

APRIL 2026

CASELAW UPDATE

(Cases from March 1–31, 2026)

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**DIVORCE:
PROCEDURE AND JURISDICTION**

Wife's Email to Coordinator Explaining Absence from Country Due to Her Mother's Death was Sufficient to Constitute an Appearance, Entitling Her to Notice of Dispositive Hearings.

1. *Desta v. Wassihun*, ___ S.W.3d ___, No. 14-24-00984-CV, 2026 WL 805753 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (03-24-2026).

Facts: The parties were married for 15 years. Husband served Wife with a divorce petition. Instead of filing an answer, Wife, pro se, sent the court an email explaining that she was out of the country due to the illness and death of her mother. She asked for an extension of time for marriage counseling and attached proof of her travel. The court coordinator responded that there were no hearings currently set. Wife's daughter was copied on the email exchange and interjected to ask whether any other action needed to be taken. The coordinator responded:

Please be advised that the court cannot provide any legal advice. Please be advised that the court has not receive[d] any request for a hearing to be set in this matter, therefore this matter is still pending. Please be advised that if no action is taken, eventually the matter will be dismissed.

The coordinator did not forward the emails to the clerk or file them in the record. Husband filed an inventory and appraisal and obtained a default decree a year later that awarded the marital residence to Husband and Wife's home in Ethiopia to Wife.

About two months later, Wife filed a motion for new trial and notice of appeal. She also filed a TRCP 306a motion to extend deadlines, explaining she had just learned of the default decree. The trial court allowed the motion for new trial to be overruled by operation of law but signed an order finding Wife learned of the default decree more than 20 days after it was signed.

Holding: Reversed and Remanded.

Opinion: Because Wife learned of the default decree more than 20, but less than 90, days after the decree was signed and because she obtained a 306a order, the post-judgment deadlines were extended. Wife's motion for new trial and notice of appeal were timely because they were filed within 30 days of the date determined in the 306a order as the date Wife learned of the decree.

A defendant who appears in a lawsuit must be notified of a hearing on a dispositive motion, including a motion for default judgment. Husband asserted Wife's email to the coordinator did not constitute an appearance. The appellate court noted that it is reluctant to uphold default judgments where some response is in the record, even if that response is in the form of a letter. Wife's email included the cause number, the nature of the action, her status as respondent, her email address, and her telephone number. Although she did not include a physical or mailing address, the information provided was sufficient to qualify as an answer or appearance entitling her to notice of dispositive hearings. The court further noted the supreme court's recent admonition that "*any* doubts about a default judgment—not just doubts about service—'must be resolved against the party who secured the default.'" *Tabakman v. Tabakman*, 728 S.W.3d 703, 708 (Tex. 2025) (per curiam) (emphasis in original).

"We have located no cases holding that an appearance document only counts for notice purposes if it is actually filed by the district clerk. Indeed, we wouldn't hold that a district clerk's failure to file a document tendered for filing and in her possession means the document was ineffective; a clerk has a ministerial duty to accept and file all documents tendered for filing."

Because Wife was not notified of the final hearing, she was entitled to a new trial.

**DIVORCE:
INFORMAL MARRIAGE**

Informal Marriage Finding Reversed Because Evidence Legally Insufficient to Support Finding the Parties Agreed to be Married on or Before the Date Identified by Trial Court as Date of Marriage.

2. *Curtis v. Laplante*, No. 04-24-00801-CV, 2026 WL 3294732 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (03-25-2026).

Facts: Boyfriend and Girlfriend met in California and then moved to Texas. They got engaged and publicly announced their intent to marry. While wedding plans were made, Girlfriend's health prevented them from having the ceremony. According to Girlfriend, the parties just started calling each other husband and wife. A few years later, Girlfriend moved to Pennsylvania to be with family, the couple broke up, and Boyfriend told Girlfriend not to come back to Texas. A year after that, Boyfriend married his current wife in a ceremonial marriage, and they had a child together. After that wedding, Girlfriend filed for divorce.

The trial court bifurcated the proceeding. After first hearing evidence on whether a marriage existed, it found that the parties had informally married, and then the court continued with the divorce matters. It found Boyfriend had separate property from before marriage, but the property had been commingled so as to defy segregation. The court further found that Boyfriend committed adultery with his current wife and awarded Girlfriend a disproportionate share of the community estate.



Holding: Reversed and Remanded.

Opinion: The final decree stated that the parties married on June 1, 2014. However, the findings of fact stated that the three elements of an informal marriage were met on January 1, 2014. Although Boyfriend complained of the discrepancy, when there is a discrepancy, the findings control, and this discrepancy did not prevent Boyfriend from presenting his issues on appeal.

Although Texas recognizes informal marriages, one cannot “simply fall down a slippery slope, landing clumsily into a marriage.” An informal marriage requires a deliberate agreement to be married. Casual references to each other as spouses is not enough to establish an informal marriage.

Boyfriend and Girlfriend both testified that they lived together in Texas since 2009 and that they got engaged to be married in 2013. In late June of 2014, Boyfriend sent an email to a doctor seeking information about potential medical treatment for Girlfriend, referring to her in the email as “my wife.” The evidence also demonstrated that Boyfriend referred to Girlfriend’s family members [who lived in California] as “in-laws,” referred to Girlfriend as his wife to business partners in Pennsylvania, and signed her up to an industry conference in Las Vegas in 2020 as a spouse. According to a witness, Boyfriend introduced Girlfriend as his wife at an industry event in South Texas in January of 2018. And, in December of 2018, he introduced Girlfriend as his wife during a brief conversation with the owner of the ranch he purchased in Hondo, Texas. The evidence also includes Girlfriend’s testimony that she held herself out as Boyfriend’s wife. Finally, Boyfriend posted a February 2018 Facebook birthday wish for Girlfriend, referring to her as “my wife.”

From this evidence, the closest thing the appellate court found to be direct evidence of an agreement was the February 2018 Facebook post that reads: “Happy birthday to my best friend (my wife) []. Here’s to another year.” The only testimony about the post came from Boyfriend, who stated that Girlfriend was sitting next to him as he wrote it and, after he typed “my best friend,” she said, “I’m your wife. Write wife.” Boyfriend testified that he responded, “You want me to write wife, it will make you feel better?” And, when she said yes, he put it in parenthesis and pressed the button necessary to post it.

The appellate court was hesitant to equate the Facebook post, without evidence that both parties intended for it to be such, with a formal declaration of an agreement to be married. Regardless, this 2018 post was insufficient to show the parties had agreed to be married on or before January 1, 2014. Additionally, although Girlfriend sought a finding the parties were married in 2014, she filled out a doctor’s form in 2020 in which she referred to Boyfriend as a fiancé and not husband.

Additionally, while Girlfriend brought forth several witnesses testifying that Boyfriend referred to her as his wife, the majority of these representations were made outside of Texas. Although the parties were very active in their Texas community, there was scant information that the parties held themselves out as married in that community.

**DIVORCE:
PROPERTY AGREEMENTS**

Because PMA Dictated How the Community Estate was to be Divided Upon Divorce, Family Law Section 7.001 Did Not Apply, and Wife was Not Entitled to Judgment on Claims for Constructive Fraud or Reimbursement.

3. *Hutcherson v. Hutcherson*, __ S.W.3d __, No. 03-24-00297-CV, 2026 WL 775420 (Tex. App.—Austin 2026, no pet. h.) (03-19-2026).

Facts: Before marrying, the parties signed a premarital agreement (“PMA”) that required the parties to deposit their salaries into a joint account designated as community property. Husband’s salary was defined to be half the profits of his separate property business with a lower threshold of \$60,000 annually. The PMA further provided that distributions exceeding the defined salary were Husband’s separate property.

When their first child was born, Husband wanted Wife to quit her job to take care of the child and household. Once the children were in school, Husband discouraged Wife from returning to work because he questioned the value of any financial contribution she could make. The parties lived a lavish lifestyle, with frequent new cars and vacations on private flights. Wife never questioned the finances. Husband assured Wife that she did not need to worry about anything and that she would be taken care of.

Wife learned Husband had an affair, but he promised not to do it again. However, she later learned that he had a condo to facilitate seeing other women.

In her divorce petition, Wife asked for spousal maintenance and reimbursement based on fraud on the community estate. Wife was 58 years old, which was beyond the minimum retirement age for her prior job of flight attendant, though some airlines set the age at 65 years old. She had graduated from high school but had not finished college. Wife applied to several jobs after the parties separated, but the only one for which she had been accepted required her to relocate, paid a small salary, and had no flights to Texas, where the parties’ adult children lived. Wife began working on obtaining a real estate license but had not achieved that goal yet by the time of divorce. She was advised that she would not begin making money immediately after obtaining the license. Wife said that if she had known that Husband had been building a life for himself and not for the two of them, she would not have given up her career and would have focused on savings.

Wife had access to health insurance, but it was expensive. She testified about her monthly expenses and the fact that she had zero income. Wife calculated the value of the community estate to be roughly \$83k and asked for \$61k. Husband testified about his sizable separate estate in the millions of dollars. He explained that he had spent money on the parties’ lavish style and that it was not his intent to avoid creating community property. He further testified that Wife was free to work and had a successful horse-trading business, and he suspected she had accounts he did not know about.



After the bench trial, the court found the PMA was enforceable as a matter of law and confirmed the parties' separate property. As part of the just and right division of the community estate, the court awarded Wife a money judgment of \$900,000 and \$5000 per month as spousal maintenance for 10 years. Husband appealed.

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

Opinion: Husband argued the trial court erred in awarding Wife the \$900,000 judgment because under the PMA, each party was to receive 50% of the community estate. Alternatively, he argued there was no evidence to support reimbursement or constructive fraud on the community estate. Wife responded that the PMA did not preclude a constructive fraud finding, and the trial court did not abuse its discretion in reconstituting the community estate.

The heart of the parties' dispute appeared to be one of first impression for the court; namely, the applicability of Section 7.001 (and by extension, the cognizability of equitable claims of reimbursement and constructive fraud) in light of the parties' PMA.

When Texas adopted the Uniform Premarital Agreement Act ("UPAA") it shifted the burden to favor enforcement of premarital agreements. Case law suggests that a valid and enforceable PMA renders the just-and-right requirement of the Family Code inapplicable. After a review of the cases, the Austin court agreed with sister courts that Section 7.001 does not apply when a PMA dictates how the community estate is to be divided.

Further, there was no evidence to support an implicit finding the trial court intended the \$900,000 to be a reimbursement judgment. There was no evidence Husband used community funds to benefit his separate estate. Wife's argument implied that she would have used community funds to provide for her retirement rather than travel or leisure. Any claim would have been for the community estate to reimburse itself. There was no evidence Husband failed to abide by the PMA's requirements regarding his salary and the joint accounts. There was no evidence Husband transferred community money outside of the community estate to support a constructive fraud finding.

Husband next argued Wife was not entitled to receive spousal maintenance. The parties did not dispute that \$5000 was the less than 20% of Husband's income. Husband asserted Wife did not show that she lacked sufficient property to provide for her minimum reasonable needs and that she did not exercise diligence in obtaining training or employment.

Wife provided an itemized list of her expenses totaling \$10,500, which appeared to underestimate her actual needs by failing to include rent, utilities, homeowner's or renter's insurance, health and dental insurance, car insurance, or the cost of caring for her horses. She did not include the cost of furniture, which was significant because the furniture used by the parties was owned by Husband's separate property company. Although Husband argued Wife's budget was unreasonable, the trial court was responsible for evaluating the credibility of the witnesses and resolving conflicts in the evidence. Additionally, Wife was 58 years old, and Husband dissuaded her from working during the marriage. Wife had no job or means for supporting herself. The only retirement account in the marital estate was Husband's separate property.

Wife was already near the retirement age for her prior job. She had not been employed in almost 30 years. She applied to several jobs, but the only offer she received would have paid her so little that it would cost her to work for them, given the relocation. Wife had begun studying for a real estate license, but it would take a while before she could support herself. Husband argued Wife should have focused on the horse-trading industry, but the appellate court found that argument unconvincing. Nothing in the Family Code requires a spouse to pursue a job in a certain industry to rebut the presumption against maintenance. Further, it was reasonable to infer that horse trading would require a great deal of capital, including land, that Wife did not have.

Further, the court noted that once Wife presented legally sufficient evidence to rebut the presumption, the presumption disappeared and was not to be weighed or treated as evidence. The trial court did not abuse its discretion in awarding Wife spousal maintenance.

Finally, Husband asserted that the trial court abused its discretion by waiting until the 30-year anniversary of the parties' marriage to sign the final decree of divorce in order to give Wife 10 years of maintenance despite trial occurring a few months earlier. Husband asserted that the court's decision "shows the arbitrary nature of the failure to render judgment; it was done purely to benefit [Wife] and had no basis in law." Section 8.054 sets the maximum term for maintenance based on the length of marriage. The parties' divorce decree was signed 30 years after they married, so the trial court did not violate Section 8.054 by setting maintenance for a 10-year term. "In light of section 8.054's language (and silence), we see no compelling justification to construe it as prohibiting maintenance for a certain duration if the threshold for that duration was met only because the trial court did not sign the divorce decree on the date of the trial. Had the Legislature intended to require the trial court to render judgment granting the divorce within a certain time of hearing it, the Legislature could have done so."

Husband's Gift of Diamond Ring to Wife During Marriage Became Wife's Separate Property Because Premarital Agreement Characterized Gifts as Separate Property.

4. *In re A.B.*, No. 05-25-00039-CV, 2026 WL 842103 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-26-2026).

Facts: The parties signed a premarital agreement that identified their separate property. On Wife's exhibit to the agreement, she included her engagement ring. During the parties' divorce, the trial court signed a declaratory judgment that the agreement was valid and enforceable. Thus, pursuant to the agreement, a final decree was signed that included a finding that no community property existed.

At trial, the parties disputed the characterization of a certain ring worn by Wife through most of the marriage. A few years into the marriage, Husband purchased a ring exclusively using money from his income. Wife met with the jeweler, chose the



diamond, designed the ring, and picked it up directly from the jeweler on completion. For over 15 years, Wife wore the ring on the same finger as she had worn the original engagement ring. A little over 10 years into the marriage, Husband purchased a band to go with the diamond ring. Wife slept in the rings. Husband did not ask Wife to return the rings when the parties' separated. At trial, the court noted the provision of the premarital agreement that characterized gifts as the receiving party's separate property. The decree found that the ring was the separate property of Husband, but he gifted it to Wife, making it her separate property. Husband appealed.

Holding: Affirmed.

Opinion: Reviewing the evidence under the abuse of discretion standard, Wife presented clear and convincing evidence that Husband gifted the ring to Wife.

**DIVORCE:
PROPERTY DIVISION**

Evidence Supported Property Division that Awarded Marital Residence to Husband and Money Judgment to Wife.

5. *Oliva v. Oliva*, No. 02-25-00264-CV, 2026 WL 628160 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (03-05-2026).

Facts: During marriage, the parties purchased a home. Subsequently, they refinanced the mortgage; however, because Husband lacked sufficient credit, his father co-signed the loan. Years later, Wife filed a petition for divorce. The trial focused on the characterization and value of the home because it was the couple's primary asset. Husband asked the court to order the house be sold so the proceeds could be divided equally between the parties. Upon further discussion with the attorneys, it appeared that during the refinancing, Husband's father and his father's wife were added to the deed despite the father and father's wife not contributing any moneys. Both parties' counsel represented to the court that the home could not be sold without Husband's father's consent. Due to this complication, the court did not order the house to be sold but awarded it to Husband. To equalize the division, the court awarded Wife the full amount of Husband's 401(k) plan plus a money judgement secured by the home. Wife filed a motion for new trial alleging the judgment was not supported by the evidence and asked the court to join Husband's father to the suit as a necessary third party. After the court denied Wife's post-trial requests, she appealed.

Holding: Affirmed.

Opinion: Wife first argued that the trial court erred in awarding the entire community estate's interest in the home to Husband. The appellate court noted that no findings were requested or issued. Wife's argument was premised on a notion that the parties owned a 100% interest in the house. Husband inventory showed that his father owned fifty percent, and the refinancing documents supported that claim. Both parties' counsel represented to the court that Husband's father was listed on the deed, and the home could not be sold with Husband's father's consent. Presuming the community estate had a 50% interest in the house, the division was almost exactly equal. Thus, the appellate court overruled Wife's first issue.

Wife next argued the trial court abused its discretion because the division was unsupported by competent, admitted valuation evidence. However, Husband's testimony regarding the home's value constituted competent valuation evidence. Expert testimony was not needed.

Finally, Wife argued the court abused its discretion in denying her request to join Husband's father as a necessary third party. Wife first made this request in her motion for new trial, so her request was not timely.

Although Wife Claimed the Court Erred in Finding an Account was Separate Property, the Account was Included in the Division of the Community Estate, and the Evidence Would Have Supported a Separate Characterization.

6. *Halvorsen v. Halvorsen*, No. 05-25-00659-CV, 2026 WL 641486 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-06-2026).

Facts: Husband and Wife were married for about 15 years and had four Children before they cross petitioned for divorce. At final trial, they read an agreement into the record regarding the children's issues. They provided testimony relating to the division of the marital estate, and each party submitted a proposed property division. While the parties agreed as to the character and value of many assets, they disputed the characterization of a USAA account: Husband asserted it was his separate property, and Wife asserted it was community property. The trial court signed a final decree that awarded a portion of the USAA account to Wife. No findings were requested or issued. Wife appealed.

Holding: Affirmed.

Opinion: Wife asserted the trial court erred in characterizing the USAA account as Husband separate. However, the account was included in the division of the community estate and not confirmed as separate property. To the extent that any portion of the account awarded to Husband was deemed Husband's separate property, Husband presented tracing evidence to support



that finding. Husband showed deposits for seven disability payments. Applying the minimum sum-balance rule, the account never fell beneath the sum of those seven deposits. Additionally, applying the community-out-first method, any withdraws after those seven deposits did not touch the separate disability payments.

In a cross-issue, Husband asked for sanctions to be imposed against Wife for filing a frivolous appeal. “While we disagree with Wife’s appellate arguments, the appeal was not frivolous, and no sanctions [were] warranted.”



Expert Testimony Based on Review of 16 Years of Bank Records Sufficient to Support Tracing Analysis Despite Missing 4 Months of Statements in the Middle of Those 16 Years.

7. *Landry v. Landry*, ___ S.W.3d ___, No. 24-0910, 2026 WL 784584 (Tex. 2026) (03-20-2026).

Facts: During a two-day bench trial, a tracing expert testified regarding Husband’s separate property investment accounts that were opened before marriage. The expert determined that the account maintained their separate character throughout marriage. The expert reviewed 16 years of data and noted that he did not review four months of statements in the middle, towards the end, of that period. He explained that those isolated account statements would not have materially impacted his conclusions. He “had established a pattern over 15 years of money going out of this account as fast as it went in” that the analysis was “completely supported by sufficient documentation” and that he was “very confident” in the analysis despite the “missing statements” because he had reviewed the “majority of” the statements. Wife left that testimony effectively un rebutted. Based on the full record, the trial court determined the investment accounts were Husband’s separate property.

Wife appealed. The appellate court reversed, finding that Husband did not “adequately trace the separate-property character of the accounts.” It found that Husband failed to meet his clear-and-convincing burden because he did not include statements for the full time period.

The Texas Supreme Court granted Wife’s petition for review and instructed the appellate court to “perform a new sufficiency analysis.” Although the “missing” statements were not reviewed by the expert, they were included in the appellate record and appeared to have been overlooked by the appellate court.

On remand, the appellate court stated “[w]hether the statements do, in fact, support [the expert’s] assumptions about them and whether the trial court would find [the expert’s] testimony less credible if they do not are not matters this Court may determine.” Thus, the appellate court again reversed and remanded the division of the parties’ estate. Wife again petitioned the Texas Supreme Court for Review.

Holding: Appellate Judgment Reversed; Trial Court Judgment Reinstated.

Opinion: The court of appeals did not perform a new sufficiency analysis as instructed by the Texas Supreme Court.

The trial court heard extensive, un rebutted expert testimony regarding the separate character of the investment accounts at issue. The expert was duly qualified and accepted as an expert. He traced and clearly identified the accounts’ funds as separate through sixteen years’ worth of bank statements. Wife did not challenge the expert’s qualifications. The trial court was free to credit the expert’s testimony as the basis for its findings of fact and conclusions of law. And the four months of statements the expert did not consider—a mere two percent of the total number of account statements—were in the record and available to the trial court as fact-finder. The appellate court erred by substituting its judgment for the trial court. “This exemplifies the type of appellate second-guessing our precedents forbid. ¶ We now choose to make our Court ‘the final stop for this litigation.’ ... Accordingly, there is no basis to disturb [the trial court’s] judgment.”

Husband Waived Appellate Complaint Regarding Lack of Findings of Fact Because He Failed to Timely File a Notice of Past-Due Findings.

8. *Butler v. Taylor*, No. 01-24-00751-CV, 2026 WL 803985 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (03-24-2026).

Facts: After a two-day trial, the court issued a final decree of divorce. Husband appealed pro se.

Holding: Affirmed.

Opinion: Husband asserted the trial court erred in failing to issue findings of fact and conclusions of law. Although Husband filed his initial request for findings within 20 days after the judgment, he did not file a notice of past due findings until more than 30 days later. Because he failed to timely file a notice of past due findings, he waived his right to complain on appeal about the trial court’s failure to issue them.

Husband additionally challenged the just and right division of the community estate by disproportionately favoring Wife. He argued the court erred by characterizing a residence as Wife’s separate property. At trial, Wife testified that she purchased the disputed townhome before marriage. During marriage, Husband paid off the mortgage. Wife considered that payment a gift. Husband did not controvert the pre-marriage inception of title.



To the extent Husband argued he was entitled to reimbursement because he paid Wife's mortgage with separate funds, he bore the burden of establish the funds used to pay the mortgage were his separate property, and he did not do so. He offered no evidence regarding the source of the funds. Thus, the trial court did not err in declining to classify the \$105k as Husband's separate property.

Inability to Assign Presently Ascertainable Value to "Performance Units" Did Not Equate to a \$0 Valuation.

9. *In re M.Z.*, No. 05-24-01483-CV, 2026 WL 826204 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-25-2026).

Facts: After 23 years of marriage, Husband filed for divorce. The parties stipulated to an overall division of 55/45 in Wife's favor to divide their sizable community estate. However, a few issues remained to be tried, including characterization of "performance units."

Husband's expert testified that it was impossible to assign a definitive monetary value to the performance units at the time of trial due to contingencies such as an IPO or sale, but the units could be divided in kind. Therefore, in the expert's opinion, at the time of trial the performance units were essentially worth \$0. The court determined that 100% of the units were community property and valued at \$0. Wife appealed.

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

Opinion: Wife first argued the trial court erred in valuing the performance units at \$0. The expert testified that because the units would only have value upon specific contingencies, he could not attribute any presently ascertainable value to the units, leading to a conclusion that the units should be divided in kind. Husband asked the appellate court to conflate the lack of presently ascertainable value with a lack of value altogether, but the court declined to do so. Not only was there no evidence in the record to support a finding that the performance units were worthless, but the trial court's finding was inconsistent with Husband's own insistence that the performance units had some value and should have been awarded to him. Thus, the trial court erred in assigning a \$0 valuation to the units. Accordingly, the division of the community estate was remanded to the trial court.

Evidence Regarding Fault Could be Considered in the Just and Right Division Even Though the Court Granted the Divorce on the Ground of Insupportability.

10. *Flack v. Mendoza*, No. 08-24-00358-CV, 2026 WL 845254 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (03-26-2026).

Facts: The parties were married for 23 years and had no children. They counter petitioned for divorce and each alleged insupportability and adultery as grounds, asked for a disproportionate share of the community estate, and sought reimbursement to the community estate based on funds expended for the benefit of the other party's separate estate. Husband additionally alleged cruelty. Wife's attorney withdrew just before trial, so Wife proceeded pro se. Husband and Wife were the only witnesses. After hearing evidence regarding the parties' estate and fault grounds for divorce, the trial court granted the divorce and took the property division under advisement. Ultimately, the trial court granted the divorce on the ground of insupportability and divided the community estate. Neither party requested findings. Wife appealed.

Holding: Affirmed.

Opinion: Wife asserted the court erred in awarding Husband a disproportionate share of the community estate because the court chose to grant a no-fault divorce. However, even when a divorce is granted on no-fault grounds, the court may still consider evidence concerning physical and emotional abuse, extramarital affairs, or other evidence that could support a fault ground. Here, the court could have considered Husband's testimony that Wife would "constantly just come at him for hours," and "be on the phone talking with another [man] ... for hours, talking about [Husband], talking about [Husband's] personal business," to the point where Husband was so stressed that he had to leave the home and rent an apartment. Husband additionally testified that Wife moved out without notice, and Husband did not hear from her in over a year. Wife withdrew retirement funds over Husband's objection and lost the money in the stock market. She used Husband's military disability compensation and did not reimburse Husband. Moreover, the trial court is not required to divide a community estate equally. In considering the *Murff* factors overall, the trial court could have reasonably determined the division was just and right.

**DIVORCE:
ENFORCEMENT OF PROPERTY DIVISION**

Wife's Complaint that Husband Breached Decree by Failing to Agree to Sale of Real Property Failed as a Matter of Law Because Terms of Sale Did Not Comply with Decree.

11. *In re Brown*, No. 01-24-00263-CV, 2026 WL 627431 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (03-06-2026).



Facts: A divorce decree awarded property to the parties as joint tenants and ordered it be sold. Additionally, the decree specifically awarded one annuity contract 50/50 but failed to identify two other annuity contracts. It did award each party the sums of cash in his or her control. The parties failed to pay taxes on the real property, so the taxing authority foreclosed on it. After payments of debts, about \$700,000 remained in the court's registry from the sale of the real property.

Husband died, and his dependent Administrator asked the district court for a distribution of the estate's half of the foreclosure-sale net proceeds plus a reimbursement claim. Wife also sought distribution of the proceeds but asked the court to deny the reimbursement claim. The district court disbursed part of the proceeds and did not rule on the reimbursement claim before transferring the case to the probate court.

In the probate court, Wife petitioned for a post-divorce division of property and brought breach of contract and tortious interference with prospective business relations claims against Administrator. Wife claimed that the two annuity contracts not referenced in the decree were undisclosed assets and asked the probate court to award those accounts to Wife. She additionally argued that she had obtained buyers for the real property, but because Husband did not cooperate, the property was foreclosed upon.

The Administrator sought summary judgment on various grounds, including that the two annuity contracts did not exist at the time of divorce, Wife's claims were barred by estoppel and a statute of limitations, and Husband was not obligated to consider the offers secured by Wife to buy the real property because the terms were not consistent with what was required in the divorce decree. The probate court granted summary judgment without specifying grounds. The probate court granted the reimbursement claim relating to the funds in registry and disbursed the remaining funds. Wife appealed.

Holding: Affirmed.

Opinion: Wife alleged Husband breached the decree by refusing to sell the real property and asserted the evidence presented in her response to summary judgment was sufficient to avoid summary judgment on that claim. Administrator argued Husband had not breached the decree because neither Husband nor Wife had followed the terms and conditions for selling the property, including the requirement that they pay taxes on the property. The appellate court noted the parties did not agree on a sales price or submit that issue to arbitration as required by the decree. Thus, Wife's breach of contract failed as a matter of law, and the trial court did not abuse its discretion in granting summary judgment.

Wife next argued the trial court erred in granting summary judgment on the tortious interference claim because a material fact existed as to whether Husband's delay and obstruction violated the decree. To prove an action for tortious interference with prospective business relations, the plaintiff must establish: (1) there was a reasonable probability that the parties would have entered into a business relationship; (2) the defendant committed an independently tortious or unlawful act that prevented the relationship from occurring; (3) the defendant either acted with conscious desire to prevent the relationship from occurring or knew the interference was certain or substantially certain to occur as a result of the conduct; and (4) the plaintiff suffered actual harm or damages as a result of the defendant's interference. Contrary to Wife's assertion, Husband had no legal obligation to accept the offer procured by Wife because the terms did not comply with the requirements set by the decree.

Wife further argued the court erred in granting summary judgment with respect to the two unidentified annuity contracts. As the party requesting a post-divorce division, she bore the burden to establish the assets existed at the time of divorce. Administrator's evidence showed that Husband surrendered the annuity contracts about a year before the decree was signed, and Wife offered no contradictory evidence.

Finally, Wife challenged the reimbursement award, which was based on evidence presented at a bench trial. Wife argued she was entitled to the funds based on her breach of contract and tortious interference claims. Because those claims failed as a matter of law, they did not support her reimbursement argument. The reimbursement claims were awarded to Husband in the divorce decree, so the probate court did not err in finding Husband's estate was entitled to the registry funds.

Because He Failed to Appear at Trial, Husband Failed to Meet His Burden to Establish Assets Subject to Turnover were Exempt.

12. *McCarver v. McCarver*, No. 12-25-00063-CV, 2026 WL 696782 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (on reh'g) (03-11-2026).

Facts: The trial court signed a final decree of divorce incorporating a premarital agreement that required Husband to pay Wife a "financial security" payment in the event of divorce. The appellate court affirmed the judgment after Husband appealed. When Husband failed to make the payment, Wife sought a post-judgment turnover order and receivership. Husband filed an answer with affirmative defenses, but he failed to appear at the final hearing. Although Husband requested findings, none were entered. Husband appealed.

Holding: Affirmed.

Opinion: The receiver—who was not a party to the appeal—filed a motion asserting Husband's notice of appeal was untimely. Orders appointing a receiver are subject to interlocutory appeal with accelerated deadlines. Despite the title of the trial court's order, the order was a turnover order and a final order. Because Husband's appeal was of a final order, his notice of appeal was timely.



Husband's affirmative defenses arose from the premarital agreement, which had been adjudicated in the divorce. To the extent he raised any new defenses not raised in the divorce proceeding, he could have. Husband was prevented by res judicata from raising those claims in the turnover proceeding. Although Wife did not plead res judicata, Husband—who declined to attend the hearing—raised no objection based on the lack of pleading. A party who allows an issue to be tried by consent cannot raise a pleading-deficiency argument for the first time on appeal.

Husband next challenged the sufficiency of the evidence to support the turnover order. A judgment creditor may seek a turnover order against a judgment debtor for the satisfaction of liabilities if the debtor owns property, including present or future rights to property, not exempt from attachment, execution, or seizure for the satisfaction of liabilities. The trial court may order the judgment debtor to turn over non-exempt property and may appoint a receiver with the authority to take possession of the non-exempt property, to sell it, and to pay the proceeds to the judgment creditor to satisfy the judgment. A court may enter or enforce an order that requires the turnover of non-exempt property without identifying in the order the specific property subject to turnover. The burden of proving that property owned by the debtor is exempt from execution rests with the judgment debtor.

Because Husband failed to appear at the final trial, Wife's claim was sufficient to support the trial court's determination that the debt remained unpaid. Additionally, the divorce decree's confirmation of property was sufficient to support the determination that Husband owned property. There was no evidence that Husband had disposed of the property in the period between the entry of the decree and the hearing on Wife's motion for a turnover order. By failing to appear at trial, Husband failed to meet his burden to establish any of his property was exempt.

Although Husband complained about the lack of findings, the turnover statute included findings. Husband did not argue on appeal that those findings were inadequate. Nothing about the findings or lack thereof prevented Husband from presenting his appeal.

Awards for Attorney's Fees Remanded for Further Proceedings Because Evidence Did Not Rise to the Level of Specificity Required by *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*.

13. *DePriest v. DePriest*, No. 14-24-00556-CV, 2026 WL 774095 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (03-19-2026).

Facts: After the parties' divorced, Wife appealed. The appellate court affirmed the decree, and the Texas Supreme Court denied Wife's petition for review. Later, because the original QDROs were not approved by plan administrators, Husband petitioned the trial court for amended QDROs that were preapproved by the administrators. Wife responded pro se and asked the court to enforce a pre-decree Rule 11 agreement. Husband moved to dismiss Wife's motion and asked for sanctions. During the hearing on the validity of Wife's requests, the court repeatedly advised Wife it lacked the authority to "undo" the divorce. The trial court dismissed Wife's motions, awarded Husband attorney's fees, and set a final hearing on the entry of the preapproved QDROs. Despite this ruling, Wife continued to seek enforcement of the Rule 11 agreement and asked to be able to present new evidence. After a final hearing, the court signed the amended QDROs, dismissed Wife's outstanding claims, and awarded Husband additional attorney's fees. Wife appealed.

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

Opinion: Among other issues, Wife challenged the awards for attorney's fees. With respect to the first award, the court admitted Husband's attorney's CV. Husband's attorney testified about her overall experience in family law, her experience with this case, a summary of the fees incurred in the previous week, which were the total fees requested. The attorney testified that the fees incurred in that week had nothing to do with the QDROs and were solely due to issues caused by Wife's actions. Wife objected and cross-examined Husband's counsel briefly.

With respect to the second award, Husband's attorney testified about her hourly rate and the rate of an attorney who covered for Husband's attorney while Husband's attorney was on vacation. She additionally provided her paralegal's rate and brief background. She testified to the amount incurred in the prior five days preparing for trial. Wife did not cross examine Husband's attorney on the request for fees.

Legally sufficient evidence of attorney's fees under the lodestar method "includes, at a minimum, evidence of (1) particular services performed, (2) who performed those services, (3) approximately when the services were performed, (4) the reasonable amount of time required to perform the services, and (5) the reasonable hourly rate for each person performing such services." The fees incurred or contracted for do not themselves establish reasonableness or necessity. The result of the lodestar calculation, on the other hand, is presumed to represent a reasonable and necessary attorney's fee.

Husband's attorney's testimony did not rise to the level of specificity required to support either award. She did not itemize the tasks performed, identify approximately when she (or her staff) performed those tasks, or testify concerning the time required to perform those specific tasks. Although Husband's attorney testified from billing records, those records were not admitted into evidence and could not be considered on appeal. Thus, the attorney's fee issue was remanded for further proceedings.

Wife additionally challenged the court's jurisdiction to enter the amended QDROs. Family Code Chapter 9 authorizes a court to clarify a decree so long as the property division is not altered. The percentages in the amended QDROs equated to the exact dollar amounts listed in the decree and did not modify the property division.



Decedent/Husband Did Not Adversely Possess House after the Parties Agreed Not to Immediately Sell the House Pursuant to Their Agreed Divorce Decree.

14. *Jones v. Harris*, No. 14-24-00666-CV, 2026 WL 807282 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (03-24-2026).

Facts: When Wife and Decedent married, Decedent's Son was in high school. Son was adult by the time Wife and Decedent divorced. Wife and Decedent had children together, who were adults by the time of this suit.

In the agreed decree, Wife and Decedent agreed that each would be entitled to half the equity of the marital residence. However, instead of selling the house right away, Decedent continued to live in the home while the children grew up. Wife agreed this arrangement was beneficial to their children and was fair. Wife was never barred access to the house and was able to visit the children any time she desired.

Wife filed a partition suit after Decedent's death. During that litigation, it was revealed that Son had approached the other children asking them to sign over to him any rights they had in the home. The other children declined to do so and advised Son to talk to Wife. Additionally, Wife discovered a quit claim deed that purportedly bore both Decedent's and Wife's signatures and granted their interests in the house to Son. The notary worked for Decedent and said she would notarize documents at his request even if all signatories were not there because Decedent was the boss. The notary did not know Wife personally.

The partition suit was tried to a jury, which found the quit claim deed was a forgery and that Decedent had not adversely possessed the property. Son appealed.

Holding: Affirmed.

Opinion: Son first argued the trial court lacked jurisdiction to consider the partition suit because that court had not rendered the divorce.

When real property is to be sold under the terms of a divorce decree, but the sale does not happen in accordance with the decree, the former spouses own the real property as tenants in common after the divorce. Here, the divorce decree did not address the scenario in which the sale of the home ordered in the decree is not carried out upon the divorce, and one former spouse remains living in the home for years. The judgment in the partition suit did not change the divorce decree, and the suit was not a collateral attack on the decree. The declaration in the judgment that Wife held a 50% ownership interest in the home was consistent with the divorce decree, Wife's petition for partition, and Rule of Civil Procedure 760 [scope of determination in partition suit]. The trial court had jurisdiction to consider the partition suit.

Son next challenged the finding Decedent had not adversely possessed the property, asserting the evidence was insufficient as a matter of law. Adverse possession requires visible appropriation; mistaken beliefs about ownership do not transfer title until someone acts on them. The possession must be "inconsistent" and "hostile to" all other claims. Belief that one is the rightful owner and has no competition to ownership is sufficient. The mere occupancy of land without intention to appropriate it will not support adverse possession. Wife was never barred from the home while Decedent was alive and visited often when the children were young. Decedent never repudiated Wife's claim to the property. Decedent made mortgage payments and maintained the home. Allowing Wife to visit any time and paying the bills in exchange for the right to reside in a co-owned home is not a hostile character of possession sufficient to give notice of an exclusive adverse possession as a matter of law.

Son challenged the jury's finding of forgery. However, Son failed to file a motion for new trial and, thus, failed to preserve his sufficiency argument for appellate review.

Son argued the trial court erred by allowing one of the children to testify that Decedent had told that child that Decedent co-owned the home with Wife. Son asserted the testimony was hearsay. However, the testimony was admissible as an admission against interest. Additionally, the Dead Man's Rule did not apply because the testimony was corroborated. Decedent's will—executed after the quit claim deed—identified Wife as a 50% owner of the house. Additionally, Decedent's second wife testified outside the presence of the jury that Wife was a co-owner of the house.

Finally, Son complained of the denial of his motion to disqualify Wife's attorney because Son alleged that attorney had previously represented Decedent, Son, Decedent's estate, the executor of Decedent's estate, and Wife. Wife responded that the attorney had not represented Wife or the estate and that the denial of Son's motion to disqualify was not an abuse of discretion. Even if a violation of the disciplinary rules is established, the party requesting disqualification must also show that he will suffer prejudice if disqualification is not granted. The court must also consider the prejudice the nonmovant will suffer if disqualification is granted.

The attorney testified that he did not know about the quit claim deed before this litigation, and he had never represented the estate. The attorney stated he never represented Son and denied ever giving Son legal advice. Reviewing the evidence under the abuse-of-discretion standard, the appellate court could not substitute its judgment for the trial court and found no abuse of discretion.

Wife Failed to Show Husband Had Failed to Comply with any Portion of the Divorce Decree; However, Wife's Admitted Refusal to Vacate Residence for Seven Years Supported the Award of a Money Judgment to Husband in Addition to Enforcement of the Property Division.

15. *Nadar v. Nadar*, No. 05-25-00197-CV, 2026 WL 810434 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-26-2026).



Facts: The parties divorced nearly ten years ago. Wife was awarded a flat in India, 50% of certain shares of stock, items in a safe-deposit box, and a vehicle. Husband was awarded the parties' marital residence in Texas. Both parties were ordered to sign documents to effectuate transfers of property. Husband was ordered to be responsible for the mortgage, and Wife was responsible for the loan associated with the vehicle awarded to her. Wife refused to vacate the Texas residence, but Husband continued paying the mortgage.

Wife appealed the divorce decree, but the appellate court affirmed. Later, Husband sought to evict Wife in a justice court, but the appellate court found that court lacked jurisdiction to resolve issues regarding the parties' marital property. Wife later appealed a clarification order issued by the divorce court Husband obtained to change the date by which Wife needed to vacate the property because the prior order was unenforceable by contempt. The appellate court affirmed the clarification order.

The India flat was never transferred to Wife. It was attached and auctioned off to enforce an unrelated default judgment against Wife in India. Wife filed an enforcement suit in Texas seeking delivery of the safety deposit box's contents, the shares of stock, and \$400,000 in compensation for the loss of the Indian property. Husband filed a counterpetition complaining that he had been financially responsible for the Texas home despite Wife refusal to vacate it, and he asserted that he had paid the debt on the vehicle awarded to Wife.

A pretrial scheduling order signed by both parties' attorneys included the trial date. Wife's attorney withdrew at her request, and Wife continued pro se. The trial date was reset for the following month and was set to be heard the same day as Wife's petition for bill of review seeking to set aside the final decree of divorce. Each side was allotted one hour for the day. After hearing evidence, the court denied all of Wife's requested relief. It found Wife violated the final decree and that delivery of the house "in and of itself" was "no longer an adequate remedy" due to Wife's continued occupation of the premises at Husband's expense. Husband was awarded \$195,000 in damages related to the house and \$9600 to reimburse him for the vehicle loan. The court issued findings, and Wife appealed.

Holding: Affirmed.

Opinion: Wife first asserted the trial court abused its discretion by consolidating the bill of review with the competing petitions for enforcement and for only giving each side one hour. Wife failed to preserve any due process complaint by failing to object on that ground when the court informed the parties of the time limits.

The appellate court also noted that the matters were heard sequentially on the same day. The trial court issued separate final judgments and made separate findings for each matter.

Wife asserted that because the court sustained a relevancy objection regarding the vehicle during the bill of review hearing, she was prevented from presenting that evidence during the enforcement hearing. However, the court sustained the relevancy objection "at this time," and Wife questioned Husband about the vehicle's ownership without objection during the enforcement hearing. Referencing the numerous disputes between the parties, the court noted that both the trial court and appellate court were familiar with the parties' dispute, and the trial court did not abuse its discretion in limiting the time for evidence presentation.

Wife next argued that the trial court erred in finding she was barred by the 2-year statute of limitations to file a claim regarding the jewelry and stock options. Assuming Wife's claims were timely [and not barred], Wife failed to present evidence Husband failed to comply with any provision of the decree. After the divorce, Husband's counsel sent letters requesting Wife's cooperation in transferring property to her. In responsive letters, Wife stated that she would not forfeit the Texas house until all the property was delivered to her. In court, she claimed that Husband would not deliver the India property to her until she left the Texas residence. However, nothing in the record supported Wife's allegation.

Wife additionally challenged the \$195,000 money judgment to Husband. Wife was required to vacate and transfer the Texas home to Husband by a date certain. Wife argued that provision of the decree was void for impossibility because the date of compliance was 5 days before the decree was signed. She concluded she had "no legal obligation whatsoever regarding vacatur" of the house. The recent clarification order, affirmed by the appellate court, rectified this enforcement issue.

It was undisputed that Wife failed to comply for seven years by the time of trial with the decree's requirement that she vacate the home. Husband continued to pay for the mortgage and other expenses while also incurring costs for "constant litigation" between the parties to enforce the award of the home to Husband. Wife claimed that Husband should not be compensated for mortgage payments because they benefited him by increasing equity in the home. However, Wife's occupation of the home prevented Husband from any use of the property despite his continuing responsibility for the mortgage and was contrary to the just and right division.

Wife further argued Husband failed to comply with the decree's reciprocal obligation to transfer his interest in the India flat, and that failure should have precluded damages for her failure to vacate the Texas home. However, Wife testified that she could not travel to India to effectuate the transfer because of immigration issues. She stated that she never sought to enforce the judgment for the India flat because she had the Texas house in her hands. Husband provided a gift deed to Wife unaware of the attachment in India. When he became aware, he attempted to resolve the issue on Wife's behalf, but he was advised that he was not permitted to do that legally. Before coming to the US, Wife refused to settle the India case because she "[knew she was] in the right and [she] would rather pursue the legal matters." The trial court found Wife failed to present credible evidence she could not have completed the transfer of the India property on her own and denied her request for money damages. The evidence was sufficient to support the trial court's determination.

Wife next complained of the money judgment compensating Husband for his payment of the loan on the vehicle awarded to Wife. The decree ordered Wife to pay the debt. The uncontroverted evidence at the enforcement hearing established that Husband paid the debt. The money judgment did not alter the property division of the divorce decree.



**SAPCR:
PROCEDURE AND JURISDICTION**

Fit-Parent Presumption Rebutted by Mother’s Voluntarily Relinquishment of Actual Care, Control and Possession of the Child to Guardian for a Period of One Year or More.

16. *In re R.D.E.*, No. 05-24-00870-CV, 2026 WL 783312 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-19-2026).

Facts: Guardian obtained a guardianship over the Child in Iowa when the Child was three-years old. Eighteen months later, Guardian transferred the guardianship to Texas and filed a SAPCR. Mother filed an application to terminate the guardianship. The Texas court consolidated the two proceedings. After an evidentiary hearing, the court issued a final order in the SAPCR. Mother appealed.

Holding: Affirmed.

Opinion: Mother’s brief did not fully comply with the Rules of Appellate Procedure, in that it did not contain appropriate citations even after being given an opportunity to amend her brief. The court endeavored to consider each issue presented. Guardian responded pro se.

Among many other complaints, Mother asserted that Guardian did not overcome the fit-parent presumption. However, Family Code 153.373—cited in the trial court’s findings—explicitly states that the fit-parent presumption can be rebutted if the court finds the parent has voluntarily relinquished care to a nonparent and that appointment of the nonparent is in the child’s best interest. Mother agreed to the guardianship appointment. The trial court found Mother had relinquished care, and to the extent the evidence conflicted on this point, the appellate court would not second guess the trial court’s finding. Additionally, the evidence supported the trial court’s determination that appointment of the Guardian as a managing conservator was in the Child’s best interest.

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Trial Court Lacked Jurisdiction to Consider Mother’s Motion for Temporary Orders Filed More Than 30 Days After Father’s SAPCR was Nonsuited.

17. *In re E.R.F.*, No. 04-25-00570-CV, 2026 WL 817480 (Tex. App.—San Antonio 2026, orig. proceeding) (mem. op.) (03-25-2026).

Facts: Father filed a petition to adjudicate the parentage of the Child. However, Father subsequently nonsuited his petition, and the trial court signed an order granting the nonsuit. Mother had no outstanding requests for affirmative relief at that time. A little over a month after the order granting the nonsuit, Mother filed a motion for temporary orders. The trial court conducted a hearing, took testimony, and issued temporary orders. Father sought mandamus relief.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: The trial court’s plenary power expired 30 days after the order granting the nonsuit. The trial court lacked jurisdiction to consider the motion for temporary orders or to render any subsequent order.

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Evidence Insufficient To Support Default Child Support And Conservatorship Order.

18. *In re I.R.R.*, No. 05-24-01512-CV, 2026 WL 826629 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-25-2026).

Facts: Mother and Father were never married. Their teenaged Child lived with Mother. The OAG filed a suit to adjudicate Father’s paternity, make orders for conservatorship and access, and to render current and retroactive child support. Father failed to answer or appear, resulting in a default judgment. Although Father filed post-judgment motions, they were untimely. Father filed a notice of restricted appeal shortly after the deadline to do so; however, the appellate court granted Father’s motion to extend the 15-day grace period to the notice of appeal.

Holding: Reversed and Remanded.

Opinion: To be entitled to a restricted appeal, the party must not have filed any post-judgment motions or requests in the trial court. Because Father’s post-judgment motions were untimely, those filings did not preclude his ability to seek restricted appeal.

Father first challenged the OAG’s service of citation. The return of service described the person served as:

Sex: Male Race: Hispanic or Latino Height: 5ft 10in Weight: 175 Hair: Black Other Features: Subject wanted to write down that he has his son all the time. I saw his son. He asked me who is sta



Father argued the description was “unintelligible and incomplete” and failed to clearly identify the person served. Although the final sentence following “Other Features” was cut off, Father did not show how that truncation undermined or contradicted the already sufficient information about the person served. Further, the return otherwise complied with Rule 107.

Father additionally asserted the evidence was insufficient to support the awards of current and retroactive child support as well as the appointment of Mother as the Child’s sole managing conservator. The OAG offered no exhibits and only called Mother to testify. Mother testified Father had a contracting business, but she did not know how much he earned. The OAG asked her if she understood that, based on the OAG’s investigation, Father earned nearly \$9000 a month. No evidence was offered to substantiate this claim. The attorney’s claim established no more than surmise and did not support the trial court’s determination of Father’s net resources for assessing current or retroactive child support.

The Family Code presumes that appointing both parents joint managing conservators is in the best interest of the child. At trial, Mother stated there was no family violence but Father verbally abused her. She also stated that Father kept the Child once in a while and had the Child with him while Mother was at the hearing. The testimony indicated Father maintained an ongoing relationship with the Child and exercised possession of him. Mother failed to rebut the presumption to support appointing her sole managing conservator.

Mandamus Granted Because Court Gave Ex-Wife Conservatorship Rights over Mother’s Objection, Notwithstanding Prior Agreement Giving Rights to Ex-Wife.

19. *In re M.S.*, No. 02-26-00016-CV, 2026 WL 851415 (Tex. App.—Fort Worth 2026, orig. proceeding) (mem. op.) (on reh’g) (03-27-2026).

Facts: Mother and Ex-Wife divorced, and their decree provided there were no children of the marriage. However, the following year, the parties were involved in a SAPCR. Mother and Ex-Wife had contracted with a third party to impregnate Mother for the parties to raise as their own. The court appointed the parties as joint managing conservators and gave Mother the exclusive right to designate the Child’s primary residence. Ex-Wife was given a standard possession order. Ex-Wife contractually agreed to pay monthly child support to Mother.

A few years later, Mother filed a petition to modify, seeking sole managing conservatorship and to terminate Ex-Wife’s status as joint managing conservator. An associate judge heard Mother’s request for temporary orders, found that a material and substantial change existed, and made minor temporary changes to the prior order. Mother sought de novo review, but the district judge adopted the associate judge’s recommendation. After a written order was obtained, Mother sought mandamus relief. Initially, the appellate court denied relief; however, Mother asked for reconsideration, and this opinion was issued.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Ex-Wife testified that she did not believe Mother was a fit parent because Mother put her hatred for Ex-Wife above the Child’s best interest. Mother testified that the Child was experiencing night terrors attributed to Ex-Wife. Ex-Wife said the Child had no night terrors when in her possession. Regardless, although the parties were formerly married, Ex-Wife was not a parent as defined by the Family Code. She did not give birth to the Child and did not adopt the Child. Additionally, the prior appointment of Mother as a managing conservator implied she was a fit parent. The trial court abused its discretion in giving Ex-Wife rights over Mother’s objection.

**SAPCR:
TEMPORARY ORDERS**

Temporary Restraining Order Could Not be Extended a Second Time Without Father’s Consent.

20. *In re Thompson*, No. 13-26-00189-CV, 2026 WL 685422 (Tex. App.—Corpus Christi—Edinburg 2026, orig. proceeding) (mem. op.) (03-10-2026).

Facts: Mother filed a modification suit and requested a temporary restraining order be issued to prevent Father from actions including withdrawing the Children from school or daycare. The court granted Mother’s request and signed a temporary order that would be in effect for 14 days. Fourteen days later, the court signed a “First Order” extending the temporary restraining orders another 14 days. Fourteen days after that, the court held a hearing, and the following day, it signed a “Second Order” extending the temporary restraining order until further order of the court and ordered the parties to appear for a hearing in about three weeks. Father filed a motion to dissolve that order because it did not state an expiration date and he had not agreed to a second extension. Father additionally sought mandamus relief because he alleged the second extension order was void.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Father argued that the temporary restraining order is void because (1) it failed to include an expiration date, (2) he did not agree to a second extension, and (3) the temporary restraining order had expired before the second extension had been granted.



A trial court issuing a temporary restraining order is required to: (1) state why the order was granted without notice if it is granted ex parte; (2) state the reasons for the issuance of the order by defining the injury and describing why it is irreparable; (3) state the date the order expires and set a hearing on a temporary injunction; and (4) set a bond. The rule, Texas Rule of Civil Procedure 680, “permits but one extension for no longer than fourteen days unless the restrained party agrees to a longer extension.” The short duration allowed by Rule 680 is “a critical safeguard against the harm occasioned by a restraint on conduct that has yet to be subject to a truly adversarial proceeding.”

Nothing in the record indicated Father agreed to a second extension. Having determined Father did not consent to the second extension order, the appellate court did not need to address Father’s remaining issues. The order was void, and Father was entitled to mandamus relief.

**SAPCR:
CONSERVATORSHIP**

Heightened Evidentiary Burden Not Required Before Ordering Mother Have No Statutory Rights Because Order Provided Remedial Steps for Mother and Modification was Possibility.

21. *In re V.R.C.*, No. 05-25-00161-CV, 2026 WL 826625 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (on reh’g) (03-25-2026).

Facts: The parties, both non-family-law attorneys, were married for six years and had one Child. When Father filed for divorce, he also asked for, and obtained, a restraining order to prevent Mother from possessing or accessing the Child.

Mother appeared pro se at trial. That morning, the parties orally agreed to continue child-related issues on condition that all property issues were fully settled. After Father’s counsel read the terms into the record, Mother revoked her agreement. The trial court thus proceeded with trial on all the issues in the parties’ divorce. Mother asserted she was not ready to go to trial because they had agreed not to litigate that day. Father’s counsel argued Mother had announced ready earlier that week, and the parties exchanged exhibits the previous day. Father offered all his exhibits into evidence, and Mother globally objected to them on hearsay, relevance, foundation, authenticity, and best-evidence grounds and stated she did not have copies of the exhibits. The court admitted all Father’s exhibits. Mother did not testify, called no witnesses, and offered no evidence or offers of proof.

At the trial’s conclusion, the court named Father as the Child’s sole managing conservator and excluded Mother from possession and access to the Child until she addressed her addiction issues. The court made a finding that Mother needed to fully and successfully complete inpatient treatment before seeking to modify the parent-child relationship. Mother appealed.

Holding: Affirmed.

Opinion: Mother argued the trial court violated her due process rights when it held a trial despite the parties’ agreement to continue the child-related issues. Contrary to Mother’s assertion, the record reflected she had adequate notice of the final trial. The parties’ agreement to a continuance was contingent on the agreement to property issues, which Mother revoked.

Mother next argued the trial court erred in admitting all Father’s exhibits without reviewing them, allowing Mother to review them, or requiring proper authentication or predicate. Mother did not raise any specific objections to any of the evidence. She merely said she was “sure” that there were grounds for objection. Although she claimed to not have evidence in front of her, the parties had exchanged exhibits the previous day, and Mother did not dispute that fact on appeal. She did not ask Father to allow her to view the exhibits on the day of trial.

Finally, relying on *Stary v. Ethridge*, 712 S.W.3d 584 (Tex. 2025), Mother argued the denial of all conservatorship, possession, and access amounted to a de facto, unconstitutional termination of her parental rights without the safeguards of the clear-and-convincing evidence standard. In *Stary*, the court entered a lifetime protective order prohibiting the mother from any contact or communication with her children. The Texas Supreme Court held that the order functionally deprived the mother of the fundamental right to care, custody, and control of the child and held that the trial court should have applied the clear-and-convincing evidence standard before making its order.

Here, Mother was deprived of all statutory parental rights, making her deprivation more comprehensive than the mother’s in *Stary*. However, the order provided Mother with an explicit avenue to restore her rights, which the mother in *Stary* did not have. There was no language in this order making the arrangement permanent or suggesting irreversibility; modification was expressly available upon a change of circumstances or compliance with the order’s requirements.

In a footnote, the appellate court noted that the unchallenged findings were supported by legally sufficient evidence under a clear-and-convincing standard. The record contained sufficient uncontroverted evidence that deprivation of Mother’s parental rights was in the best interest of the Child.

Clear and Convincing Burden of Proof Not Necessary to Support Decision Not to Appoint Father Conservator or Grant Him Any Rights of Possession of or Access to the Child.

22. *In re C.R.*, No. 04-24-00576-CV, 2026 WL 823060 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (03-25-2026).



Facts: After a seven-year marriage, Mother filed for divorce and included allegations of family violence, child abuse, and child neglect. Mother sought sole managing conservatorship and asked that Father’s access to the Child be denied or supervised. The parties reached an agreement regarding property issues and tried the issue of conservatorship to a jury. Although the charge conference was off the record, neither party objected to the charge. The jury returned a verdict finding that Mother should be appointed sole managing conservator, and Father should not be appointed a conservator. The trial court adopted the jury’s verdict and found that Father’s possession of the Child would endanger the Child’s physical or emotional welfare. Father appealed.

Holding: Affirmed.

Opinion: Father likened the order to a termination of his parental rights. Father also cited *Stary v. Etheridge* to support his assertion that a higher burden of proof should have applied. However, Father could seek modification if the circumstances materially and substantially change. The order was not irrevocable. Moreover, Father failed to preserve this heightened standard complaint for appellate review.

Father asserted the failure to apply a heightened standard to his case amounted to a fundamental error that need not be preserved. However, the appellate court found this doctrine based in criminal law did not apply to family law cases unless the record shows on its face that the trial court lacked jurisdiction.

Father additionally argued the court impermissibly submitted a question to the jury on a specific term or condition of possession of or access to the Child. However, the record did not support that contention, and he waived that issue by failing to object to the jury charge.

Concurring Opinion: (J. Brissette)

Agreeing with the majority, Justice Brissette noted that Father had a qualified family-law attorney, but Father chose to fire that attorney and try the case pro se. A pro se must be held to the same standard as an attorney because to do otherwise would be unfair to represented parties. There has been an increase of pro se litigants, and more are attempting to use ChatGPT to navigate the courtroom. “[W]hile most parents would balk at the idea of trying to treat their cancer-ridden child on their own, they routinely step into a court of law believing they are as capable as a licensed attorney.” Citing a federal study, the concurrence explained that unrepresented litigants lose 80–90% of the time. “I pray this case serves as yet another example for parents who are thinking about representing themselves in custody disputes.”

**SAPCR:
CHILD SUPPORT**

Nunc Pro Tunc Was Proper to Correct Child Support Amount in Initial Final Decree; Father Could Not Challenge the Initial Decree’s Provisions Through an Appeal of the Granting of a Judgment Nunc Pro Tunc.

23. *In re T.C.C.*, No. 05-24-01177-CV, 2026 WL 826203 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-25-2026).

Facts: After a bench trial, the court orally rendered child support be ordered pursuant to the statutory guidelines applying the minimum-wage-earnings presumption to Father. The court also ordered Father reimburse Mother for health insurance premiums for the Children. The final divorce decree failed to include the requirement about the premium reimbursement and calculated the guideline support incorrectly.

Four months later, Mother moved for a judgment nunc pro tunc to correct the math errors and to include the premium-reimbursement provision. The court granted Mother’s motion. The next day, Father filed a “motion to dismiss” the nunc pro tunc judgment. Without obtaining a ruling, Father filed a notice of appeal.

Holding: Affirmed.

Opinion: Father first argued the trial court erred in increasing the dollar amount of his child-support obligation without giving him an opportunity to be heard. Despite the expiration of the trial court’s plenary power, the trial court retained authority to correct clerical errors in the judgment. Although a party may appeal an order granting a nunc pro tunc judgment, the appeal may only raise complaints that are applicable to the nunc pro tunc modifications and not complaints that could have been raised in an appeal from the original judgment. Here, the changes were clerical, and the trial court did not abuse its discretion in granting the judgment nunc pro tunc.

**SAPCR:
MODIFICATION**

Texas Did Not Retain Continuing, Exclusive Jurisdiction Because the Child No Longer Had Significant Contacts with Texas, and There was Not Substantial Evidence Relating to the Child in Texas.

24. *In re T.J.*, No. 02-25-00045-CV, 2026 WL 628159 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (03-05-2026).



Facts: A Texas court appointed Mother as the sole managing conservator of the Child. A man was identified as a “presumed” Father (he was not married to Mother) was not granted rights because the court found that giving him rights was not in the Child’s best interest and would endanger the physical or emotional welfare of the Child. The order included an injunction preventing Mother from allowing the Child to be around Father.

About three years later, Mother died in her sleep in her Oklahoma. Mother’s sister-in-law picked up the Child. The sister-in-law filed a petition for emergency guardianship in her home state of Oklahoma, noting that Father was in jail. Mother’s Sister also appeared in the guardianship proceeding. Because the Child was a tribal member, the tribe was notified pursuant to ICWA. However, after conferencing with the tribal court, the decision was made to keep the proceedings in the Oklahoma courts. No party, including the pro se Father referenced the prior Texas order. After hearing evidence and argument, the Oklahoma court appointed Mother’s sister-in-law and her husband (Mother’s half-brother) as general co-guardians (the “Guardians”).

Six months later, Sister filed pleadings contesting the appointment, seeking her own appointment, and petitioning to enforce visitation. However, when Sister failed to appear at the final hearing, her pleadings were denied. A few months later, Sister began filing additional pleadings, asserting the Oklahoma judgment was void, referencing a prior tribal order and the Texas order. Sister additionally filed a petition in Texas to modify the Texas order, asserting Oklahoma lacked jurisdiction to render the intervening order. The Guardians filed a special appearance in Texas. Thereafter, several pleadings relating to the UCCJEA were filed in both Oklahoma and Texas. Due to the litigation, the Oklahoma court stayed all pending proceedings, including an adoption proceeding.

Ultimately, the Oklahoma court lifted all the stays and continued with its proceedings, and the Texas Court dismissed Sister’s pleadings. After the Texas court denied Sister’s motion for reconsideration, she appealed.

Holding: Affirmed.

Opinion: Sister argued that Texas had continuing, exclusive jurisdiction, and the Texas court erred in dismissing her case for lack of jurisdiction.

Generally, once Texas makes a child-custody determination, Texas retains “exclusive continuing jurisdiction” over future custody disputes until “a court of this state determines that neither the child, nor the child and one parent . . . have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child’s care, protection, training, and personal relationships.” Here, although Texas acquired continuing, exclusive jurisdiction through its first order, it did not retain jurisdiction because the Child no longer had a significant connection with Texas and there was no longer substantial evidence in Texas. By the time Sister filed her modification, the Child had lived in Oklahoma for over two years. Although the Child had family members in Texas, she did not have a relationship with those family members. Additionally, the Child continued living in Oklahoma with the Guardians after Mother’s death. The Child’s school, counseling, and friends were in Oklahoma. The Texas court did not err in finding that Texas no longer retained continuing, exclusive jurisdiction.

Sister further argued that Texas was the most convenient forum to hear the case. In considering this issue, the appellate court assumed Texas retained continuing jurisdiction, but the trial court declined to exercise that jurisdiction. Sister argued the Texas Court “never undertook the requisite analysis pursuant to Section 152.207 [i]dentifying the factors to consider in determining whether Texas is an inconvenient forum.” However, Sister failed to “submit information to support her claim that Texas was the more convenient forum. Moreover, the Texas court’s findings regarding Texas being an inconvenient forum were supported by the evidence.

The Children’s 529 Accounts were Assets Divided in the Parties’ Divorce, and Mother was the Owner of the Account, Not a Trustee; the Trial Court Could Not Change Ownership in a Subsequent Modification Because Doing So Modified the Just and Right Division of the Prior Divorce Decree.

25. *In re B.S.*, ___ S.W.3d ___, No. 13-25-00130-CV, 2026 WL 616055 (Tex. App.—Corpus Christi—Edinburg 2026, no pet. h.) (03-05-2026).

Facts: The parties were married with two Children. An agreed divorce decree appointed the parties joint managing conservators, gave Mother the exclusive right to designate the Children’s primary residence with a geographic restriction, and ordered Father to pay child support. Additionally, the decree referenced two 529 accounts and gave Mother “sole and exclusive” control of the accounts. It additionally instructed Mother to set aside in an account for the Children a specified amount of money from the proceeds of the sale of the marital residence. Mother would serve as trustee of those funds for the Children’s benefit.

Three years later, Father moved to modify the parent-child relationship and asked for the exclusive right to designate the Children’s primary residence. He asserted that the Children would state in chambers their desire to change the person with this right. Mother filed a counterpetition, in which she stated that Father had recently received substantial gifts and inheritance and had voluntarily stopped working. She asked for an increase in his child support obligation. The court signed temporary orders giving the parties 50/50 possession and ordering Mother—whose net resources were about three times that of Father’s—to pay child support. At a subsequent hearing, the parties agreed to give Father the exclusive right to designate the Children’s primary residence.

Father then filed a petition to clarify the final decree with respect to the 529 accounts, asserting Mother was spending the money freely as she saw fit, rather than exclusively for the Children’s education. In court, Mother stated that she was willing to give Father control over the post-divorce contributions to the accounts but not all the funds in the accounts. She agreed that the funds were intended for educational expenses but repeatedly said she was “not sure” if all the funds were used for that purpose.



After the conclusion of Mother's testimony, the court opined that Mother was just a trustee of the account and not the owner of the funds.

In a final order, the court gave Father "sole and exclusive control" of the accounts. In findings, the court found:

- the agreement in the divorce decree was for the accounts to be used for the Children's educational expenses and that the decree did not award ownership of the 529 accounts to either party;
- the provision allowing management of the accounts was under the heading of "conservatorship";
- the person with the exclusive right to designate the Children's primary residence should also manage the 529 accounts.

Mother appealed.

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

Opinion: Mother argued that in changing the person with the right to manage the 529 accounts, the court modified the property division. Father argued the decree did not award ownership of the account to Mother, and the court had jurisdiction to divide them in the modification proceeding. A court may render orders in a post-divorce proceeding to assist in the implementation of the order, but it may not modify a property division

Father's position was untenable. At the time of the decree, the accounts were composed entirely of funds earned by the parties during the marriage. The accounts consisted of community property subject to a just-and-right division. They were assets listed in the property awarded to Mother in the division of the parties' community estate. The trial court finding otherwise was error.

Importantly, although the accounts were intended to pay for the Children's educational expenses, there was never any legal impediment restricting them from using the funds in the accounts for non-educational expenses. A 529 account is not an irrevocable trust; it is a savings account owned by the person opening the account. If funds are used inappropriately, a tax penalty is applied.

The appellate court reversed the portions of the judgment changing ownership of the accounts and instructing the parties to only use the funds for educational expenses. The remainder of the modification order was affirmed.

Evidence that Mother Had Voluntarily Relinquished Primary Care of the Child Supported Grandmothers' Standing in Modification Suit.

26. *In re K.D.C.*, No. 06-25-00073-CV, 2026 WL 621559 (Tex. App.—Texarkana 2026, no pet. h.) (mem. op.) (03-05-2026).

Facts: A prior order established Father's paternity and named the parents as joint managing conservators. Mother was given the exclusive right to designate the Child's primary residence, and Father was ordered to pay child support. A few years later, Mother initiated a suit with a request for a temporary restraining order because she alleged exchanges were not going well. However, Mother nonsuited that case. A month later, the Maternal Grandmother filed a suit for modification, alleging the parents were living together with the Child and consuming drugs. Maternal Grandmother additionally asserted there had been recent family violence that required police intervention. The trial court issued temporary orders requiring the parents to surrender the Child to Maternal Grandmother.

A few days later, Maternal Grandmother petitioned the trial court for further orders because the parents had taken the Child to Oklahoma. The court issued an order commanding a Sheriff or Constable in the State of Oklahoma to take possession of the Child and return him to Maternal Grandmother. Two days after that order, an Oklahoma court appointed Paternal Grandmother "Special Guardian" of the Child. Paternal Grandmother then filed a petition in intervention in Texas.

The court appointed an ad litem, who requested further temporary orders because the two Grandmothers could not agree on temporary provisions for the Child. The court interviewed the Child, who expressed a desire to stay with Paternal Grandmother and reported that Maternal Grandmother spoke negatively about Paternal Grandmother and Paternal Grandmother's extended family. The Child reported that Maternal Grandmother used racial slurs and told people to lie to the court. The court expressed an opinion that Maternal Grandmother would not abide by court orders. Mother, Father, the Child, and Paternal Grandmother all lived in Oklahoma. Only Maternal Grandmother remained in Texas. Paternal Grandmother reported the Child was terrified of Maternal Grandmother. Mother testified that she did not want the Child to have access to Maternal Grandmother. The ad litem reported that the Child had "bloomed" since residing with Paternal Grandmother.

After a final trial, the court appointed Father and Paternal Grandmother as joint managing conservators and appointed Mother as a possessory conservator. A final order was signed before September 1, 2025. Maternal Grandmother appealed.

Holding: Affirmed.

Opinion: Maternal Grandmother first challenged Paternal Grandmother's standing to intervene in the suit and cited Section 102.003. However, the appellate court noted that the applicable statute for Paternal Grandmother's standing was Section 102.004(b-1) (the grandparent standing provision), which requires a significant impairment finding. Paternal Grandmother's pleading mirrored Maternal Grandmother's pleading. Both alleged Mother had voluntarily relinquished primary care of the Child. Additionally, Paternal Grandmother alleged Maternal Grandmother had been secreting the Child from Father's family. Paternal Grandmother had standing under Section 102.004(b-1).



Maternal Grandmother next argued that she was denied due process because she was excluded from proceedings. Nothing in the record showed Maternal Grandmother was excluded. She had notice of trial but failed to appear. Although Maternal Grandmother referenced “off-record communications” that resulted in some agreement, nothing in the record supported that claim.

Maternal Grandmother additionally asserted the evidence was legally insufficient to support the modification order. The trial court found the circumstances of the parties had materially and substantially changed, and that finding was supported by the record. Mother had voluntarily relinquished the child’s primary care to another for at least six months.

Finally, Maternal Grandmother raised several complaints relating to temporary orders as well as complaints about ministerial duties post-trial. However, complaints about temporary orders become moot on entry of a final order. Further, Maternal Grandmother’s motion for new trial was overruled by operation of law, and she did not request a hearing or findings of fact. Thus, she was not entitled to either.

Mother’s Claim of a Material and Substantial Change and Assertion that Prior Order was No Longer Workable Sufficient to Put Father on Notice that All Child-Related Provisions were Subject to Modification.

27. *In re S.D.F.*, No. 06-25-00060-CV, 2026 WL 698284 (Tex. App.—Texarkana 2026, no pet. h.) (mem. op.) (03-12-2026).

Facts: A few years after the parties divorced, the court signed a final order in a modification suit addressing provisions involving the parties’ two Children. Two years later, Mother filed a petition for judgment nunc pro tunc, motion to clarify, and request for production, and, in the alternative, motion to modify the prior judgment, stating the prior order was inconsistent with the rendered rulings of the court. Father was duly served but failed to answer or appear. The trial court signed a default nunc pro tunc order.

Father filed a motion for new trial. After brief discovery, the parties presented the court with agreements regarding modification of the prior order. Subsequently, the court signed an “Amended Default Order Nunc Pro Tunc and to Modify Parent-Child Relationship” that incorporated the default judgment and the parties’ agreements. Father appealed.

Holding: Affirmed.

Opinion: Father asserted the default order exceeded the scope of Mother’s pleadings because Mother’s petition to modify *only* asked to modify possession to account for the Children being together during non-school periods and to include a step-down provision for Father’s child-support obligation. However, Mother additionally alleged a material and substantial change in circumstances and asserted the prior order was no longer workable. Mother’s pleadings were sufficient to give Father sufficient notice that issues of conservatorship, possession and access, and support were all to be potentially addressed at the hearing.

Father additionally complained that the trial court erred in denying him a new trial. Reasserting his complaint regarding the scope of Mother’s pleadings as compared to the default order, Father argued he did not respond to the suit because he believed Mother’s petition was too limited to permit all the terms of the default order. As discussed above, Mother’s petition was sufficient to bring all child-related issues before the court. Father conceded “that the face of the record itself may not *directly* support that he was not consciously indifferent to [Mother’s] Motion,” and the appellate court agreed. Father failed to meet the first prong of the *Craddock* test, and the trial court did not abuse its discretion in choosing not to grant Father’s motion.

Evidence Supported Enlarging the Geographic Restriction on the Child’s Residence.

28. *In re B.C.*, No. 02-25-00305-CV, 2026 WL 706436 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (03-12-2026).

Facts: An agreed modification order appointed the parents as joint managing conservator over their severely autistic and non-verbal Child and gave Mother the exclusive right to designate the Child’s primary residence with a geographic restriction. Six years later, Mother initiated a new modification proceeding to lift the geographic restrict to allow her to move to Florida. Father counter petitioned, seeking to modify the restriction to only include slightly different Texas counties than what was specified in the prior order. In a subsequent notice of intent to move, Mother noted that Father had moved outside of the prior geographic restriction, leading to the trial court lifting that restriction.

A year-and-a-half later, after an agreement was read into the record, the court expanded the geographic restriction to the continental 48 states and ordered Mother to pay travel expenses. Another year-and-a-half after that, a final order was signed. The written judgment required Father to purchase any airline ticket of his choice for visitation, not to exceed \$800 per ticket, and ordered Mother to reimburse Father within 30 days of the purchase. Father appealed.

Holding: Affirmed.

Opinion: Father asserted the evidence was legally and factually insufficient to support enlarging the geographic restriction. Father asserted the parties’ agreement was for the restriction to be limited to Texas and one county in Florida. Mother responded that Father’s move outside the prior restriction lifted the prior restriction, and Father represented at trial that no restriction would be necessary if Mother paid his travel expenses. Additionally, Mother presented evidence of how the Child’s needs would be met in Florida. Moreover, Mother noted that Father’s pattern of inconsistent exercise of his visitation undermined any claim that the absence of a restriction would harm the parent-child relationship.



At trial, the agreement was to include Mother's current residence in the state of Florida. Two of the remaining issues for the trial court to determine were the geographic restriction within the parameters of the parties' agreement and payment for travel expenses. Father stated on the record that he would agree to no geographic restriction if Mother were required to pay for travel. Mother agreed that it would be fair for her to pay some travel expenses, given it was her choice to move. However, she did not think it was fair to ask her to pay 100% of Father's travel expenses because she paid for the Child's private school expenses, and Father had a history of failing to regularly pay child support. Additionally, Father's exercise of visitation was "hit or miss." In the year-and-a-half between the oral rendition and the signing of the order, subsequent proceedings addressed the amount for which Mother should reimburse Father for travel.

Although Father's attorneys changed in that period, his proposed final order consistently requested the restriction be "continental United States." Father could not complain on appeal of error in granting relief that he, himself, requested. Moreover, the change of the geographic restriction was supported by the evidence when applying the *Lenz* factors.

**SAPCR:
ENFORCEMENT OF POSSESSION / CONSERVATORSHIP**

Commitment Order Void Because It Failed to State What Child-Custody Provisions Father Violated Constituting Contemptible Acts.

29. *In re Girard*, No. 03-25-00775-CV, 2026 WL 757563 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (03-17-2026).

Facts: Mother filed a motion to enforce provisions of a divorce decree concerning possession of the parties' Child. She asked that Father be held in contempt, jailed, and fined for each alleged violation of the decree's provisions. Father filed a denial. Both parties appeared pro se at the hearing on Mother's motion. The court signed a "Writ to Sheriff" and sentenced Father to 180 days for contempt. Father filed a petition for writ of habeas corpus.

Holding: Writ of Habeas Corpus Granted.

Opinion: A relator is entitled to habeas relief when the trial court's contempt order is void, either because it was beyond the power of the court to issue it or because it deprived the relator of his liberty without due process of law. When the court does not sign a contempt judgment coincidentally with a commitment order, "the commitment order must contain the elements of a contempt judgment; that is, 'the order should clearly state in what respect the court's order has been violated.'"

Here, Father's confinement was based on the trial court's writ to the Sheriff, and the writ failed to state in what respect Father violated the provisions of the divorce decree or which of Mother's allegations in her motion against relator were found by the court to constitute contemptible acts. The commitment order did not satisfy the requirements for a written order of contempt and was void. Father's due process rights were violated when he was confined without a valid contempt order.

Mother Entitled to Return of Child Because She Had Legal Right to Possession Pursuant to a Valid Venezuelan Agreed Temporary Custody Order.

30. *In re Uzategui*, No. 03-26-00090-CV, 2026 WL 757561 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (03-18-2026).

Facts: The Child's parents were citizens of the Bolivarian Republic of Venezuela and married there. Because Father was planning to relocate to the U.S. for work, they obtained an agreed custody order giving Mother exclusive possession of and decision-making authority for their Child. Mother initially remained in Venezuela, where she was a practicing obstetrician. However, a little over six months after Father's move, Mother left her job and joined Husband in Texas. A few months later, the parties separated, lived apart, but then reconciled. An altercation between Mother and Father's girlfriend led to Mother's arrest. Mother was then transferred to an ICE facility, and her requests to be reunited with the Child or to be deported with the Child were denied. Father refused to arrange for the Child's return to Mother.

Mother filed a petition for writ of habeas corpus to have the Child returned to her pursuant to the agreed Venezuelan order. After a hearing, the trial court denied Mother's motion. Mother sought mandamus relief.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: "Absent evidence of a dire emergency, the trial court is required to issue a writ of habeas corpus once the relator has demonstrated the bare legal right to possession of the child; at that point, issuance of the writ should be automatic, immediate, and ministerial." Mother asserted the Venezuelan order was governed by the UCCJEA, and the appellate court agreed. The order provided for custody of the Child and was, thus, an order from a "child custody determination." Texas is required to enforce foreign orders unless a statutory exception applies. No exception applied here. Father asserted his signature was forged on the agreed order; however, his subsequent actions were inconsistent with that allegation. Father sought to "modify" the Venezuelan order and later offered inconsistent testimony regarding his signature. Per its findings, the trial court did not base its denial of Mother's writ on an alleged lack of notice.



Because the Venezuelan order gave Mother a legal right to possession, she was entitled to a writ of habeas corpus unless Father established a serious and immediate question concerning the Child's welfare. No evidence in the record supported such a finding, and the trial court did not purport to apply this imminent-danger standard in reaching its decision. Rather, the court based its conclusions on improper or irrelevant considerations. The trial court noted that the Venezuelan order was temporary, but the UCCJEA applies to temporary orders. The trial court made general remarks about turmoil in Venezuela but made no finding that would undermine the jurisdictional validity of the child-custody determination or raise a serious and immediate question considering the Child's welfare. The trial court made findings that could be relevant to a best-interest inquiry; however, the question of best interest is not a consideration in a child-custody habeas corpus proceeding. "[A] child custody habeas corpus proceeding may not be used to relitigate the custody order."

**SAPCR:
ENFORCEMENT OF CHILD SUPPORT**

Trial Court Had Jurisdiction to Address Whether Child-Support Arrearages Had been Paid Because Suit to Confirm Arrearages was Filed Within 10 Years of the Child's 18th Birthday.

31. *Shunstrom v. Lom*, No. 14-24-00889-CV, 2026 WL 668534 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (03-10-2026).

Facts: The parties were married in Massachusetts and had three Children, who are now all adults. The parties divorced in Massachusetts. There were no efforts to obtain child support until the youngest Child was 17-years old, when the Texas OAG filed a IV-D petition.

Because the minor Child would emancipate one week after the final hearing, the court set no orders regarding conservatorship or possession and access. It found that neither parent had access to private health insurance at a reasonable cost, so it set no medical support. Because the Child would emancipate a week later, the court also set no child support. The court ordered retroactive child support for the four years preceding the petition and ordered Father to a monthly amount until that amount was paid in full and signed a withholding order.

Almost ten years later, Mother filed suits alleging Father abandoned his Children, did not provide child support, committed immigration fraud, and committed child abuse. Mother sought back child support and college expenses for all three Children, damages for crimes against her, and back alimony. Father filed motions to consolidate Mother's suits and then filed a special appearance and plea to the jurisdiction. Father argued the trial court lacked subject-matter jurisdiction because the child was an adult and no child support was due or owing. Although Mother filed a response, she did not appear at the hearing. Father offered no evidence at the hearing. The associate judge determined the case should be dismissed and that Mother's child support suit was improperly filed for not having been filed in the court of continuing, exclusive jurisdiction. The associate judge thus issued a report that Father motion to dismiss be "granted for lack of subject matter jurisdiction, subject to the Motion to Consolidate being entered prior to consolidation." The presiding judge adopted the report as a final order and awarded Father reasonable attorney's fees. Mother appealed pro se.

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

Opinion: Mother argued the trial court abused its discretion by failing to rule on her motion to appear by electronic means and denied her due process. Mother failed to preserve either of these complaints for appellate review. Mother did not raise her due process complaint in any motion before the trial court. Additionally, Mother failed to request a hearing on her motion to appear by electronic means and did not bring the motion to the court's attention. She did not ask for a ruling on the motion.

Mother additionally challenged the dismissal order. First, Texas does not recognize private causes of action for violations of the Penal Code, so the court did not err in dismissing those claims. Second, the court correctly determined it lacked jurisdiction over the parties' two older Children because Mother did not file suit within two years of their eighteenth birthdays. However, the Texas order for retroactive support for the parties' youngest Child was timely sought and rendered. While Father stated a belief that the support had been paid, he offered no evidence to support that claim. The Family Code permitted Mother to confirm any arrearages if her petition were filed within ten years after the Child became an adult. Mother's petition was timely, and the trial court had jurisdiction to consider that claim. Accordingly, the portion of the order dismissing that claim was reversed and remanded for further proceedings. Additionally, the court reversed and remanded the attorney's fee award.

Father's Payment of Past-Due Child Support Just Before Hearing Did Not Remove the Family Code's Mandate Requiring a Judgment for Interest on the Accumulated Arrearages.

32. *In re Z.P.*, No. 05-25-00607-CV, 2026 WL 815113 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-24-2026).

Facts: The parties' divorce decree required Father to pay child support; however, Father did not pay for almost four years immediately after the judgment. More than a decade later, Mother moved for enforcement of the unpaid support and sought a judgment for arrearages plus interest, attorney's fees, and costs. Father paid the unpaid support just before the final hearing. After hearing evidence, the court awarded Mother attorney's fees, expenses, and costs. Mother appealed.



Holding: Affirmed in Part; Reversed and Remanded in Part

Opinion: Mother asserted the trial court abused its discretion in failing to award interest on the accrued past-due child support. The Family Code requires a trial court to render a cumulative money judgment that includes interest. The trial court failed in its duty as a scrivener to render that cumulative money judgment including interest.

Mother next complained that the trial court only awarded her about half of the attorney's fees sought. Whether a request for attorney's fees was reasonable was a consideration left to the trial court as a finder of fact. The absence of conflicting evidence is only one factor to be considered and does not mandate an award of the amount requested.

Mother's Obligation in Parties' MSA to Provide Health Care Documentation to Father was Not a Condition Precedent to His Obligation to Pay 50% of the Expenses.

33. *In re C.H.*, No. 02-25-00060-CV, 2026 WL 845385 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (03-26-2026).

Facts: When the Child was born, Father signed an acknowledgement of paternity. A few years later, the court signed an agreed order based on an MSA that required (1) Mother to furnish father by a date certain all documents reflecting unreimbursed portions of pre- and postnatal health care expenses; (2) Father to reimburse Mother for 50% of those expenses; and (3) both parents to communicate about the Child through AppClose. Subsequently, Mother filed a motion for enforcement, in which most of the alleged violations related to Father's failure to reimburse her for 50% of the pre- and postnatal health care expenses. Mother testified that she had provided Father with the bills, and she testified about the amounts of each bill. The bills themselves were not offered into evidence; however, the letters between the parties' attorney's discussing the amounts due were admitted. Father claimed not to have received the bills before the hearing. The court granted Mother a cumulative judgment for the unpaid expenses. Father appealed.

Holding: Affirmed.

Opinion: Father argued the trial court abused its discretion in awarding Mother unreimbursed medical expenses because Mother failed to prove she sent him the court-ordered notice of the expenses she had incurred. Father interpreted the underlying SAPCR order as to only require his reimbursement of the expenses if Mother delivered the documents as required by the order.

Applying rules of contract construction to the order, the appellate court concluded that Mother's obligation to provide documentation was not a condition precedent to Father's obligation to pay his share. The order did not contain any conditional language such as "if," "provided that," or "on condition that." Rather, the parties made covenants with each other that were not conditioned on the other. Further, Mother testified that she provided all the bills as required. She identified the Notification of Service provided to her by her attorney upon sending the information to Father's attorney. She testified that Father earned enough money to cover the expenses. Father admitted to fully understanding the MSA when he signed it. He knew the expenses were due and that he agreed to pay half of them. He did not contest the amount of the expenses.

FAMILY VIOLENCE / PROTECTIVE ORDERS
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Evidence of Wife's Continued Harassing Behavior Notwithstanding a Protective Order Supported Granting Permanent Injunctions Against Wife to Protect Husband from Such Behaviors.

34. *Walther v. Walther*, No. 02-25-00048-CV, 2026 WL 706435 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (03-12-2026).

Facts: After 40 years of marriage, Husband filed for divorce, and Wife counter petitioned. They had both been in the army for 20 years. Both parties sought a divorce on the ground of insupportability, and Wife alternatively asked for a divorce on the ground of adultery. Before filing for divorce, Husband moved to an RV. Wife was ultimately arrested for her harassing behavior that included calling, texting, emailing, and arriving uninvited at the RV. The trial court granted Husband a two-year protective order against Wife and found Wife had committed family violence.

Despite the standing orders, Wife made several substantial purchases without consulting Husband, including buying a new car, paying for cosmetic surgery, and sending their children considerable monetary gifts. Husband amended his petition to include cruelty, waste, and fraud claims and asked the court to order the sale of the marital residence and enter permanent injunctions against Wife. Wife asked for a jury trial.

On the morning of the jury trial, Wife amended her pleading to include claims for confirmation of separate property, cruel treatment, reimbursement, and attorney's fees. On Husband objection, the trial court did not permit the late amendment.

At trial, police officers testified about incidents between the parties, including the one leading to her arrest at which Wife told the officer, "I'm not here to kill him. I'm here to maim him and beat his ass." Wife physically resisted arrest and bit the officer's finger. A hatchet was found in Wife's trunk.

Before Husband moved out, the parties took out a \$200,000 cashout refinance from the marital residence to make improvements on the property. When Husband moved out, he took \$100,000 from the joint account. During the proceedings, Husband agreed to transfer the money back to the joint account. He denied that transaction was a gift to Wife. Wife testified it



was a gift, and those funds covered the above-referenced purchases. Thus, she argued she was free to make those transactions because the money was her separate property to do with as she wished.

At trial, Wife offered an unsigned version of what she asserted was the parties' agreement regarding the funds. Husband did not believe it was a copy of the same document he signed, so the court excluded it as evidence, and it was not presented to the jury. That agreement also purported to award Wife the marital residence, including the full \$200,000 cashout refinance.

Husband further testified that he had moved his RV to avoid being harassed by Wife, but she found the new location and again arrived uninvited while he was not there. He saw, via security cameras, Wife remove items from the RV and unplug its main power supply cord.

In response to Wife's adultery allegation, Husband explained that he only began seeing other women during the divorce and after Wife told him via text that she had been seeing other men. Husband acknowledged he had sex with another woman during the divorce, so Wife moved for a directed verdict on that issue. The trial court denied her request.

The jury found the evidence supported findings of insupportability and Wife's cruelty as grounds for divorce. The jury further found Husband was not guilty of adultery, Wife was guilty of cruelty, and Wife had committed fraud and waste. Wife sought a JNOV on the adultery finding, but the trial court denied that motion.

In the bench trial on the remaining issues, Husband sought a disproportionate division, an order for the sale of the marital residence, and permanent injunctions against Wife. The trial court ordered the sale of the marital residence, enjoined Wife from threatening or harassing Husband, divided the marital estate, and awarded Husband contingent appellate attorney's fees. After the court issued findings, Wife appealed.

Holding: Affirmed.

Opinion: Wife first challenged the permanent injunctions. To be entitled to a permanent injunction, the party seeking the injunction must plead and prove (1) the existence of a wrongful act, (2) the existence of imminent harm, (3) the existence of irreparable injury, and (4) the absence of an adequate remedy at law. Wife argued Husband's testimony on these elements was conclusory; however, Wife's argument focused only on the bench trial and not the entire final trial. During the jury trial, extensive evidence was heard regarding Wife's harassing and threatening behaviors that continued despite the existence of a soon-to-expire protective order. Moreover, the evidence supported findings of each of the requisite elements.

Wife next argued the trial court erred in ordering the sale of protected homestead. Homestead rights have historically enjoyed strong protections in Texas, but partition rights have also been well established. Texas courts have held that single-family homes—like the marital residence here—are not susceptible to partition in kind. If the trial court determines that the property is not susceptible to partition in kind, then it must order partition by sale. Moreover, contrary to Wife's assertion, the order did not violate any constitutional principles. "To so hold would require that the constitution should be construed to forbid a partition of land owned by tenants in common when it is resided upon by one of the co-tenants, who happens to be entitled to the homestead exemption, and it is incapable of being equitably partitioned without being sold."

In her next argument, Wife argued the court erred in excluding the unsigned agreement regarding the marital residence, which would have supported her late-pleaded claim of separate property. The trial court had several valid reasons for excluding the unsigned agreement. Husband testified that both parties had signed copies in their possession and that the signed agreement was not lost or destroyed. Wife's pleadings had made no mention of this agreement, affording Husband with no notice that it would be used at trial.

Wife complained of the award of contingent appellate attorney's fees because they were granted as part of the just and right division of the community estate rather than under the temporary-orders-pending-appeal statute. There is no legal authority to support Wife's argument.

Wife claimed the court erred in denying her JNOV. Although Husband admitted to having sex with another woman during the divorce, Wife did not claim that incident was the cause of the divorce, and she presented no evidence of adultery before Husband filed for divorce. The statute regarding adultery as grounds for divorce is a permissive statute. A court *may* grant a divorce on the grounds of insupportability, cruelty, or adultery. Notwithstanding Husband's admission, the jury was not required to find that his adultery was a ground for the parties' divorce.

Attorney's Fee Award Remanded for Further Proceedings Because Evidence Failed to Identify What Services were Performed by Whom and When for What Hourly Rates.

35. *Mahasneh v. Mahasneh*, No. 02-25-00076-CV, 2026 WL 784900 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (03-19-2026).

Facts: Before and during the parties' divorce, Father had a history of committing family violence, having protective orders imposed against him, and violating those orders. Five years after the divorce, Mother reported to the police that Father was stalking her. Another emergency protective order was imposed against Father. After an evidentiary hearing, the court granted a 30-year protective order intended to last the rest of Father's life. The court also granted a \$2250 attorney's fee award against Father to Mother. Father appealed.

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



Opinion: Father argued that the protective order did not include a finding by clear-and-convincing evidence of good cause to prohibit his communications with his children. However, the trial court made the findings necessary under Texas Code of Criminal Procedure Chapter 7B. Father also complained the court should have applied the clear-and-convincing standard as set forth in *Stary v. Etheridge*. However, his children were adults, and he provided no authority to support an assertion that a Chapter 7B protective order could not include adult children as protected persons. The court acknowledged that the youngest child turned 18 one month after the protective order hearing, however, it declined to extend a heightened standard for a single month when the order would be in effect for more than two years.

Father additionally asserted that he did not receive sufficient notice that he was being accused of stalking. Mother's application sought a Chapter 7B protective order for grounds including family violence, violation of a protective order, and stalking. Mother's application was sufficient.

Father also challenged the sufficiency of the evidence to support the issuance of the protective order. The appellate court reviewed the record and overruled this issue. Moreover, the order included the requisite findings to explain why a protective order with a duration longer than two years was appropriate.

Finally, Father challenged the amount of the attorney's fee award. Mother's attorney testified that she had been licensed since 2001 and that Father's counsel stipulated to her qualifications. She asked for an award of \$2250 for reasonable attorney's fees and \$516 in court costs. This was the entirety of the evidence. Although billing records are not required, they are strongly encouraged to prove reasonableness and necessity of fees. A claimant must prove (1) the particular services performed, (2) who performed them, (3) approximately when they were performed, (4) the reasonable time required to perform them, and (5) the reasonable hourly rate for each person performing them. Here, Mother's evidence did not meet this minimum standard. Because fees were authorized but the evidence was insufficient, the appellate court remanded this issue to the trial court.

MISCELLANEOUS

Wife Waived Due Process Complaint Regarding Time Allocation at Trial for Failing to Object in the Trial Court; Denial of Petition For Bill Of Review Affirmed Because Wife Failed to Challenge One of the Three Findings Required for Her Petition to Succeed at Trial.

36. *Nadar v. Nadar*, No. 05-25-00200-CV, 2026 WL 641485 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (03-06-2026).

Facts: About eight years ago, the appellate court affirmed the divorce decree after Wife appealed. The decree awarded certain property in Texas to Husband and certain property in India to Wife. Despite the decree, Wife continued living in the Texas home. A few years after the appellate court affirmed the decree, Husband filed a forcible entry and detainer suit in a justice court. After Husband prevailed, Wife appealed. The appellate court vacated the justice court judgment, finding it lacked jurisdiction to interpret and enforce the decree. A few years after that, Wife filed a petition for bill of review. Wife alleged fraud had been committed because Husband had overvalued the Indian property in the divorce proceeding. Husband responded with a general denial and various affirmative defenses.

Wife signed and submitted a proposed discovery plan that included a date for final trial. The trial court signed the discovery plan. Separately, the parties had filed cross motions to enforce the decree. The trial court set the enforcement trial to take place on the same day as the bill of review trial. After discussion with the parties, the court instructed the parties that it would hear the bill of review first and then proceed to the enforcement trial. Subsequently, the court issued a memorandum ruling describing the court's ruling in both proceedings. Later, a final order was signed denying Wife's petition for bill of review. On Wife's request, the court issued findings. Wife appealed.

Holding: Affirmed.

Opinion: In her first issue, Wife argued she was deprived due process in the manner in which the trial court conducted the bill of review proceeding. However, Wife failed to preserve error on a due process complaint. The court informed the parties that it would hear both matters, and the parties would each have one hour. Wife stated that she was "not sure if both matters [could] be heard at the same time." Husband disagreed. When the court advised the parties that it was up to them how to use their allotted time, Wife said, "Yes." At the close of the bill of review proceeding, Wife made a closing statement. The judge stated that it would make a ruling at the conclusion of both hearings.

Before beginning the enforcement hearing, Wife stated that she thought the limited time was not right. The judge responded that it had informed the parties that it would be moving forward on both matters and overruled Wife's objection. While Wife raised some objections, she did not raise any due process complaint and, thus, could not raise it for the first time on appeal.

In her second issue, Wife challenged the denial of her petition for bill of review "on what she perceive[d] were] erroneous findings or conclusions by the trial court as to limitations and as to finding that [Wife] failed to establish a meritorious defense or extrinsic fraud." However, Wife failed to challenge on appeal the trial court's finding that she failed to establish that the alleged fraud, accident, or mistake was unmixed with any fault or negligence of her own. Because the unchallenged finding was taken as established, and because all three elements must be established to succeed in a bill of review proceeding, the appellate court affirmed the denial of Wife's petition for bill of review.



Under the Invited Error Doctrine, Requirements of Texas Rule of Civil Procedure 10 Did Not Apply to Husband's Attorney's Withdrawal Mid-Trial Because Husband Asked for the Withdrawal on the Record; Attorney Recitals of Agreements Regarding Existence of Values of Marital Assets Sufficient to Support Judgment Because Husband Failed to Object to Method of Presentation.

37. *In re Marriage of Njipwo*, No. 07-25-00008-CV, 2026 WL 772625 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (03-18-2026).

Facts: The parties married in Africa and then moved to the US. After 20 years of marriage, Wife filed for divorce. The parties reached an MSA concerning their Children but could not agree on property issues. At a bench trial, Wife offered a spreadsheet detailing the parties assets and proposing a division. Husband did not object to using the spreadsheet and did not dispute the existence or value of any of the listed assets. The parties agreed to the existence and value of bank accounts, vehicles, retirement accounts, the marital residence, and debts. When discussion turned to an alleged second mortgage on the marital residence, Husband counsel informed the court that Husband asked her to withdraw and that Husband wanted to represent himself. The court observed the case was on the verge of resolution and suggested pressing forward. The discussion regarding the second mortgage and property division continued. When Husband's counsel said Husband would not agree to any of the proposals, the court said Husband did not have to agree and asked if Husband's attorney was withdrawing. The court instructed, "Either she's your lawyer and she does all the talking or she withdraws and you do the talking. I highly doubt it's going to be a different result, but that's completely up to you." Per Husband's request, the court signed a handwritten order permitting Husband's attorney's withdrawal, and Husband signed the order as agreed. At the trial's conclusion, the court awarded Wife an owelty lien on the marital residence and ordered Husband to refinance the mortgage and pay Wife her share of the proceeds. If Husband failed to do so by a date certain, the property was to be sold. A final decree was signed in conformity with this ruling. Husband appealed.

Holding: Affirmed.

Opinion: Husband argued the trial court erred by letting his attorney withdraw in the middle of trial. Husband focused on the requirements of Texas Rule of Civil Procedure 10 and did not address what actually occurred. Under the doctrine of invited error, Husband could not complain of the court doing what he asked it to do.

Husband next argued the evidence was insufficient to support the property division. Husband was correct that unsworn statements of counsel generally do not constitute evidence. However, Husband did not object to the fact that both attorneys went through the marital estate item by item, announcing the parties' agreements on the existence and value of each asset and debt. The court asked Husband's counsel if there were any objections to using Wife's spreadsheet, and Husband's counsel said no. Husband's attorney did not object to any of the calculated rough totals. Husband was present and raised no objection to the methods being used to receive information about the estate. Additionally, even if Husband had not waived error, Husband failed to show that any specific error had more than a de minimis effect on the overall property division.

Vexatious-Litigant Finding Struck Because Wife Had Only Filed Four Separate Pro Se Litigations, Where the Statute Requires Five.

38. *Sexton v. Sexton*, No. 14-25-00331-CV, 2026 WL 879351 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (03-31-2026).

Facts: Husband filed for divorce and sought orders for the parties' Child. Wife counter-petitioned for divorce and filed a personal injury suit against Husband. On Husband's request, the personal-injury suit was consolidated with the divorce. In an amended petition, Husband alleged Wife had filed four other cases and asked the court to find Wife was a vexatious litigant.

Husband succeeded on a summary judgment on the personal injury claims. A jury found Wife had engaged in a history or pattern of family violence and in a pattern or practice of child abuse or neglect. The court adopted the verdict and signed a final divorce decree that included a declaration that Wife was vexatious litigant. Wife appealed pro se. Although she filed a statement of indigency, the trial court challenged that statement. After an evidentiary hearing, the court found Wife had been awarded sufficient property in the divorce to enable her to pay costs.

Holding: Affirmed as Modified.

Opinion: Wife argued the trial court erred in finding her to be not indigent; however, she had already appealed that issue, and the appellate court had already affirmed that ruling. Wife additionally challenged the temporary orders; however, temporary orders are rendered moot by a final judgment. Wife further challenged the provisions related to possession and access; however, the Child had reached the age of eighteen during the pendency of the appeal, mooted those complaints.

Because the appellate record contained no reporter's record for the jury trial, the appellate court was required to presume the evidence presented was sufficient to support the jury's verdict. Thus, the appellate court overruled all of Wife's issues except her personal-injury claim and the vexatious-litigant finding because those two issues could be reviewed without a reporter's record.



The trial court granted a no-evidence summary judgment in Husband's favor against Wife's claims for battery and for assault by bodily injury, by threats of bodily injury, and by offensive physical contact. Wife did not raise the same complaints on appeal as she did at trial. Thus, she did not preserve her appellate complaints for review.

Finally, Wife challenged the vexatious litigant finding—a determination that has serious consequences. For a plaintiff to be found a vexatious litigant, the defendant must show there is no reasonable probability the plaintiff will prevail in the current litigation, and that another statutory requirement has been satisfied. There are several alternatives for meeting the second requirement, but one way to do so is to prove that in the seven years immediately preceding the date of the defendant's motion, the plaintiff "has commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in a small claims court that have been," as relevant here, "finally determined adversely to the plaintiff."

In Husband's petition, he identified four litigations initiated by Wife and asked for a vexatious litigant finding. Wife moved to strike the request because the statute requires five litigations. Additionally, an appellate proceeding is not a separate litigation but a continuation of the same civil case that began in the trial court. Despite the lack of a reporter's record, the trial court may only consider evidence material to the ground of the motion. Husband raised only the one ground, one which the law does not recognize. Thus, the trial court erred as a matter of law in finding Wife was a vexatious litigant.

