pregnant Attorney Not Entitled to Continuance Based on Birth of Child in the Absence of Agreement from Opposing Counsel. (CONCURRING OPINION ONLY)

28. *In re Russell*, ___ S.W.3d ___, No. 04-26-00350-CV, 2026 WL 2104170 (Tex. App.—San Antonio 2026, orig. proceeding) (07-22-2026).

Facts: Months in advance of her anticipated maternity leave, Attorney filed an unavailability letter. Because that letter did not have any immediate effect on existing settings, Attorney moved for a docket control order to place trial after her return. Opposing counsel refused to agree, so Attorney set her proposed order for a hearing. The trial court refused to sign a docket control order. Attorney moved for mandamus relief.

Holding: Writ of Mandamus Denied.

Majority Memorandum Opinion: (J. Valenzuela, J. McCray)

Attorney did not show she was entitled to the relief sought.

Concurring Opinion: (J. Meza)

A continuance may only be granted for sufficient cause supported by affidavit, or by consent of the parties, or by operation of law. Because Attorney's motion was unsupported by an affidavit, the trial court did not abuse its discretion in denying it. While the Texas Lawyer's Creed instructs lawyers to agree to reasonable requests for extensions of time, the Creed is primarily aspirational.



"In circumstances like counsel's impending childbirth—an ordinary and foreseeable part of professional life—the court could have exercised its considerable discretion to accommodate counsel. Its decision not to do so underscores the gap between the aspirational ideals of the Code and the practical realities faced by attorneys." In 2019, the Supreme Court Advisory Committee recommended a rule providing for parental-leave continuances, but no such rule was adopted. Other states (including Florida, North Carolina, and Minnesota) require courts to grant parental-leave. "Our justice system should not force litigators to choose between parental leave and their careers."

Attorney Ordered to Complete Three Hours of CLE on the Proper Use of AI After Including Numerous Hallucinations in Appellate Brief; Oral Agreement in Modification Could Not be Challenged After Present Rendition on Agreement in Open Court.

29. *In re S.M.T.*, No. 14-25-00151-CV, 2026 WL 2195901 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (07-30-2026).

Facts: A final decree of divorce incorporated the parties' MSA. A little over a year later, Father filed a petition to modify the parent-child relationship, and Mother counter petitioned. Although a jury trial was scheduled, the parties announced a settlement agreement that was read into the record. Mother testified about the terms of the agreement. Father testified he heard Mother's testimony and agreed. The court informed the parties on the record, "the court accepts your agreement with regard to your children" and complimented them on reaching an amicable resolution. Before the hearing's conclusion though, Father noted he was not in agreement entirely. The court reminded Father he had just testified otherwise. The court permitted a brief recess for the parties to confer. Upon return to the courtroom, Father testified he "reluctantly" agreed to the agreement as read into the record.

During subsequent hearings on motions to enter, Father raised objections and refused to sign an order. Father moved for a new trial, primarily complaining of the geographical restriction on the Child's residence. Father's complaints were overruled, and after an order was signed, Father appealed.

Holding: Affirmed.

Opinion: Father first challenged whether the order was "agreed." A judge's oral pronouncement constitutes a rendition. An oral pronouncement constitutes a rendition when the court reflects an intent to render a full, final, and complete judgment at that time. A Rule 11 agreement must be in writing, signed, and filed with the court, or must be made in open court on the record. A party may revoke consent before rendition.

While approval of a settlement, standing alone, does not necessarily constitute rendition, the dispositive question is whether the court officially announced its decision. When it does, rendition occurs with the oral pronouncement rather than at the subsequent signing. Here, both parties acknowledged the terms of the agreement and that the agreement's effect would be immediate. The court announced it had accepted the terms and that the agreement was effective that day. Despite Father's reluctance, when the court accepts the agreement on the record and signals immediate disposition, rendition is complete, notwithstanding the ministerial later acts of signing and drafting.

Finally, the appellate court called out the appellate attorney by name [licensed about 5 years] as either misusing AI or deliberately attempting to mislead the court. The court preferred to assume the former. While the attorney cited cases that existed, quoted passages were "entirely fabricated." In other portions, the attorney cited authorities that bore no relevance to the argument. The court noted that proposed rules aim to prevent this misuse, hold attorneys to an appropriate standard, and potentially provide for the imposition of sanctions. The attorney here was ordered to attend three hours of CLE on the proper use of AI (in addition to the mandatory annual 15 hours) within 60 days of the issuance of this opinion.

