

SEPTEMBER 2026 CASELAW UPDATE

(Cases from August 1–31, 2026)

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**DIVORCE:
PROCEDURE AND JURISDICTION**

Court Lacked Plenary Power to Grant New Trial Five Months After Signing Decree.

1. *In re Medina*, No. 14-26-00691-CV, 2026 WL 2239975 (Tex. App.—Houston [14th Dist.] 2026, orig. proceeding) (mem. op.) (08-04-2026).

Facts: Wife filed for divorce and personally served Husband. The case was reset several times due, in part, to Husband's cognitive issues. Eventually, the trial court signed a final decree of divorce. More than four months after the expiration of the court's plenary power, Husband filed a motion for new trial, asserting he never received notice of the signed final decree. A few weeks later, the court signed an order granting Husband a new trial. Wife filed a petition for writ of mandamus.

[The opinion references "relator's guardianship" but does not explain why it, or its dismissal, was relevant to the divorce. It is not clear whether relator (Wife) was the petitioner in the guardianship proceeding (maybe over husband?), or whether someone was seeking guardianship of her.]

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Because the trial court lacked plenary power in the divorce, it could not grant a new trial. The order granting a new trial was void.

Father Failed to Establish Divorce Decree was Void, so the Trial Court Did Not Abuse Its Discretion in Denying His Petition for Bill of Review Filed More than Seven Years After the Decree was Signed.

2. *Von Bielka v. Von Bielka*, No. 14-25-00207-CV, 2026 WL 2339719 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: The parties married in the Czech Republic. Mother filed for divorce in Texas. When the process server was unable to serve Father, Mother obtained an order for substituted service. Mother later obtained a default divorce decree.

More than seven years later, Father filed a petition for bill of review, claiming (1) he was not served with citation, (2) neither party satisfied the Family Code's domiciliary and residency requirements for a divorce, and (3) Mother's fraud in failing to serve him tolled the discovery period.

At the bill of review trial, Father testified he and Mother moved to Texas about 15 years before the divorce. Two years before the divorce, Mother returned to the Czech Republic with the Child. According to Father, the Child attended school in the Czech Republic during the divorce proceedings, and Mother lived there with the Child.

Mother testified that she visited the Czech Republic with the Child two years before the divorce and because Father had taken the Child's passport, Mother had to leave the Child with her mother when Mother returned to Texas. She did not "move" to the Czech Republic. She worked as a dancer in Texas to make money and traveled frequently to visit her son and family. In the year before the divorce, she spent about 50 days in the Czech Republic. A month after the decree was signed, she met Father in person to hand him a copy of the order. Father acknowledged meeting Mother that day but denied that she gave him a copy of the order and claimed not to recognize the decree and called his signature on the receipt a fake. Mother also offered into evidence an email to Father from the OAG reflecting child support arrearages incurred due to the child support order contained in the divorce decree.

The trial court denied the bill of review with respect to the divorce and issued findings, including findings that Mother was a credible witness and Father was not. The parties agreed the child-related provisions of the decree were void; however, the court found that Father's bill of review was not timely filed, so the court had no authority to grant it. Father appealed.

Holding: Affirmed.

Opinion: A judgment is void when the court rendering it had no jurisdiction over the parties or property, no jurisdiction over the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act. A litigant may attack a void judgment directly or collaterally. A collateral attack may be brought at any time. Yet, when attacked collaterally, a judgment is presumed valid. Because Father raised two jurisdictional challenges in the petition for bill of review, the appellate court considered the issues despite Father's untimely filing of his petition for bill of review.

Father first asserted that attaching the petition to a door in Texas was not legal service because he resided and was physically located in the Czech Republic at the time the suit was filed and service was attempted. He argued Mother was required to follow the rule regarding service of process in a foreign country. The decree recited that Father was properly served. The appellate court presumed this to be true, and Father failed to offer a full record to dispute this presumption.

Moreover, a defendant who was improperly served but had actual notice of the judgment cannot argue that defective service alone makes a default judgment void. Here, there was evidence Father had actual notice of the decree when Mother hand delivered it to him. The trial court found Father's contrary testimony not credible.



Contrary to Father's assertions, the domiciliary and residency requirements are not jurisdictional. Thus, a judgment based on purportedly false testimony regarding these requirements is not void and not subject to collateral attack. Any complaint regarding this failing would have to have been timely made through a direct appeal.

Divorce Dismissed Because Husband Failed to Establish Wife Intended to Make Texas Her Domicile.

3. *Rullman v. Rullman*, No. 02-25-00370-CV, 2026 WL 2356760 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: The parties married in Idaho in the early 90s. About 20 years later, they moved to Colorado, where they lived for a bit over 10 years. Husband never lived in Texas. The parties purchased rental homes across the US and jointly owned homes in five states, including Texas. They rented a Texas home to their daughter while the daughter attended college nearby. Husband and Wife would stay with the daughter at the rental home when visiting. The parties also travelled “extensively” to other states, including Hawaii. When the couple began facing marital issues, Wife moved out of the marital residence in Colorado and stayed with their daughter in Texas. The parties continued traveling together and returned to their Colorado home. After a “falling out,” Wife left for the daughter’s home in Texas. Three months later, Husband filed for divorce in Texas asserting Wife had been a resident of the county for 90 days and had been living in Texas for six months. In a special appearance and plea to the jurisdiction, Wife disputed this claim and asserted she was a resident of Colorado.

A visiting judge denied Wife’s special appearance and plea to the jurisdiction, so she filed a motion to reconsider. The presiding judge heard Wife’s motion, granted her plea to the jurisdiction, and dismissed the divorce suit. The court issued findings, and Husband appealed.

Holding: Affirmed.

Opinion: Under the Family Code, being a “resident of the county in which suit is filed” means actual, physical, continuous living in the county of suit for the specified ninety-day period, coupled with a good-faith intent to remain and make that county home, and the intent must be accompanied by some act done in the execution of the intent.

While Husband cited some evidence to support his claim Wife intended to remain in Texas, Wife presented conflicting evidence. The trial court did not abuse its discretion merely because it based its decision on Wife’s evidence. Wife testified she never intended to be domiciled in Texas. During the relevant statutory period, Wife maintained a presence in Colorado and intended to keep Colorado as her permanent home. Her income tax, and multiple other documents, showed her residence was in Colorado. She had a therapist, a dentist, and health insurance in Colorado. She was registered to vote in Colorado and kept a Colorado drivers’ license.

Trial Court Lacked Authority to Order Husband to Wind Up Parties’ LLC when LLC was Not a Party to the Divorce Proceeding; Because Husband Failed to Trace Source of Funds in His Allegedly Separate-Property Bank Account, the Jury Erred in Finding Husband’s Separate Funds Benefited the Parties’ Community Estate.

4. *Lee v. Lundquist*, No. 04-25-00376-CV, 2026 WL 2507836 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (08-26-2026).

Facts: During the parties’ four-year marriage, they formed an LLC, in which Wife held a 64% membership interest, and Husband held a 36% interest. The parties purchased a duplex (LLC Property) that was conveyed to the LLC as its sole asset. In their divorce, the parties presented to a jury the question of characterization of the LLC and duplex. Wife focused on tracing the purchase of the duplex, while Husband countered that the issue was ownership of LLC interests, not the real property. The jury found (1) the parties’ membership interests in the LLC were community property, (2) Husband’s separate estate conferred a benefit on the community estate by payment of mortgage on another community real property (Other Property), and (3) Husband’s separate estate conferred a benefit on the community due to its payment of income tax debt.

The final decree appointed a receiver to sell the Other Property and ordered the proceeds to be distributed with 35% of the sales price to Wife, 15% of the sales price to Husband as compensation for separate interests, and the remaining net proceeds were awarded to Husband. Husband was directed to wind up the LLC and distribute its proceeds 60% to Husband and 40% to Wife. The court found Husband’s separate estate was entitled to reimbursement from the community estate as determined by the jury and that claim was satisfied as part of the just and right division. Wife appealed.

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

Opinion: Wife first challenged the finding that the membership interests in the LLC were entirely community property. Because the LLC was formed during marriage, and the parties purchased their respective interests during marriage, the LLC was presumptively community property. Wife had the burden to rebut that presumption with clear and convincing evidence. To prevail on appeal, Wife was required to show she rebutted the presumption as a matter of law. Wife asserted that because the LLC’s sole asset was purchased with her separate property funds, she was entitled to not only her 64% interest but also Husband’s 36% remaining interest. First, the membership interests were issued before the LLC Property was purchased, and second,



property belonging to an LLC is neither community nor separate property because it is not property of the marital estate. Thus, Wife could not trace her separate property ownership of the LLC Property because once it was transferred to the LLC, it lost its separate character.

Wife additionally argued the jury charge was incorrect regarding tracing. However, she failed to preserve that issue for appeal by failing to present her objections to the trial court in writing or dictate them to the court reporter before the charge was read to the jury. Wife did not file a proposed jury charge or offer one for the record. She did not present any proposed questions, definitions, or instructions to the court. The record did not reflect any objection from Wife regarding the jury charge.

Wife next argued the court erred in ordering a wind-up of the LLC when the LLC was not a party before the court. The trial court in this divorce proceeding only had authority to divide Husband's and Wife's interest in LLC. It had no authority to wind up and dissolve the LLC. The property subject to division was the parties' interest in the LLC, not the assets of the LLC.

Wife next challenged the reimbursement findings, arguing there was no evidence to support the finding that Husband's separate funds were used to benefit the community estate. Husband testified that the funds used to pay the taxes and mortgage originated from his separate VA disability benefit payments and military retirement benefits earned before marriage. He acknowledged some co-mingling of funds had occurred. Husband also testified his father loaned him money to pay tax obligations. His father corroborated this testimony, but there was limited documentary evidence regarding the loan. While documentary evidence showed payments came from Husband's USAA account, Husband offered no evidence to establish the source of the funds in that account. Husband failed to clearly trace the funds. Thus, the evidence was legally insufficient to support the reimbursement findings. Because this error materially affected the just and right division, the entire division was remanded for further proceedings.

DIVORCE: INFORMAL MARRIAGE

Wife Presented Sufficient Evidence to Support Finding that She and Decedent Informally Remarried After Their Divorce.

5. *In re Estate of Gonzalez*, No. 12-25-00237-CV, 2026 WL 2444709 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (08-19-2026).

Facts: Husband died intestate, and his Son filed an application for independent administration of Husband's estate. Wife filed a counterapplication asserting she was Husband's spouse. Wife claimed that although she and Husband divorced, they became informally re-married after the divorce. Son filed a motion in limine challenging Wife's standing to seek appointment as administrator of Husband's estate.

At a hearing intended to hear the contesting applications, Son asked the court to consider his challenge to Wife's standing. The court heard evidence and found Wife was Husband's spouse. The case was then set for a bench trial at a later date. After the court signed a written order finding Wife was Husband's spouse, Son filed a jury demand and paid the requisite fee. Wife objected to this request as being untimely. The trial court signed an order finding Son waived his right to a jury trial. The appellate court and Texas Supreme Court denied Son's petition for writ of mandamus on this question.

The trial court conducted a trial on the competing applications for administration and determination of heirship. The trial court refused to hear Son's evidence regarding whether an informal marriage existed, noting it had already rendered judgment on that issue. Son made an offer of proof. The court signed a final order declaring Wife as Husband's spouse and confirming Husband's three children as heirs. Son appealed.

Holding: Affirmed.

Opinion: Son first challenged the trial court's denial of his motion in limine. To determine a challenge to standing in a contested heirship proceeding, the proper procedure is for the trial court to conduct an in limine hearing. This step is necessary because an "interested person" may participate in an estate administration or contest issues in that administration.

At the in limine hearing, Wife presented several witnesses and evidence of her relationship with Husband after their divorce. They lived in the same residence before and after the divorce. They held themselves out as husband and wife in public with friends, family, and coworkers. She received health insurance through Husband's employer. She was listed as Husband's spouse on his 401k and was a beneficiary of Husband's pension plan. She visited Husband daily in the intensive care unit prior to his passing from COVID and paid for his funeral services. Husband's death certificate listed her as his wife. She was the beneficiary of his life insurance policies. The couple filed taxes separately throughout their relationship (even during their formal marriage) due to "tax issues." Although Husband's daughters denied the existence of an informal marriage, they admitted to listing Husband as married on their life insurance claim forms. They also admitted Husband and Wife owned real property together and shared a bank account. One of the daughters testified that Husband and Wife stayed the night with each other at family events. Husband and Wife continued wearing wedding rings after the divorce, though there was some disputed testimony regarding this fact. Other non-interested witnesses testified in support of Wife's claim. Son's only witnesses were Husband's daughters. The trial court did not abuse its discretion in finding Husband and Wife were informally married.

Son also challenged the denial of his jury demand for a trial by jury on the issue of the informal marriage. The court initiated the in limine hearing on this issue without a jury demand on file. The issue was already heard and resolved by the time Son filed his jury demand. The request was untimely and waived.



Son finally challenged the trial court's refusal to hear further evidence on the existence of a marriage at the final bench trial. The heirship proceeding was contested as to the existence of an informal marriage, and Son was entitled to present evidence on this issue at the final trial. The trial court believed the issue was finalized; however, both parties should have been allowed to present additional evidence at the final trial. The court abused its discretion in refusing to allow Son to present his evidence. Yet, the error would only be reversible if the exclusion of the evidence probably resulted in the rendition of an improper judgment.

Son claimed that his offer of proof outlined witness testimony that Husband did not intend to remarry and that Husband and Wife did not hold themselves out as married. The appellate court disagreed and held that Son's proffered testimony did not negate Wife's testimony and failed to add significantly to the testimony already presented from Husband's daughters. In addition to the evidence above, the court referenced "perhaps most notably, [Husband] is interred in [Wife's] family burial plots." The trial court's error of excluding evidence in this case was harmless

DIVORCE:
GROUND FOR DIVORCE/ANNULMENT

Evidence Supporting Granting an Annulment Because Husband Only Married Wife for Immigration Benefits.

6. *Williams v. McLeod*, No. 02-26-00030-CV, 2026 WL 2450544 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (08-20-2026).

Facts: Husband and Wife met on a cruise in Honduras. Husband told Wife she was the most beautiful woman he had ever met and that she was his soulmate. Within a month, he proposed marriage. Wife was a veteran with several health issues, and Husband promised to care for her as she recovered from medical and surgical procedures. Although Wife was hesitant, Husband was persistent. He went so far as to introduce Wife to others as his fiancée before she accepted. Eventually, Wife accepted the proposal.

From the time they met and throughout their engagement, Husband pressured Wife to help him with his immigration to the US. He explained he wanted to be with her quickly, but his work visa had been denied. He asked Wife to hire an attorney to apply for a fiancé visa.

Almost immediately after marriage, Husband's attitude changed. His affection waned, and he failed to follow through on promises. He took an offshore job and did not assist Wife with her medical recovery. Husband eventually became violent and told Wife he was no longer attracted to her because she had a fat stomach and was "stiff" due to disabilities. Husband listed another woman as his emergency contact on a job application. Husband demanded Wife sign his ten-year green card application paperwork. When Wife refused, Husband left with all his belongings. Wife filed a petition for annulment the next day. Husband responded by requesting a "quick divorce so he [could] keep his immigration benefits." After a final trial, the court granted the annulment. Husband appealed.

Holding: Affirmed.

Opinion: Husband argued the evidence was insufficient to support a finding Wife was induced into marriage or was injured. The Family Code permits an annulment when one party used fraud, duress, or force to induce the other party into marriage, and the innocent party did not cohabit with the other party after learning of the fraud or after being released from the duress or force.

Here, Husband asked Wife to marry him multiple times within their first month of meeting, pressured her to complete immigration paperwork, became less caring after the marriage, and left Wife when she refused to sign additional immigration paperwork. Wife married Husband based on his promises to care for her and support her through her medical challenges. She invested her own funds to assist him in obtaining his immigration privileges. Wife testified that the couple did not cohabit after she learned of his fraud.

Although Husband's story differed from Wife's, the trial court was free to believe Wife and disbelieve Husband. Husband claimed the couple instantly fell in love but claimed he did not bring up marriage until five months after they were dating. However, in a written message one month after they met, Husband asked Wife if she was ready to get married. Husband blamed Wife for distance between them. Overall, the trial court did not abuse its discretion in determining Husband fraudulently induced Wife to marry him.

Husband additionally argued the trial court abused its discretion in admitting (1) a copy of his job application and (2) Wife's testimony that she believed Husband knew he was making false material misrepresentations before marriage. With respect to the first, Husband raised a different argument on appeal than what was raised in the trial court and, thus, waived the appellate complaint. With respect to the second, Wife was not asked to speculate about Husband's state of mind but about her beliefs about Husband based on Husband's promises and their experiences together. Wife's beliefs were within her personal knowledge. Moreover, based on the testimony as a whole, Wife's belief was reasonable.



**DIVORCE:
DISCOVERY**

Because Discovery Master Found that Husband Had Substantially Complied with Discovery Requests and Wife was Able to Question Husband Extensively at Trial Regarding His Businesses, Investments, and Transactions, Wife was Unable to Show Harm as a Result of Trial Court's Refusal to Extend Discovery Deadlines when Granting Wife a Continuance of Trial.

7. *Cooper v. Cooper*, No. 05-24-00766-CV, 2026 WL 2286507 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-07-2026).

Facts: The parties were married for 23 years. They did not enter the marriage with sizable assets but accumulated a sizeable community estate during the marriage. Wife sought a disproportionate share of the community estate and raised numerous claims, including waste and adultery. Wife also brought an IIED claim based in part on the transmission to her of a sexually transmitted disease.

During discovery, Wife asserted Husband failed to produce complete records of his finances and was taking actions in violation of the standing orders. A discovery master was appointed, and that master made several findings, including that both parties had failed to timely supplement discovery requests, but that this failure had not materially affected either party's ability to evaluate the nature and extent of the community estate. The discovery master also found that Wife's failure to be prepared for trial or lack of understanding of the community estate was not the result of Husband's resistance to discovery.

As trial approached, Wife claimed she still had not received certain critical documents and moved for a continuance. The court granted the continuance of trial but did not alter the date for the close of discovery. Wife alleged Husband was disbursing funds, but the trial court denied her request for an emergency TRO. Wife attempted to amend her petition to add certain entities as parties, but the court held that discovery was closed and struck her amended petition.

The case was tried to a jury. Husband testified the parties had a lavish lifestyle they could not afford, requiring them to borrow large sums of money from various sources, including nearly \$2 million from his mother. Husband admitted to having an affair during marriage. Although he advised Wife of their financial situation, she continued spending exorbitant amounts of money. When Husband's mother could no longer afford to lend the parties money, a portion of the parties' investment in a company was sold to Husband's mother to open up a new money source for the couple. Husband consolidated a few loans and acquired a lower interest rate. Wife was able to question Husband extensively on his businesses, investments, and transactions.

Wife testified about a high-risk HPV diagnosis and the effects of her Crohn's disease on her ability to work. She attempted to return to work as a litigator, but she lost the job due to time demands. She noted that during the divorce litigation Husband upgraded his country club membership, made a down payment on a new home, took out a mortgage, and installed a putting green and trampoline at his home. She claimed to owe significant debts to her friends and family and for legal fees. She claimed Husband controlled entities and used them to deny her access to funds. Wife began dating after the divorce had been filed.

The jury returned a unanimous verdict with 105 specific answers, including that both parties committed adultery, neither party committed fraud, corporate identities should not be disregarded, Husband was not liable for IIED, and Wife was not entitled to damages. The trial court signed a final decree over Wife's objections, and she appealed.

Holding: Affirmed.

Opinion: Wife first argued the trial court abused its discretion in freezing discovery well before the actual trial date and in failing to enforce its discovery orders against Husband. The discovery master's report found that Wife was not prejudiced by any noncompliance. The report found Wife was not in substantial compliance with her discovery obligations. The trial court's adoption of this discovery report was not an abuse of discretion.

Under a Level 2 discovery plan, a court may modify a discovery plan at any time and must do so when the interest of justice requires. When the trial court granted a continuance but did not extend discovery deadlines, the discovery master's report was before the court. In addition to the above findings, the discovery master found that further probes into alleged waste would impose undue burden and harassment outweighing its probative value. Under these facts, the trial court did not abuse its discretion in refusing to extend discovery deadlines. Moreover, Wife failed to show that the lack of discovery hindered her ability to present her issues at trial and, thus, failed to establish how she was harmed by any alleged error.

Wife next argued the trial court made erroneous rulings regarding evidence that deprived the jury of relevant facts and resulted in an unjust verdict. Wife asserted that excluded evidence called Husband's credibility into question. At trial, the court denied Wife's attempt to publish the standing orders to the jury to support her claim that Husband's actions violated those orders. However, Wife was permitted to respond to the question that included the phrase, "the parties are not allowed to move funds." Wife testified about Husband's expenses during the divorce. Wife suffered no harm from the exclusion of the standing orders.

The trial court also excluded airline business records on a hearsay objection. Wife's appellate argument did not comport with her argument at trial, so the appellate complaint was not preserved.

The court limited Wife's forensic expert's testimony to 30 minutes, which Wife argued nullified the testimony because it was hardly sufficient to address all of Wife's issues. Wife further complained that the court refused to allow the expert to refer to his notes while testifying. However, Wife made no offer of proof at trial. Further, the restriction on this expert's documentary summaries was a direct result of Wife's failure to comply with the expert disclosure rules. Wife disclosed underlying documents, but she did not produce or disclose which documents the expert was relying upon in testifying. The trial court did not abuse its discretion in preventing the expert from reading from his summaries while testifying.



Wife complained that the court erred in excluding a rebuttal fact witness because the witness had not been disclosed. Wife argued the need for that witness could not reasonably have been anticipated before trial. Wife asserted the rebuttal witness was necessary to refute Husband's allegation she beat him with a belt buckle. However, Wife admitted to slapping Husband, and this evidence would not have materially affected a dispositive issue in the case.

Wife further complained of the exclusion of a medical witness to testify about Wife's HPV diagnosis. Wife testified about the diagnosis, and Husband admitted to having an affair. The medical testimony would have been cumulative of other testimony.

Wife finally challenged the court's adoption of Husband's proposed final decree. While Wife argued the evidence was legally insufficient to support the verdict regarding Husband's lack of fraudulent conduct, Husband produced evidence to rebut her claims that transfers occurred without her knowledge or consent. The appellate court could not substitute its judgment for that of the jury.

Wife alleged an equal division of the community estate was unjust because the court failed to take into account relevant *Murff* factors. The *Murff* factors are factors the court *may* consider in determining a just and right division. The court is not required to consider each factor. Moreover, in this case, the court was guided by the 105 answers provided by the jury. The trial court did not abuse its discretion in dividing the community estate 50/50. Further, the trial court did not abuse its discretion by directing Husband's attorney to draft a final decree consistent with the jury's verdict and the court's oral pronouncements.

**DIVORCE:
ALTERNATIVE DISPUTE RESOLUTION**

Court's Oral Statements that It "Will" Grant the Divorce and Request for Mother's Attorney to Prepare Orders, Viewed in Context, Indicated a Present Rendition on the Parties' Oral Agreements.

8. *In re Marriage of Kreiling*, No. 07-26-00125-CV, 2026 WL 2559966 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (08-28-2026).

Facts: When the parties' divorce was called to trial, they announced they had mostly settled their case. The agreement was read into the record, but three issues remained unresolved: a geographic restriction on the Children's residence, attorney's fees, and spousal maintenance. After hearing evidence, the court approved the agreement, imposed a geographic restriction, awarded Mother \$3500 in attorney's fees and denied Mother's request for spousal maintenance. The court instructed Mother's attorney to prepare a final order.

Mother's attorney filed a notice of hearing on the motion to enter. However, subsequently, Mother, proceeding pro se, filed objections to the entry of the decree. The court declined to hear Mother's attempts to offer new evidence or modify the court's earlier ruling. A decree was signed, and Mother's motion for new trial was overruled by operation of law. Mother appealed.

Holding: Affirmed.

Opinion: Mother asserted the trial court erred in signing an agreed judgment after she revoked her agreement. However, the court rendered judgment on the parties' agreement well before Mother attempted to revoke her agreement.

At the conclusion of trial, the judge stated, "the court will grant the divorce," "will approve all the agreements that the parties have agreed to in regard to the children," and "will approve and find that it was a fair and equitable property division that the parties have agreed to." Then, the judge announced her ruling on the contested issues, followed by a question to Mother's attorney, "Is there anything that the court has left off?" The judge instructed Mother's attorney to "prepare the orders." The trial court's statements in this case, when viewed in the context in which they were made, indicate a present intent to render a full, final, and complete judgment.

Mother next argued the decree did not conform to the live pleadings because her amended petition sought sole managing conservatorship, supervised possession, pleaded family violence, requested a disproportionate division, and pleaded fraud on the community and reconstitution of the community estate. However, Mother testified at the final hearing that she and Father reached an agreement. She did not allege fraud, collusion, or misrepresentation. She did not identify an abuse of discretion.

Mother further argued the trial court abused its discretion in appointing Father as a joint managing conservator despite evidence of family violence. A single incident of physical abuse proven is not automatically a history of physical abuse. The parties announced an agreement to joint managing conservatorship. Even assuming she did not invite the error of which she complained, the court heard evidence of Father's contact with the Children after the allegations, and Father had not been indicted for any crime. Even if the court considered that evidence, it had the discretion to determine the incident did not constitute evidence of a history or pattern of abuse.

Finally, Mother challenged the property division because the court proceeded while discovery remained incomplete. The record showed Mother obtained an order compelling discovery a few months before trial. However, she announced ready at trial without bringing any discovery matters to the court's attention. Thus, the issue was not preserved for appeal.



Wife Failed to Provide Any Evidence or Authorities to Support Her Claim that the Parties' MSA Should Have Been Set Aside Based on Alleged Nondisclosure.

9. *In re Marriage of Brennan and Ralston*, No. 13-24-00520-CV, 2026 WL 2541897 (Tex. App.—Corpus Christi—Edinburg 2026, no pet. h.) (mem. op.) (08-28-2026).

Facts: During the course of the parties' divorce, Husband filed a motion to sign a final decree of divorce indicating the parties settled their issues through mediation and signed an MSA. Less than a month later, Wife filed a motion to set aside the MSA and asked for a contested trial setting. Wife argued the MSA was unenforceable and should be set aside because the parties came to an agreement without a full disclosure of the marital property. Wife complained that her business valuation expert experienced difficulties getting necessary financial data from Husband. At a hearing on the parties' competing motions, Wife argued the MSA imposed a duty of disclosure on Husband. Wife attempted to enter an affidavit from her expert, but Husband objected on the ground of hearsay and noted the expert was not present. Wife's attorney responded the affidavit was "sworn." The court explained that the expert was not subject to cross-examination and sustained Husband's objection.

Husband asserted all requested documents had been produced, Wife's expert came in person to review the documents, and Husband was made available for interview, contrary to Wife's claim otherwise. The general counsel for the business also testified that Wife's expert was allowed to review unredacted financial documents in person with Husband and general counsel available to answer any questions. The expert was provided redacted documents when he left, and the business received no further requests for information. Husband's attorney's paralegal testified that all documents were provided via Dropbox and that the firm never received a request for a deposition of Husband or any requests from Wife's expert. However, the paralegal admitted she only provided the Dropbox link to Wife's previous attorney and did not know whether Wife's expert received it. Another attorney employed by the business testified that all requested documents were provided, and he was unaware of any complaints. Husband testified he was a minority owner in the business and needed permission from other members to share financial information. Husband was present when the expert reviewed unredacted financial records and testified there was no asset he failed to disclose.

At the hearing's conclusion, Husband's counsel asked the court to deny Wife's motion to set aside the MSA and to issue a finding regarding Wife's expert's affidavit being false. The court granted Husband's requests. Wife appealed.

Holding: Affirmed.

Opinion: The appellate court construed Wife's first argument as asserting the trial court abused its discretion in failing to set aside the MSA. Wife incorrectly characterized her expert's affidavit as being "before" the court. The court sustained Husband's hearsay objection to the affidavit, and on appeal, Wife did not challenge that evidentiary ruling. Wife additionally argued the invited error doctrine applied because Husband asked for a finding based on the allegations in Wife's expert's affidavit. The invited-error doctrine is inapplicable to this case because Husband made no request for the trial court to admit the affidavit or allow Wife to rely on it as evidence. Instead, Husband maintained at the trial court the affidavit was both hearsay and false, and his position on appeal is consistent with the position he had taken all along. Moreover, even if the affidavit was "considered," the trial court as factfinder was free to take Husband's evidence as true and contrary to the allegations in the affidavit.

After the affidavit was excluded, Wife presented no evidence or authorities to support her claim that a party failed to disclose substantial assets or any other basis to set aside the MSA. Wife failed to carry her burden, and the trial court did not abuse its discretion in denying her motion.

In what the court construed as Wife's second issue, she disputed the court's finding that her expert's affidavit contained false statements. Husband responded the finding was irrelevant since the affidavit was not admitted into evidence. Even if the court erred in making the finding, any error was harmless. The inclusion or exclusion of the finding did not probably cause the rendition of an improper judgment.

**DIVORCE:
PROPERTY AGREEMENTS**

Wife's Physical Fear of Husband Supported Finding She Signed Premarital Agreement Involuntarily; Characterization of Attorney's Fees as "Necessaries" in Non-Enforcement Proceeding Struck from Divorce Decree.

10. *In re S.V.M.*, No. 05-24-01117-CV, 2026 WL 2395611 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-17-2026).

Facts: The day before they married, Husband drove Wife to an attorney's office, where they signed a premarital agreement that purported to identify the parties' separate property and stated an intention for no community property to be created. During the marriage, the couple had two Children, and Wife was a stay-at-home mother. The couple acquired nine parcels of real estate that Husband managed as rental properties. Wife initiated a divorce, and Husband counter petitioned. In a bifurcated proceeding, the court first addressed the validity of the premarital agreement. The court found Wife did not sign it voluntarily and set it aside. After final trial, the court mostly accepted Wife's proposed property division and signed a final decree. Although Husband requested findings, none were issued before Husband appealed.

Holding: Affirmed as Modified.



Opinion: Husband first challenged the lack of findings. However, the appeal was abated for entry of findings, and the trial court complied. Husband requested additional findings, but the trial court verified that no further findings were appropriate. In further appellate briefing, Husband challenged the lack of additional findings.

Here, the “amended” findings requested by Husband essentially asked the trial court to reverse its judgment. For example, he proposed that the court find he was a credible witness and Wife was not. The requested findings were completely contrary to the previous findings, and the trial court did not abuse its discretion in refusing to make them. Additionally, Husband requested findings regarding property for which no disputed evidence was presented. Husband was not entitled to such findings. The court made findings on the controlling issues, and Husband was able to present his appeal. Husband was not left to guess at the reasoning behind the decree and was not harmed by any alleged lack of findings.

Husband next challenged the trial court’s decision to set aside the premarital agreement. A premarital agreement may be set aside if it was not signed voluntarily. Husband did not tell Wife about the premarital agreement until they were driving halfway across Texas to be married. He told her he would share embarrassing personal information with her family if she did not sign. Wife did not see the 33-page document until arriving at the attorney’s office. Wife did not have the advice of counsel. Despite the recitation in the agreement, Wife did not receive a disclosure of Husband’s property before signing. The couple was only at the attorney’s office for 30 minutes, and Wife was unable to read the agreement in that time. While they were at the attorney’s office, Husband was extremely aggressive and hovered over her. Wife expressed being in fear at the time. Wife testified Husband assaulted her the weekend before they signed the agreement, leaving bruises of which Wife produced photos. Wife testified she felt physically afraid of Husband. Overall, the trial court did not abuse its discretion in finding Wife did not sign the agreement voluntarily.

Husband additionally challenged the division of the community estate. During the divorce proceedings, Husband fully depleted a retirement account in violation of the court’s standing order. In its division, the court assigned the value of the account pre-withdrawals to Husband. The appellate court found this was not an abuse of discretion. The trial court also accounted for funds spent by the parties during litigation, and Husband spent almost twice the amount spent by Wife. The appellate court determined the trial court acted fairly in doing so.

Finally, Husband challenged an award of attorney’s fees to Wife. He challenged the award itself and the amount of the award. The attorney’s fee award was less than the amount requested by Wife. Husband did not raise any questions concerning attorney’s fees or Wife’s attorney’s billing records. Although Husband complained on appeal that there were two unidentified individuals on Wife’s attorney’s billing records, the amount awarded was supported by the evidence offered for identified individuals.

However, the attorney’s fee award was mischaracterized as “necessaries” which could be enforceable by contempt. The appellate court modified the decree by striking the phrase “which were necessary as support for [Wife] and the children the subject of this suit.”

**DIVORCE:
PROPERTY DIVISION**

Because Wife Failed to Offer Sufficient Evidence to Establish Her Company’s Income or Expenses, the Trial Court Did Not Abuse Its Discretion in Determining Husband was Entitled to a Percentage of Wife’s Business’s Gross Receipts.

11. *Truong v. Hoang*, No. 01-24-00536-CV, 2026 WL 2234157 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (08-04-2026).

Facts: Before marriage, Wife incorporated her nail salon. The divorce petition was filed about a year into the marriage, and the proceedings lasted about three years. In Wife’s live pleading for divorce, she alleged the nail salon was her separate property and that Husband had committed fraud and theft. She additionally asserted there was no community estate. Husband countered that Wife committed fraud on the community estate by using her salon as her personal “piggy bank.” He asked the court to divide the community estate in a just and right manner and joined Wife’s salon as a party to the divorce.

The court appointed a receiver to manage the salon’s day-to-day business and accounting. Wife’s sworn inventory assigned a negative value to the salon due to debts. Husband did not know the value. In the receiver’s report, he stated that the income of the salon could not be assessed because of Wife’s unreliable reporting and failure to produce bank statements or other documentation.

At trial, the court stated that it would determine the salon’s income during the short marriage and determine the amount of that income to which Husband was entitled. Wife presented an expert witness to testify about her tax returns, but that expert had not audited the business.

In its rendition, the court stated there was insufficient evidence to support labor expenses due to the cash-transaction nature of Wife’s business. Based on the limited evidence before it, the court made findings for the amount of money to which Husband was entitled for each separate year of marriage and specifically found that the taxable income for those years was for the federal government to determine. After Wife’s motion for new trial was overruled by operation of law, she appealed.

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

Opinion: Wife (and her salon) asserted the trial court erred in awarding Husband a money judgment representing his share of the community’s income. Wife argued the trial court ignored her expenses and applied an arbitrary multiplier to the salon’s gross



receipts to reach its determination for the judgment. Wife, as the party seeking to reduce the value of the community-property income by claiming business expenses, bore the burden of proving those expenses. Wife did not testify at trial. Her expert offered no evidence about the salon's income or expenses. He testified about different types of tax forms. Wife's inventory did not disclose any income. Although her tax returns included a page listing business deductions, she offered no documentary evidence to support those expenses. In the absence of supporting documentation, the trial court did not abuse its discretion in failing to deduct the claimed business expenses.

The trial court applied a multiplier of 60% to the salon's gross receipts to calculate labor costs based on Wife's answers to the court's questions. Wife explained that she paid contract employees 60%, but the court responded that 40% made more sense, indicating that the court believed Wife inverted the percentages. Thus, Wife was correct, and there was no evidence to support the trial court's determination that the salon's labor costs amounted to 40% of the gross receipts.

Without Tracing Evidence, Husband Failed to Establish Investment Accounts were Separate Property.

12. *In re Marriage of Kalra and Rao-Aourpally*, No. 05-25-00399-CV, 2026 WL 2258709 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-05-2026).

Facts: The parties were married for about 10 years. In their divorce, they disputed characterization of nine financial assets. Husband identified the accounts as his separate property and testified they were brokerage accounts opened before marriage, except for one account that was opened during marriage. The court initially confirmed all the accounts as Husband's separate property. However, after Wife objected, the court ruled that three accounts were community property but awarded them fully to Husband. The parties agreed the final decree matched the property awards; however, one of the three community accounts was included in the list of Husband's separate property. Wife appealed.

Holding: Reversed and Remanded.

Opinion: Wife challenged the characterization of the six accounts as Husband's separate property, which materially affected the division of the community estate. Although Husband offered evidence the accounts were opened before marriage, he offered no evidence of the balances at the time of marriage. Husband failed to present any tracing evidence.

Husband argued Wife waived this appellate complaint by proposing the accounts be awarded to him. However, Wife requested the assets be awarded not that the accounts be confirmed as Husband's separate property. Moreover, Wife asked that she be awarded a portion of the balance of one of the accounts.

The record reflected the six accounts had an approximate value of over \$350k, and Husband's proposed value of the community estate without those accounts was about \$1.2 million. Because the six accounts constituted a significant portion of the community estate, the entire community estate was remanded for a new division.

Evidence Supported Granting Wife a Money Judgment from Net Proceeds of Sale of Marital Residence Before Distributing the Remaining Balance of the Proceeds.

13. *In re Marriage of DeJean*, No. 05-25-01007-CV, 2026 WL 2324443 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-11-2026).

Facts: After a nearly 30-year marriage, Wife petitioned for divorce, and Husband filed a counterpetition. Wife alleged family violence and cruelty, and both parties sought a disproportionate division of the community estate. At the bench trial, both spouses, a real estate appraiser, and Wife's counsel testified. Husband challenged Wife's valuations of assets but offered no controverting evidence. For example, Wife testified the marital residence was worth \$1.6 million, but Husband believed it was worth only \$1.2 or \$1.3 million, despite a cash offer for \$1.5 million. Wife testified that she was seeking a disproportionate division based on Husband's extreme waste, including unnecessarily prolonging litigation, refusing an offer on the house, and refusing to settle. Additionally, Wife was forced to obtain a restraining order because Husband stalked her after she was awarded exclusive use of the marital residence. Wife offered evidence of threatening text messages from Husband sent when they still lived together.

At the trial's conclusion, the court mostly accepted Wife's proposed property division except it awarded a Porsche 100% to Husband. The court appointed a receiver to sell the marital residence immediately and ordered that the first \$100,000 of the net proceeds would be distributed to Wife, and the remainder would be divided 50/50. The court additionally ordered that \$25,000 from Husband's share of the proceeds would pay for Wife attorney's fees. The court awarded each party their own retirement in part because of a lack of valuations and "because with the market value what it is now I have no idea what's going on." The court denied Husband's reimbursement claim and ordered each party be responsible for his or her own debt. Wife was awarded the dog. The final decree granted divorce on Husband's cruelty and found he engaged in family violence. The court issued findings, and Husband appealed.

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



Opinion: Husband first challenged the award to Wife of her pension. At trial, Wife testified that the community property portion of the pension was 71.43% and agreed Husband should be awarded half that. Wife did not provide a total value for the pension but anticipated her monthly benefit at retirement to be \$967. Husband did not dispute Wife's calculation of the community property percentage. He also did not include the pension on his sworn inventory. Husband presented no testimony regarding the pension. He simply requested 50% of Wife's retirement in his requested relief.

On appeal, Husband argued the trial court lacked sufficient information regarding the value of the pension to divide it in the divorce decree. Wife offered some evidence. Under the abuse of discretion standard, the court did not abuse its discretion in awarding 100% of the pension to Wife.

With respect to Wife being awarded the first \$100,000 of the net proceeds from the sale of their home, Husband "expressly challenge[d] all findings of fact made by the Trial Court regarding alleged waste by Husband as being unsupported by legally or factually sufficient evidence, and all conclusions of law drawn by the Trial Court regarding waste as being predicated on an incorrect understanding of what waste legally is." Wife responded that any error in the trial court's classification of Husband's conduct as waste was harmless because the trial court awarded Wife a disproportionate share of the community estate and attorney's fees based on a host of permissible factors that Husband did not challenge on appeal.

In its findings, the trial court did not assign a specific value to Wife's waste claim. The court awarded Wife a money judgment to offset awards to Husband of companies and vehicles and to grant Wife a disproportionate division based on Husband's fault in the break of the marriage, attorney's fees incurred, and Wife's efforts in creating the community estate as opposed to Husband lack of effort. Husband did not challenge these findings. Moreover, the court issued a finding for Wife's reasonable and necessary attorney's fees, and the money judgment was less than that amount.

In addition to the \$25,000 in trial attorney's fees, the decree awarded Wife appellate attorney's fees. However, although Wife requested appellate fees in her summary of requested relief, she did not testify about, or even mention, appellate fees during trial. Accordingly, in the absence of any evidence, that judgment was reversed and rendered that Wife take nothing.

Finally, Husband challenged the distributions of the award of attorney's fees coming from the proceeds of the marital residence. Husband argued the constitution protects the homestead and its proceeds from creditors. However, Husband did not raise this issue in the trial court and did not preserve the issue for appellate review. Furthermore, the trial court's order provided that the \$25,000 be immediately distributed to Wife, a co-owner of the property, not Wife's attorney, a third-party creditor.

Property Division Reversed for Failing to Follow Parties' "Postnuptial" Agreement and Miscalculating Waste Claims.

14. *Yakovlev v. Yakovleva*, No. 01-24-00696-CV, 2026 WL 2300242 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (08-11-2026).

Facts: Twenty years into the parties' marriage, they signed a postnuptial agreement. Wife filed for divorce less than a year later. After trial, the court signed a final decree, and Husband appealed.

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

Opinion: Husband argued the trial court failed to follow the parties' agreement. In the agreement, which was not a "model of perfect draftsmanship," one provision stated that in the event of a divorce, each would keep the retirement accounts in his or her name and that all earnings, salaries, commissions, income, etc. realized *after* the first day of the month in which they signed the agreement would be the sole and separate property of the acquiring party. The trial court construed this language to mean that all income, etc. realized *on or before* that date was community property. Applying that interpretation, the trial court awarded Wife 60% of all retirement accounts and a pension plan.

However, the first paragraph of the agreement provided that each parties' earnings "shall be ... separate property." Other language within that provision led the appellate court to determine that this first provision applied to both past and future property. Although Wife argued the specified date in the subsequent provision discussing retirement accounts resolved an inconsistency between the latter provision and the first paragraph, Wife's interpretation asked the appellate court to import an inconsistency, rather than resolve one. Nothing in the agreement explicitly provided that income realized before the identified date was community property. Although Husband's interpretation arguably created redundancy within the agreement, his interpretation did not render the provisions inconsistent with one another.

Additionally, the trial court awarded Wife 60% of a joint brokerage account despite a provision in the agreement that "Joint brokerage account [with no preceding definite or indefinite article] will be equally divided." The record was clear that there was only one brokerage account. By awarding Wife 60% of the account, it divested Husband of his separate property portion as defined by the agreement.

Husband further argued the trial court abused its discretion in awarding Wife a money judgment for a waste claim. Husband argued there was no evidence to support the court's finding Husband depleted the community estate. Husband testified to making large cash withdrawals from the parties' joint bank account to pay for repairs to the couple's rental property. Both parties benefited from the property during marriage, but the rental properties were awarded to Husband in the divorce. Wife testified to having no knowledge of the withdrawals, which raised the presumption of fraud. Also, Husband was enjoined from withdrawing funds, yet he did so. Although he returned some of the withdrawn funds, he did not return all of it. Further, the trial court found Husband wasted rental income. However, there was zero evidence to support Wife's claim that Husband withheld rental income from Wife. Rather, there was documentary evidence refuting Wife's claims regarding rental income.



Thus, the trial court overcalculated Wife's waste claim. Further, the trial court entered a judgment for the total amount Wife claimed against Husband. The court awarded Wife a judgment for 100% of the value of the reconstituted estate. The record suggested this size of a disproportionate award was not the trial court's intent. Because the total claim amount was miscalculated, the appellate court remanded the division with an instruction to the trial court to award a money judgment consistent with Family Code Section 7.009 and as necessary to make a just and right division.

Husband next argued the trial court abused its discretion in requiring he execute a \$400,000 bond as a measure to protect the Child from an international abduction by Husband. While the trial court's findings did not address every risk factor set forth in the Family Code as a risk of international abduction, the findings did address some of the factors. For example, Husband had previously threatened Wife that he would take the Child to Russia. He did not expressly deny making the threat but claimed such a move would be an impossibility. The trial court could have reasonably disbelieved Husband's explanation.

Because Wife Used Separate Property Funds for Down Payment for Purchase of Land, Trial Court Erred in Finding the Property was Entirely Community Property.

15. *In re Marriage of Myers and Vorster*, No. 06-25-00130-CV, 2026 WL 2517088 (Tex. App.—Texarkana 2026, no pet. h.) (mem. op.) (08-26-2026).

Facts: After a four-year marriage, Wife filed for divorce. Husband responded with a counterpetition seeking a disproportionate division of the community estate. Wife sought reimbursement for withdrawals from her retirement account used to benefit the community estate. During marriage, Wife paid a down payment for 50 acres of property from her retirement account. A promissory note secured the remaining purchase price and was in Wife's name alone. The deed listed only Wife as grantee. However, the deed of trust listed both Husband and Wife as borrowers despite Husband not borrowing any funds. The county listed Wife as 100% owner of the property. Wife paid the mortgage from her bank account that had been opened before marriage. Wife testified she had not intended to co-own the property with Husband and that Husband knew that. She only closed on the property after Husband agreed to sign a quitclaim deed to her because it was "very, very clear" that she was to be the sole owner of the property. Wife prepared a postnuptial agreement to that effect, but Husband refused to sign. After that refusal, she filed for the "first divorce." The parties reconciled when Husband agreed to let her have the property. Wife used ChatGPT to prepare a purported warranty deed in exchange for her absorbing debt and flying Husband's son to the US and sponsoring him for immigration. The deed purported to grant the property from Husband to Wife and referenced a document in the real property records. However, that referenced document did not list Husband as a grantee. Husband signed the deed, but Wife admitted Husband was angry and uncomfortable about signing it.

Husband testified that he was in the US on B-1 visa and was prohibited from working in the US at the time of marriage. He said that they discussed getting land so they could divide it among their kids from prior marriages. The property had a cottage and a metal house on it. Husband remodeled the buildings and mowed and maintained the 50 acres. He was not paid for the work, but he charged the cost of supplies for remodeling to Wife's credit cards. Tenants began renting the property. He acknowledged Wife made the initial down payment but maintained the property was community property. He said Wife threatened that she would only aid his son with his green card if Husband signed the paperwork regarding the land. The notary recalled the parties signing the deed because the signing was "very, very contentious." She pulled Husband aside to ensure he was signing of his own free will. He responded that he was fine.

The court found the property was community property, awarded it to Wife, and ordered Wife to compensate Husband for his interest in the property. The court also gave Wife the option to sell the property and split the proceeds with Husband. The court denied Wife's claims for reimbursement. The court issued valuation findings and found Husband had been coerced into signing the deed. It further found Wife's claim for reimbursement was vague and lacked documentation. Wife appealed.

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

Opinion: Wife argued the court mischaracterized the 50 acres of real property. Because the property was acquired after marriage, it was presumptively community property. However, it was undisputed that Wife made the down payment with separate funds. The court found the down payment came from Wife's separate property. Because the note was secured by a deed of trust including both parties' names, the court could not determine that the creditor agreed to look solely at Wife's separate estate for satisfaction of the loan, making it presumptively a joint obligation of the parties. Because the property was purchased partly with community property and partly with separate property, the 50 acres was partly community property and partly Wife's separate property.

Contrary to Wife's argument, the purported deed was not a partition and exchange agreement consistent with the Family Code and did not effectively convert community property to her separate property.

Because this error affected the most valuable asset acquired during the marriage, the property division was remanded for a new division after proper characterization.

Regarding her reimbursement claims, Wife's testimony regarding the source of funds for which she sought reimbursement was inconsistent. It was unclear whether funds came from her separate retirement account or a commingled bank account. Also, she sought reimbursement for living expenses, which is not a valid reimbursement claim



Final Valuation of Companies Appropriately Within the Range of Values Presented by the Parties' Experts.

16. *Uzmezler v. Stevens*, No. 03-24-00513-CV, 2026 WL 2538336 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (08-28-2026).

Facts: During the bench trial in the parties' divorce, the court heard from the parties' business-valuation experts and their companies' CPA. According to the testimony, the parties' two companies were treated as one in the way they were run. One of the two companies was formed before marriage, and both parties worked for the company—Husband as a software developer, and Wife in accounting. Wife held a 25% interest in the first company, and Husband held a 75% interest. The second company was formed during marriage, and Husband was the only shareholder of the second company. The second company had a library of NFTs valued with digital currency.

The CPA testified that he had no expertise in valuing a company but explained that the first company incurred all expenses and absorbed all losses for both companies. Wife's valuation expert explained three approaches to valuing businesses. Focusing on the intangible IP assets, he valued the first company at a bit over \$1 million and the second company at \$1.5 million. Husband's valuation expert used the income approach, applying a discounted cash-flow method, and the market approach, applying a transaction method. She valued the two companies as a whole and averaged the two approaches to reach a valuation of \$326,000.

In the final decree, the court adopted the parties' MSA regarding their child, awarded all cash accounts and debts associated with the first company to Husband, and found the second company was community property. The court found that the property could not be divided in a just and right manner without impairing the value of all portions. It valued the second company at \$1.5 million, awarded it to Husband, and ordered Husband to pay Wife \$750,000 in structured installments. The money judgment was secured with an owlty lien on the home awarded to Husband. Husband did not request findings and subsequently appealed.

Holding: Affirmed.

Opinion: Husband argued the court erred in valuing the second company at \$1.5 million. He cited his own testimony and his valuation expert to support his contention that the court should not have relied on Wife's expert. Husband did not argue Wife's expert failed to state a basis for his opinion but that Husband's expert's chosen valuation approach was the more appropriate method. Wife's expert provided a factual basis for his opinion and prepared a report supported by data. The existence of Husband's expert's analysis did not establish that the basis for Wife's expert's approach was contradicted. While Wife's expert focused on IP, Husband's expert did not value the IP. Husband's expert stated she had not reviewed the NFT library because it was outside the scope of her engagement. She was unaware of the second company's crowdfunding efforts using the NFT. She did not attribute any value to a patent held by the second company because it was not a factor in the income approach. The appellate court held Husband was required to object at trial to Wife's expert's choice of valuation approach to preserve a methodology complaint on appeal.

Husband additionally argued insufficient evidence supported Wife's expert's projected income for the second company because it had recently had negative income with little revenue. Wife's expert based the projected income on information regarding projected royalties received from Wife, who handled the bookkeeping. Wife's expert acknowledged the currently small income but noted the anticipation of future income is what projections were about in startups. While Wife's expert used an income approach with the first company, the value in the second company was in the NFTs.

Similarly, although Husband challenged Wife's expert's valuation of R&D costs and the NFTs themselves, the valuation was supported by reliable documentary evidence. Moreover, when conflicting evidence of value exists, the court is permitted to assign a value within the range of evidence.

Because House Not Divided in Decree, Parties were Tenants-in-Common, and in Post-Divorce Division, Proper Measure of Value was that at Time of Post-Divorce Division, Not at Time of Divorce.

17. *In re Marriage of Becerra and Cancion*, No. 08-25-00089-CV, 2026 WL 2577075 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (08-31-2026).

Facts: Husband and Wife divorced after a four-year marriage, during which, they purchased a home that was not divided in their divorce decree. Wife moved out for a while but later moved back in. The parties disputed how long Wife was gone from the home (a few days versus over a year). After the divorce, they had a Child together. About seven years after the divorce, Wife moved out again. Husband filed a SAPCR, seeking to establish his paternity and determine conservatorship. Wife responded with a petition for divorce, alleging the parties had entered into an informal marriage after the divorce. She additionally sought a post-divorce division of the "marital home."

After a trial, the court denied Wife's petition for divorce finding no informal marriage existed. The court partitioned the house by awarding "the net value of [the home] as of [the date of divorce] ... to each ... equally." The court ordered Husband to refinance the property and pay Wife for her share of the net equity, allowing for 6% closing costs. Wife appealed the determination of no marriage and the division of the residence. The court also rendered orders for the Child, but those orders were not appealed.



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

Opinion: Wife argued the trial court erred in applying the two-year presumption against an informal marriage (Family Code Section 2.401(b)) as a statute of limitations. The trial court did refer to the two-year presumption as a statute-of-limitations; however, it did not base its judgment on that view. Wife filed within two years and bore the burden at trial of establishing her claim. The appellate court construed Wife's complaint as a sufficiency-of-the-evidence challenge to the trial court's findings. Husband testified that the couple moved back in together in an effort to work things out. They did not discuss marriage and did not hold out to others as married. Wife testified that she signed divorce papers but did not believe they were "divorced-divorced." However, she did not challenge the validity of the divorce. Wife claimed they told the doctor at the Child's birth that Husband and Wife were a married couple. They filed tax returns as married for four years after the divorce "for tax purposes." Filing of taxes as married is circumstantial evidence, not conclusive evidence, of a marriage. No independent witnesses testified the couple held themselves out as married. The court did not abuse its discretion in finding no marriage.

Wife next challenged the post-divorce division as being not "just and right." Wife argued that the court should have valued the property as of the date of the post-divorce judgment rather than the date of the divorce decree. Husband argued that Wife's perspective presupposed a continuing community property after the divorce. Community property that is not divided in final decree of divorce converts into property owned by the two former spouses as tenants in common. Any tenant-in-common wishing to divide property interests may seek a partition under Property Code Section 23.001, which presumes an even split of the value. Alternatively, the parties could seek a post-divorce division under Family Code Chapter 9, which requires a "just and right" division. Chapter 9 does not change the nature of ownership; the parties are tenants-in-common under either Code. By failing to treat the parties as tenants-in-common after correctly finding that no informal marriage occurred after the earlier divorce, the trial court erroneously divided the property as of the value at the time of divorce instead of as of the time of the post-divorce judgment, thereby depriving Wife of the value of her interest in the property she still owned in the years after the divorce.

DIVORCE: RETIREMENT BENEFITS

Amended QDRO Specifying Dollar Amount Instead of Percentage Awarded to Wife was Appropriate when Retirement Benefits were Not Being Distributed Correctly in Accordance with Divorce Decree's Property Division.

18. *Maxwell v. Maxwell*, No. 09-24-00299-CV, 2026 WL 2526504 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (08-27-2026).

Facts: The parties were married for about 20 years and divorced about 20 years ago. Husband worked as an air traffic controller through the FAA until retirement about 15 years after the divorce. The decree awarded Wife 50% of the community portion of Husband's retirement benefits together with any interest, dividends, gains, or losses. The decree referenced a QDRO signed the same day as the decree. A QDRO was signed within the court's plenary power using different language but awarding Wife 50% of Husband's "self-only monthly annuity under the FERS as calculated as of Valuation Date [the date of divorce], unreduced for any option that may be selected by [Husband]. When cost-of-living allowances (COLAs) are applied to [Husband's] retirement benefits, the same COLAs apply to [Wife's] share."

After Husband retired, he received notice Wife was receiving a portion beyond what the QDRO awarded her. He filed a Petition to Enter Post-Divorce Amended Court Order Acceptable for Process Federal Employees Retirement System. Husband explained that the FERS system now requires that a QDRO be referred to as a COAP. Husband asserted Wife was receiving a portion of his annuity earned after the Valuation Date. He asked that the QDRO be amended to specify the exact monthly payment amount to which Wife was entitled.

Wife responded that Husband's petition was a collateral attack on the QDRO seeking to impermissibly modify the property division after the expiration of its plenary power. Husband amended his petition seeking a clarification order and restitution for overpayment. The court granted Husband request for an amended QDRO, denied the request for clarification, awarded Husband a judgment for overpayment, and denied all requests for attorney's fees. Wife appealed.

Holding: Affirmed.

Opinion: Wife argued the court erred in signing a QDRO awarding her a specific dollar amount when the decree awarded her a percentage. The Family Code gives divorce courts continuing authority to enforce and clarify its divorce decrees, so long as the court does not amend, modify, alter, or change the property division. A QDRO may enforce a decree but may not alter it. At trial, the court heard testimony regarding the calculation of a specific dollar amount representing Wife's 50% interest in the community property portion of Husband's retirement account. The calculation was consistent with the *Taggart* and *Berry* formulas. The court determined that the Office of Personnel Management (OPM) incorrectly calculated Wife's portion as awarded in the divorce decree. A QDRO expert testified that OPM regulations could not trump the plain language or intent of a divorce decree. The trial court had authority to render an amended QDRO to clarify terms to effectuate the property division.



DIVORCE:
ENFORCEMENT OF PROPERTY DIVISION

Domestication of California Judgment Enforceable for Failure to Timely Contest Domestication, Despite California Later Vacating the Underlying Order; Trial Court Could Not Include Husband's LLC and Partnership Interests in Turnover Order to Satisfy Judgment Because a "Charging Order" was Exclusive Remedy.

19. *Gagnon v. Gangon*, No. 12-25-00011-CV, 2026 WL 2444578 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (08-19-2026).

Facts: While the parties were in the process of divorcing in California, Husband suddenly and unexpectedly left with the Child for rural east Texas. Five years later, the California court rendered a default judgment that Husband did not appeal. Later that year, Wife filed to domesticate the California order in Texas. Husband did not challenge the petition, so the order became final and enforceable in Texas. The Texas trial court appointed a receiver and ordered Husband to produce financial documents and records. Husband did not appeal the receivership order. The receiver moved to hold Husband in contempt for noncompliance.

Husband responded by asking the California court to reopen a portion of the judgment regarding the division of property, and the California court granted Husband's request. It vacated the prior order and ordered Wife to serve Husband with an amended petition for the division of property. The child-related provisions and dissolution of marriage remained in effect.

Husband next moved to terminate the receivership in Texas, arguing that because the portion of the California order Wife sought to enforce had been vacated, the domesticated Texas judgment was necessarily void. The Texas court denied Husband's motion, finding the California order had not been found void for lack of jurisdiction, so Texas could continue with the enforcement.

The Texas appellate court denied Husband's petition for writ of mandamus and dismissed his appeal for want of jurisdiction. The trial court conducted a show cause hearing as to why Husband should not be held in contempt for violating the receivership order. The court found Husband in contempt and issued a fine. The court then granted the receiver's motions for turnover of nonexempt property. Husband appealed. Shortly after appealing, Husband filed for Chapter 13 bankruptcy, resulting in a stay of the appeal. After the bankruptcy court dismissed Husband's bankruptcy claims with prejudice, the appeal was reinstated.

Holding: Reversed and Remanded in Part; Affirmed in Part

Opinion: When a judgment creditor files an authenticated copy of a foreign judgment pursuant to the Uniform Enforcement of Foreign Judgments Act ("UEFJA"), a prima facie case for its enforcement is presented. The burden then shifts to the judgment debtor to prove that the foreign judgment should not be given full faith and credit. There are five well-established reasons that a judgment should not be given full credit:

- 1) the foreign judgment is interlocutory;
- 2) the foreign judgment is subject to modification under the rendering state's law;
- 3) the rendering state lacked jurisdiction;
- 4) the foreign judgment was secured by extrinsic fraud; and
- 5) the period for enforcing the foreign judgment in Texas expired under Section 16.066 of the Civil Practice and Remedies Code.

The California judgment became enforceable as a Texas judgment on the day Wife filed an authenticated copy in Texas state court. The burden then shifted to Husband to prove the California judgment should not be given full faith and credit.

Husband first asserted the trial court erred by enforcing the California order after being informed of the order being vacated. Husband's prior appeal was dismissed for not being timely filed. The issue of whether the trial court could enforce the California judgment with a receivership order was an accelerated appeal, and Husband missed the deadline. In his first issue, Husband again tried to raise the same question, and his appeal was still untimely. Thus, the appellate court lacked jurisdiction to address the issue.

Husband next asserted the trial court erred when it authorized the receiver to sell Husband's interests in an LLC and a partnership. He asserted his ownership interests were not subject to turnover relief and that a charging order was the exclusive remedy to satisfy a judgment.

A judgment creditor of a member of an LLC may enforce a judgment against that member by requesting a charging order against the member's interest in the company. A charging order is "the exclusive remedy by which a judgment creditor of a member or any other owner of a membership interest may satisfy a judgment out of the judgment debtor's membership interest." Likewise, a "charging order is the exclusive remedy by which a judgment creditor of a partner ... may satisfy a judgment out of the judgment debtor's partnership interest." The charging order procedure was developed to prevent a judgment creditor's disruption of an entity's business by forcing an execution sale of the partner's or member's entity interest to satisfy a debt of the individual partner or member. Accordingly, the trial court's turnover order as to the LLC and partnership was an abuse of discretion.

Husband's remaining complaints were overruled for failure to adequately present his appellate complaints.



Husband Provided Sufficient Notice to Support Order Evicting Wife from Property Awarded to Husband in Divorce Decree.

20. *Odhiambo v. Odhiambo*, No. 12-26-00037-CV, 2026 WL 2582579 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (08-31-2026).

Facts: A divorce decree awarded real property to Husband and ordered Wife to vacate the property within 45 days. Wife did not vacate the property and instead invited someone [her new boyfriend?] to move in with her. Husband initiated a forceable detainer suit and obtained a favorable judgment. Wife and Boyfriend appealed the justice court judgment to the county court at law. The parties disputed whether Husband had provided the statutory notice to require Wife and Boyfriend to vacate the premises. The evidentiary dispute came down to whether notice was mailed from the same county in which the property was located. The court asked the parties if they wanted to reopen evidence to fully address the issue or if they were comfortable allowing the court to infer what it could from the evidence presented. Husband asked the court to “reasonably infer” from the evidence; Wife and Boyfriend’s counsel believed the court could take judicial notice of which counties had post offices. The court found eviction was proper and signed a judgment accordingly. Wife and Boyfriend appealed.

Holding: Affirmed.

Opinion: Wife and Boyfriend argued the evidence was legally insufficient to support a finding that “the notice was deposited in the mail in [the correct] County,” thereby providing proper statutory notice to vacate.

The only issue in an eviction case, and the sole question for the trial court, is who has the right to immediate, actual possession of the real property under Chapter 24 of the Texas Property Code. To establish a superior right to immediate possession, the party seeking same must prove

- (1) ownership of the property,
- (2) the occupant is either a tenant at will, tenant at sufferance, or a tenant or subtenant willfully holding over after the termination of the tenant’s right of possession,
- (3) proper notice to the occupant to vacate the premises, and
- (4) the occupant refused to vacate the premises.

Addressing the notice requirement, a demand for possession must be made in writing by a person entitled to possession of the property and must comply with the requirements for notice to vacate under Property Code Section 24.005. Because eviction is a statutory cause of action, a landlord must strictly comply with Section 24.005’s requirements, which include:

- (f-1) As an alternative to the procedures of Subsection (f), a landlord may deliver the notice to vacate by securely affixing to the outside of the main entry door a sealed envelope that contains the notice and on which is written the tenant’s name, address, and in all capital letters, the words “IMPORTANT DOCUMENT” or substantially similar language and, not later than 5 p.m. of the same day, depositing in the mail in the same county in which the premises in question is located a copy of the notice to the tenant if:

...

- (2) the landlord reasonably believes that harm to any person would result from personal delivery to the tenant or a person residing at the premises or from personal delivery to the premises by affixing the notice to the inside of the main entry door.

Here, Husband testified that Boyfriend brandished a gun and threatened him the first time he attempted to approach the property. Husband presented evidence he complied with Subsection (f-1). The court could have reasonably taken judicial notice that the postmark on Husband’s “green card” was sufficient to establish that he placed the notice in the mail in the correct county.

**SAPCR:
PROCEDURE AND JURISDICTION**

Because Hearing on Motion to Enter Focused on Whether Proposed Order Comported with Memorandum Ruling, Associate Judge’s Approval of Proposed Order Did Not Constitute a Substantive Ruling, Did Not Violate the Rules of Civil Procedure, and No De Novo Hearing was Necessary Because District Judge Approved Associate Judge’s Recommendation to Adopt Proposed Order.

21. *In re O.P.R.*, No. 05-24-00821-CV, 2026 WL 2337002 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-12-2026).

Facts: When trial began, the court informed the parties they were limited to thirty minutes per side, and neither party objected. Father asked for a 50/50 possession schedule (5-2-2-5) because Mother did not use her possession to be present with the Children. Mother asked the court to award Father an expanded standard possession schedule.

Father characterized himself as an incredibly active parent who coached sports, participated “on campus,” and took the Children camping. He believed he was the more nurturing and empathetic parent as compared to Mother, who he described as cold, distant, and transactional. In addition to testifying about incidents involving Mother’s failure to supervise the Children adequately or treat injuries and illnesses quickly, he described an incident when Mother left an edible marijuana gummy on the ground that could have easily been found and ingested by one of the Children. Because Father was Catholic and Mother was Jewish, the Children celebrated the holidays of both religions. Father set his own work schedule and was working to reduce his



travel schedule. Father denied allegations of alcoholism, denied once telling Mother he should not have driven to a bar mitzvah, and did not recall one of the Children witnessing him stumbling. He admitted to staying out late when not in possession of the Children.

Mother testified that she had stopped working during the marriage so that she could raise the Children but recently began working part-time. Father had two DWIs, a mortgage fraud matter involving 45 properties, and a bankruptcy. Father still owed money on a judgment from the mortgage fraud suit. She asserted Father struggled with alcoholism but did not acknowledge the problem. He attempted suicide once before marrying Mother. She denied having a transactional relationship with the Children and described Father as manipulative. She admitted to failing to use an EpiPen or take one of the Children to the ER after giving the Child peanuts despite a severe allergy.

The court issued a memorandum ruling giving the parents a 5-2-2-5 possession schedule, adopted Father's holiday possession schedule, and issued a specific summer possession schedule giving each parent extended possession in the summer. Neither party was ordered to pay child support.

Father filed a motion to sign a decree with a proposed final decree attached. Mother filed a motion in response asking for a reconsideration of the ruling and, for the first time, objecting to the time limitation imposed at trial, which she argued violated her constitutional rights. The motion to enter and Mother's objections were heard by the associate judge. The associate judge said she would take the issues under advisement, and the district judge would either "countersign or ... sign altogether." Mother stated she would prefer the district not sign it out of concerns of waiving a de novo hearing. The associate judge said she would ask but could not "make [the district judge] do anything." Mother filed a request for a de novo ruling. That same day the district judge signed the proposed final decree and later issued findings. Mother appealed.

Holding: Affirmed.

Opinion: Mother first asserted the trial court violated her constitutional due process rights by imposing restrictive time limits without notice to either party. However, because neither party objected to this time limitation at trial, the issue was waived for appellate review.

Mother next argued the evidence was insufficient to overcome the statutory presumptions in favor of a standard possession schedule and guideline child support. Additionally, Mother argued the court failed to take Jewish holidays into consideration when approving Father's proposed holiday schedule. However, the evidence was sufficient to support deviating from the standard possession schedule, and the record reflected the court took Mother's requests for Jewish holidays into consideration. For example, when Jewish and Christian holidays overlapped, Father would have superior right of possession during Christmas (notwithstanding Hanukkah), while Mother had a superior right for Passover (notwithstanding Easter). Mother had a right of possession for Rosh Hashanah and Yom Kippur.

Mother further complained of her constitutional right to enroll the Children in Jewish summer camp because the court's summer possession schedule gave Father the right to possession during camp and prohibited Wife from scheduling activities during Father's possession periods. Mother cited no authority to support a claim that a parent must be allowed time for summer camp enrollment. The summer schedule did not prevent Mother from practicing her religion or from sharing her religion with the Children.

Mother additionally argued the trial court erred in failing to make the requisite child support findings despite deviating from guideline support. This error is only reversible if the appellant establishes harm. To show harm based on lack of findings, the appellate must show that the lack of findings prevented her from presenting her appeal. Here, Father's requested relief plainly stated that if the court granted his request for a 5-2-2-5 possession schedule, neither party should be ordered to pay child support. Mother was not harmed by the lack of findings. Moreover, taking Mother's earning potential into account and the fact Father was ordered to maintain health insurance for the Children, the evidence supported the child support order.

Mother next challenged a permanent injunction that was neither pleaded for nor tried by consent. Specifically, an injunction prohibiting the parties from scheduling activities for the Children during the other party's periods of possession without written approval. Although Mother asserted the evidence was not supported by the pleadings, Father expressly invoked the court's equitable powers by using "at law or in equity" in his prayer for relief. Mother also asked for temporary injunctions as deemed necessary and equitable. The trial court had broad discretion to issue orders relevant to custody, control, possession, and visitation, and the injunction fell within that discretionary power.

Finally, Mother argued the associate judge exceeded her jurisdiction allotted by Texas Rule of Civil Procedure 18 by ruling on trial evidence and entering a final order, and the trial court erred in denying Mother a de novo hearing on said ruling. The appellate court disagreed with Mother's characterization of the record. At the hearing on the motion to enter, the associate judge was concerned with whether the memorandum ruling conformed with the proposed final order. Nothing in the record reflected the associate judge rendered judgment in the cause, either during or after the hearing on the motion to enter. Because the record did not reflect that the associate judge made rulings on substantive matters, the appellate court also overruled Mother's appellate complaint about the failure to conduct a de novo hearing.

Uncle Established Standing Pursuant to Former Texas Family Code 102.003(a)(44) [Deleted].

22. *In re B.M.*, No. 06-26-00015-CV, 2026 WL 2333140 (Tex. App.—Texarkana 2026, no pet. h.) (mem. op.) (08-12-2026).

Facts: After Mother died, maternal Uncle and Father each sought sole managing conservatorship of the Child. Uncle asserted standing based on Mother and the Child living with him for at least six months ending not more than 90 days preceding the date



of the filing of the petition. Additionally, Uncle asserted stated orders were necessary because Father engaged in a history or pattern of child abuse and child neglect. Uncle asserted appointing Father as a managing conservator would significantly impair the Child's physical health or emotional development. Uncle attached a supporting affidavit to his petition and explained that Father had a criminal history for murder and had pending charges for unlawful possession of a firearm as a felon and for theft of property in excess of \$30k. Mother had not allowed Father to have unsupervised access to the Child due to concerns for the Child's safety.

Father filed a motion to dismiss Uncle's suit for lack of standing. The trial court conducted a hearing and denied Father's motion. The appellate record did not include a transcript of that hearing.

Uncle amended his petition to include allegations Father was charged with possession of child pornography related to the Child and had been held in contempt for stealing \$70k from the Child by selling property belonging to the Child and failing to deposit the proceeds into the court's registry.

The Child reported getting "popped with a stick" by Father for not walking fast enough, and a photograph was taken of the mark caused by the stick.

Father said he had no income at the time of trial and claimed that the \$70k was tied up in an investment property. The court found Uncle had standing and appointed Uncle as the Child's sole managing conservator and appointed Father as possessory conservator. Father appealed.

Holding: Affirmed.

Opinion: Father asserted Uncle lacked standing. At the time of filing, a since-deleted subsection of 102.003 gave standing to "a person with whom the child and the child's ... parent have resided for at least six months ending not more than [ninety] days preceding the date of the filing of the petition if the child's ... parent is deceased at the time of the filing of the petition." The uncontested facts supported the associate judge's findings regarding standing. Mother and the Child lived with Uncle for the requisite period, and Father had not lived with Mother for years.

Texas Lacked UCCJEA Jurisdiction Because Mother Offered No Evidence to Support Finding that Uganda Law Violated Fundamental Human Rights; Mother Failed to Meet Her Burden to Plead Facts to Support Texas Exercising Personal Jurisdiction over Father Under UIFSA. [ON REH'G, HOLDING CHANGED]

23. *Mugisha v. McLeod*, __ S.W.3d __, No. 03-25-00311-CV, 2026 WL 2410825 (Tex. App.—Austin 2026, no pet. h.) (on reh'g) (08-18-2026).

Facts: Father, a Ugandan citizen, met Mother in Washington state. They moved to Dubai but married in Las Vegas. Their first Child was born in Dubai. The family then moved to Uganda, and a second Child was born in Kenya (though the parties still lived in Uganda). Mother took the Children to Texas to visit Mother's sister; however, rather than returning to Uganda, Mother remained in Texas with the Children.

Mother filed a SAPCR in Texas and served Father. At a temporary orders hearing, at which Father did not appear, the court appointed Mother temporary sole managing conservator and ordered Father to pay child support to be withheld from his earnings. The same day that the Texas temporary orders were signed, Father filed for divorce in Uganda and asked for joint custody. In Texas, Father filed a special appearance and plea to the jurisdiction.

Father appeared virtually to a hearing on the plea to the jurisdiction. The special appearance was mentioned, but no argument was raised in support of that pleading. Father asserted the Children needed to be returned to Uganda and the Texas court needed to confer with the Uganda court. No evidence was offered regarding the UCCJEA. The court requested briefing regarding the Hague Convention. Subsequently, the court found Uganda custody law violates fundamental principles of human rights and denied Father's plea to the jurisdiction. Father's counsel withdrew before the final trial. A final order similar to the temporary orders was signed and included a judgment for arrearages for unpaid temporary child support. Father appealed.

Holding: Vacated and Remanded.

Opinion: Father challenged the Texas court's exercise of personal jurisdiction over him. The hearing at which Father appeared focused on the UCCJEA, and the question of whether the trial court had jurisdiction under UIFSA was not raised until Father filed his appellant's brief. By failing to press for a hearing or get a ruling on his special appearance, he waived this issue.

Nevertheless, despite the waiver of his special appearance, Father's failure to appear at trial did not waive Mother's burden to establish her claims for affirmative relief. To establish long-arm jurisdiction, the plaintiff bears the initial burden to plead sufficient allegations to bring the nonresident defendant within the reach of Texas's long-arm statute. If the plaintiff meets that burden, the burden shifts to the defendant to negate all alleged bases for personal jurisdiction. Mother failed to meet her initial burden by failing to allege any facts that would bring Father within the reach of UIFSA.

Father additionally asserted Texas lacked jurisdiction under the UCCJEA to make conservatorship and possession orders. In its temporary orders, the trial court stated it was exercising emergency UCCJEA jurisdiction based on concerns about the effect of returning the Children to Uganda. The trial court further determined it had authority to render final orders pursuant to the Hague Convention. However, the Texas court failed to comply with the UCCJEA's requirement to confer with the Uganda court based on the trial court's belief that Uganda law violated fundamental principles of human rights. Mother offered no evidence that Father mistreated the Children. Nothing in the record supported the trial court's findings, which ranged from specific



crimes committed at the couple's home to general issues with Uganda, such as the prevalence of malaria. Instead, the trial court seemed to have relied on arguments and evidence from previous hearings. While courts can take judicial notice of the existence of prior records, it cannot take judicial notice of the *truth* of the factual statements and allegations contained in those records. The trial court could not rely on prior testimony unless the transcript of that prior hearing was properly authenticated and entered into evidence. No testimony from prior hearings was authenticated or offered at the final hearing. The trial court additionally could not sua sponte rely on Uganda child custody laws without following the process outlined in Texas Rule of Evidence 203, which requires notice to the parties giving the parties an opportunity to respond. Therefore, the trial court improperly found it had authority to render a final order because no evidence supported a finding that Uganda laws violated fundamental principles of human rights. The trial court lacked UCCJEA jurisdiction, and its final conservatorship and possession orders were void.

Nunc Pro Tunc Could Not be Used to “Correct” Trial Court’s Failure to Render Judgment Consistent with Parties’ MSA.

24. *In re D.L.B.*, ___ S.W.3d ___, No. 04-25-00097-CV, 2026 WL 2416027 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (08-19-2026).

Facts: An MSA required Father to reimburse Mother for insurance premiums for the Children’s medical, dental, and vision insurance in addition to his child support obligation. The trial court declined to enter judgment on the MSA, but the appellate court granted mandamus relief and instructed the trial court to enter an order consistent with the MSA.

Subsequently, the trial court signed an order requiring Father to pay a specific amount in medical support through the OAG as additional child support. The order also required Mother to provide Father with evidence of the premium amounts by a date certain, or she would become solely responsible for the premium payments. Almost seven months later, Mother moved for a judgment nunc pro tunc to remove that condition because it was not part of the parties’ MSA. Two months later, the court conducted a hearing and granted Mother’s requested relief. Father timely filed a motion for new trial and argued the change was a judicial one. Mother argued the deleted sentence had been “completely fabricated” and was never part of the MSA. The trial court denied Father’s motion for new trial, and he appealed.

Holding: Judgment Nunc Pro Tunc Vacated

Opinion: Father argued the trial court lacked plenary power to make a judicial change to the order. A court renders judgment when it officially announces its decision, either orally in open court or by written memorandum filed with the clerk. When nothing shows the court announced its decision before signing a written judgment, the signing of the judgment is itself the rendition. Accordingly, “[i]n order to issue a judgment nunc pro tunc, there must be some evidence that the judgment the trial judge actually rendered is not correctly represented in the judgment she signed and entered of record.” When there is no difference between the judgment as rendered and the judgment as entered, any error in the judgment is judicial, and a judgment nunc pro tunc entered after plenary power expires is improper.

Here, the record contained no evidence of any rendition before the signing of the initial order on the MSA. While there were instances in the record indicating the trial court’s intent to render a final judgment consistent with the MSA, those instances only showed what the court *should have* rendered but not what the court *actually* rendered. Additionally, the court did recall having announced a different judgment from the written one. An incorrect rendition is still a rendition.

Recognizing the harsh result, the court noted a nunc pro tunc can only make the record speak the truth about the judgment actually rendered. It is not a tool for repairing mistakes in the rendition itself. The court further cautioned litigants to read final judgments with care and take action within post-judgment deadlines.

Order After Bill of Review Granted Dismissed Because the Order was Signed Under the Underlying Cause Number Instead of Under the Bill-of-Review Cause Number.

25. *In re S.G.H.*, No. 13-24-00515-CV, 2026 WL 2444829 (Tex. App.—Corpus Christi–Edinburg 2026, no pet. h.) (mem. op.) (08-20-2026).

Facts: Mother filed a petition to modify the parties’ divorce decree, and Father filed a counterpetition in response. However, after four years of inaction, the trial court dismissed the suit for want of prosecution.

Father subsequently filed a petition for bill of review under a new cause number seeking to set aside the order of dismissal, and the petition was granted. Subsequently, the trial court signed a modification order under the first cause number. Mother appealed.

Holding: Appeal Dismissed; Modification Order Vacated.

Opinion: Without addressing the merits of Mother’s complaints, the appellate court reviewed jurisdiction over the suit.

A bill of review is an equitable proceeding brought by a party to set aside a prior judgment no longer subject to challenge by a motion for new trial or appeal. When a court grants a bill of review, the subsequent trial must occur in the bill of review proceeding and not the underlying case in which the judgment was vacated.



Here, the trial court granted the petition for bill of review but failed to sign the new order under the bill of review cause number. The granting of a bill of review does not restore plenary power in the underlying cause. Because the trial court lacked plenary power in the cause number under which the modification order was signed, the modification order was void.

Stepfather Could Not Rely on Consanguinity to Support Claim of Standing to File SAPCR Regarding Mother's Children from Prior Relationship.

26. *In re H.E.C.*, No. 06-26-00011-CV, 2026 WL 2491514 (Tex. App.—Texarkana 2026, no pet. h.) (mem. op.) (08-25-2026).

Facts: Mother had two children from a prior marriage. During her marriage to Husband, they had Mother's third Child. When Mother and Husband divorced, Husband filed a separate suit for custody orders regarding Mother's other two children, asserting his biological relationship to the youngest Child conferred standing regarding his Child's siblings. The trial court found Husband lacked standing and dismissed the case. Husband appealed the dismissal and award against him for attorney's fees.

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

Majority Opinion: (J. Rambin, J. Stevens)

Husband asserted he had standing because he was related to Mother's other children within the fourth degree by consanguinity. Consanguinity, as defined by the Government Code, refers to blood relations. Mother's other children are not Husband's biological descendants. They do not have a common ancestor. While Husband asserted this conclusion was "absurd," his argument was brief and unpersuasive.

Husband argued the evidence was insufficient to support the attorney's fee award. The redacted billing statements were redacted so heavily that the trial court could not possibly have had sufficient evidence to determine that the entire amount requested was not excessive or extreme but rather moderate or fair. Accordingly, the issue of attorney's fees was remanded for further proceedings.

Opinion Concurring in Part and Dissenting in Part: (C.J. van Cleef)

The Chief Justice would have affirmed the judgment in full.

Substituted Service Failed to Comply with Rules Because Supporting Affidavit was Conclusory and Provided No Facts Supporting Claim that Respondent Could Probably be Found or Notified at Given Address and Phone Number, so Default Judgment Reversed.

27. *In re X.I.C.*, No. 07-26-00062-CV, 2026 WL 2542474 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (08-27-2026).

Facts: Mother filed a petition to adjudicate parentage of alleged Father. After several unsuccessful attempts at personal service, Mother obtained an order for substituted service requiring service by leaving a copy of the citation and pleadings and orders with someone older than 16 at the specified address AND by sending a copy of the citation and pleadings and orders by text message. The documents were sent by text, and no response was received. The process server did not leave a copy of the documents at the physical address as required by the order.

Because Mother received no response to the text message, she filed a second motion for substituted service. Attached to the motion was an affidavit from the process server describing the delivery via text but no attempts to deliver the documents to the physical address. Mother re-listed Father's address, phone number, and Instagram account but did not indicate that service by those methods would be reasonably effective to give Father notice of the lawsuit. The new order authorizing service instructed service to be completed by posting a copy of the documents on Father's door and by sending a copy to the same address. The return of service indicated the documents were texted and affixed to the door. At a temporary order's hearing, the court took judicial notice of the file but nothing in the file indicated Father was notified of the hearing. The temporary orders were not delivered to Father. The case was set for a bench trial. Right before the hearing, Mother's attorney filed a Certificate of Last Known Address identifying a different address for Father than the one at which service had been repeatedly attempted. The court again took judicial notice of its file and declared Father had been properly served despite having just been provided a different address. Mother's attorney included in her case in chief a copy of an order in a modification suit involving a different child and mother. The recitation stated that Father participated in the suit and was represented by counsel and provided the same address for Father as in the Certificate of Last Known Address. Mother's attorney confirmed this address with Mother through testimony. The court signed an order adjudicating Father's parentage and ordering him to pay child support. The appellate court noted that the phone number in the order was also different from the one used in the orders for substituted service. Father timely filed a restricted appeal nearly six months after the judgment.

Holding: Reversed and Remanded.

Opinion: Father argued the affidavit submitted to Mother's motion for alternative service was insufficient to authorize substituted service. The affidavit failed to provide any details indicating the address at which service had been attempted was an address where Father could probably be found or that a substituted method of service would have been reasonably effective to give



Father notice of the suit. The process server attached a printout from a public database based on Father's driver's license from 20 years earlier. The printout was not authenticated and nothing indicated where the printout came from or whether it was reliable. Substituted service cannot be based on an affidavit that is conclusory or otherwise insufficient. There were no facts indicating why Mother believed the 20-year-old address was the correct address. The second motion included no additional facts to demonstrate how Mother knew the address or phone number belonged to Father.

Because service was defective, the trial court lacked jurisdiction over Father, and the default judgment against him was reversed.

Judgment Nunc Pro Tunc Could Not Insert Start Date for Child Support Obligation when Nothing in the Record Reflected a Start Date was Agreed to or Rendered During the Court's Plenary Power.

28. *In re L.G.O.A.*, No. 09-25-00348-CV, 2026 WL 2529449 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (08-27-2026).

Facts: A SAPCR order required Father to pay monthly child support to Mother, but the starting date for the obligation was left blank. Nearly four years later, Mother filed a motion for judgment nunc pro tunc, stating the start date should have been the first of the month following the date of the signing of the order. Father argued the mistake was a judicial one, and the trial court lacked plenary power to correct the error.

At the hearing on Mother's motion, her counsel explained that although the blank for the date was overlooked, the trial court signed a withholding order within its plenary power, directing Father's then-employer (an NFL team) to withhold child support. Payments were made whenever Father was actively employed by various NFL teams; however, when Father was not with an NFL team, no payments were made. The withholding order was transferred to each new team with Father. Father argued that there was no evidence of an agreed beginning date, so there was nothing in the record to support inserting a date into the nearly four-year-old order. Father did not dispute Mother's timeline regarding her receipt of child support payments. The attorney who represented Mother in establishing the Child's paternity testified she had known both parties since they were born and did not recall any contested issues between them. She testified that she and both parties incorrectly believed a date had been included in the order. Based on her 27 years of practice, she knew it was the county's practice to start child support obligations the first of the month following the signing of the order. The attorney testified she and Father never discussed an alternate starting date for his child support obligation. Mother also testified the parties did not discuss a starting date, but she had assumed it would start the month following the month in which the order was signed—"with his next paycheck." She testified that although the initial receipt of support was delayed, she spoke with Father, and he was aware that he owed support. She believed the NFL was responsible for the delay and for periods of nonpayment. The trial court held it was clearly a clerical issue and granted the judgment nunc pro tunc.

On the record when issuing its rendition, the court noted that Mother had also filed a petition for bill of review and pointed out the two cause numbers. The court stated that the granting of the judgment nunc pro tunc mooted the petition for bill of review, so it denied that petition. Father appealed the judgment nunc pro tunc. Neither party appealed the bill of review or discussed it in their briefs in this appeal.

Holding: Reversed and Rendered.

Opinion: The original order was signed a few days before the end of the month. The withholding order was signed in the first week of the following month. Nothing in the docket sheet reflected a start date for Father's child support obligation. Mother testified the parties had no agreement relating to the start date for his child support obligation. A review of the initial income withholding order reflected that it, too, lacked a starting date and only reflected the month and year in which child support would begin. It stated "you must begin withholding no later than the first pay period that occurs within 10 days after the date of ___/___/2021 of the order/notice." Mother's attorney testified that the proposed agreed order was submitted and no prove-up was conducted. There was no recorded oral rendition of the order.

The omission of the start date was a judicial error that could not have been corrected by judgment nunc pro tunc. Accordingly, the judgment nunc pro tunc was vacated, and the prior order was reinstated.

SAPCR: ALTERNATIVE DISPUTE RESOLUTION

Father Waived His Complaint that the Decree Did Not Comport with the MSA by Failing to Raise Timely Objections.

29. *In re D.C.C.*, No. 05-25-00657-CV, 2026 WL 2273210 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-06-2026).

Facts: The parties attended mediation during their divorce proceeding, and they signed an MSA, which included a provision giving Mother the exclusive right to designate the Children's primary residence and to receive child support and requiring each parent to pay half the cost of daycare as child support. The MSA contained no other provision for child support. In his proposed final decree, Father included the daycare costs in a section entitled "Child Support." Father appeared at a prove-up hearing, but Mother did not. The court instructed Father to "get with" Mother to get documentation regarding income of the parties and to include standard withholding language in case it became necessary.



A few weeks later, Mother moved for clarification on the MSA and stated Father was obligated to pay child support, but the parties could not agree on the amount, duration, or basis for the calculation. Father filed a response, asserting the parties had agreed to pay for daycare in lieu of child support but also proposed a specific monthly child support obligation. After a hearing for which no transcript was provided to the appellate court, the trial court ordered Father to pay monthly child support that was nearly twice what Father proposed, with a step-down provision for when the oldest child aged out. A notation on the docket sheet indicated the decree was agreed, but neither party signed the decree. Father filed a post-judgment motion for clarification that did not mention child support. Father appealed.

Holding: Affirmed.

Opinion: Father asserted the trial court erred in entering a divorce decree that modified the terms of the parties' MSA. Mother responded Father waived the issue because he consented to the decree; failed to preserve the issue for appeal; and was barred under the doctrine of quasi-estoppel.

Despite the statutory mandate providing that a party to a Family Code MSA is entitled to judgment on the MSA, preservation errors nevertheless apply to a complaint that the decree deviates from the MSA. Here, Father did not object when the court ordered him to "get with" Mother regarding child support. He filed a response with a proposed monthly child-support obligation. Nothing in the record showed Father objected to monthly child support before the court signed the decree. His proposed decree included a lower monthly obligation. He did not file a post-judgment motion to modify, correct, or reform the judgment. His motion for clarification did not reference child support. On this record, Father failed to preserve his appellate complaint.

Court Could Not Render Judgment on an MSA Not Signed by All Parties to the Agreement.

30. *In re K.J.L.*, No. 14-26-00200-CV, 2026 WL 2343541 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: The Child had lived with his maternal Grandparents since he was two months old. TDFPS filed a suit to terminate the parents' parental rights. At the beginning of trial, TDFPS said it wanted Grandparents to be named the Child's sole managing conservators if parental rights were not terminated. At a lunch break, TDFPS abandoned its termination suit. Mother and Father wanted Grandparents to serve as sole managing conservators, but Grandparents wanted to adopt the Child. a tentative MSA was reached but not signed.

During trial, Grandfather testified that when the Child was initially placed with them, he did not anticipate it to be long term. He also testified that he was only interested in adoption and not permanent conservatorship. He would prefer the Child to stay with them instead of going to foster care and did not believe cutting off Mother's access was in the Child's best interest.

Grandmother also preferred adoption because it provided more stability. She wanted to meet the Child's needs without TDFPS involvement and was concerned about the financial strain of being a conservator versus an adoptive parent.

When TDFPS abandoned its claims, the parents also abandoned requests for return or joint conservatorship.

The court reviewed the unsigned MSA and stated an inclination to appoint the Grandparents as sole managing conservators and the parents as possessory conservators. The court took the matter under advisement. Without conducting another hearing, the court signed an order consistent with the MSA. Grandparents, pro se, filed a request that the trial court vacate the decree because they had never consented to being appointed permanent sole managing conservators. The court did not grant the request, and Grandparents' appealed pro se.

Holding: Reversed and Remanded.

Opinion: Although Grandparents were not parties to the underlying suit, they had standing to appeal because they clearly had an interest in the judgment and were bound by the judgment.

Grandparents argued the trial court erred in rendering a judgment on an MSA to which the Grandparents had not agreed. Family Code Section 153.0071(d) requires an MSA to be signed by the parties to the agreement. Because Grandparents did not sign the MSA, it could not be enforced against them. Partial enforcement of the MSA was essentially impossible because the nonsignatories were named sole managing conservators of the Child. The final decree was reversed, and the case was remanded for a new trial.

Decree Comported with Parties' MSA Regarding Parenting Facilitator's Role in Stair-Step Possession Schedule.

31. *In re G.H.G.*, No. 05-25-00349-CV, 2026 WL 2447174 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-20-2026).

Facts: During the divorce litigation, the parties signed an MSA that provided a stairstep possession schedule for Father that was dependent, in part, on Father taking medication. The MSA included an arbitration clause and provided that a parenting facilitator would determine when Father could move to the next phase of the possession schedule. The parties agreed any arbitrator's decision would be binding and not subject to appeal.

Before entry of a final decree, Father invoked the arbitration provision. Neither party requested a record of the arbitration proceedings. After an arbitration award was issued, Father filed a motion to vacate the arbitration award and asserted the



arbitrator exceeded the scope of arbitration. In part, Father asked the court to vacate a paragraph regarding Father's failure to comply with the requirements to move from phase one to phase two of the possession schedule. The arbitrator signed a final decree of divorce, and Father filed a supplemental motion to vacate the award. In addition to reiterating his complaints, Father asserted the arbitrator exceeded his authority by signing a final decree of divorce rather than issuing a decision regarding the language to be presented to the trial court.

After a hearing on Father's motions, the court revised the proposed decree and signed a revised agreed final decree. In the decree, before the provision describing the parenting facilitator's role in deciding when Father could move to the next phase of his visitation schedule, the court added language that "the appointment of a parenting facilitator does not divest the Court of its exclusive jurisdiction to determine issues of conservatorship, support, and possession of and access to the children or the authority to management and control of the suit." There was no objection to the trial court's agreed decree, nor was there a motion for new trial. Father appealed.

Holding: Affirmed.

Opinion: Father argued the MSA only provided the parenting facilitator was to determine when Father moved from phase one to phase two of the possession schedule, whereas the decree specified Father would remain in phase two until the parenting facilitator determined he could move to the next phase. However, when read as a whole, the MSA was not ambiguous and did not limit the parenting facilitator's role to only determining the timing for moving phase two.

Father also complained that the trial court abused its discretion by appointing a parenting facilitator with powers outside those authorized by statute. The language in Father's proposed decree was nearly identical to the language he challenged on appeal. Accordingly, Father waived the issue or, alternatively, invited the error.

**SAPCR:
CHILD SUPPORT**

Child Support Reversed Because No Evidence was Offered to Support Calculation of Father's Net Resources; Property Division Reversed Because Evidence Did Not Support Valuation of Several Assets.

32. *In re Marriage of Bagley*, No. 12-25-00238-CV, 2026 WL 2349831 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (08-12-2026).

Facts: The court conducted a bench trial in the parties' divorce and heard issues regarding the marital estate and the parties' two Children. The decree appointed the parents as joint managing conservators and ordered Father to pay child support to Mother. The court also awarded Mother an equalization payment as part of the just and right division of the community estate. Father appealed.

Holding: Reversed and Remanded.

Opinion: Father challenged the trial court's determination of his net resources for the purpose of assessing his child support obligation. At trial, Father testified he was a superintendent construction manager but offered no evidence regarding his income. Mother asked for guideline support but provided no testimony regarding income. At the trial's conclusion, the court ordered that Father would pay guideline support. The decree included findings regarding Father's net resources and his child support obligation. Subsequent written findings were issued consistent with the Family Code's requirements.

In response, Mother pointed to Father's statement regarding monthly expenses and his testimony that he would be willing to pay for monthly baton lessons. Even with this evidence, Father's expenses totaled less than what the trial court determined Father's net resources to be. Regardless, the court cannot equate expenses with resources. Because the record contained no evidence of Father's net resources the issue was remanded for further proceedings.

Father also challenged the just and right division of the community estate and alleged the court erred in its valuations of certain marital assets. Father valued a certain truck at about \$4000, while Mother valued it at \$10,000. The trial court placed a value of about \$15,000 on the truck. There was no evidence to support this valuation. Additionally, Father valued a trailer at \$4500, while Mother offered no value. The trial court abused its discretion at valuing the trailer at \$9000.

However, Father himself offered conflicting valuations of some large equipment. The trial court did not abuse its discretion in accepting Father's larger valuation. Similarly, while the evidence regarding the values of firearms was conflicting, the court's valuation was within the range of values offered by Father and Mother and was, thus, not an abuse of discretion.

Neither party offered valuation regarding some small equipment, yet the court issued findings of value for the equipment. Acknowledging "that some of our sister courts have held that when a party does not provide values for property to be divided, that party may not complain on appeal that the trial court lacked sufficient evidence to properly divide the property. In declining to adopt this rule, the court reasoned that, '[w]hile such a ruling may be appropriate in cases where there is some evidence of the value of the contested item or estate ... or in cases where the only unvalued items would obviously have little effect on the overall division, it would not be appropriate in this case.' The Texas Family Code requires the trial court to make a just and right division of the community estate. The failure of the parties to put on evidence as to value does not absolve the trial court of fulfilling this duty. No 'just and right' division can be ensured where the trial court has no evidence of what exactly it is dividing." [citations omitted]. Without valuation evidence, the trial court abused its discretion.



Because the combined valuation errors materially affected the calculation of the just and right division, the entire property division was reversed for a new determination

Child Support Obligation Reversed Because There was No Evidence of Husband's Earning Potential to Support the Judgment.

33. *Castro v. Castro*, No. 08-25-00135-CV, 2026 WL 2435351 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (08-19-2026).

Facts: Husband described himself as “one of the most decorated doctors in the country.” He left his chiropractic practice to pursue other ventures and then considered himself retired. When the couple separated, Wife and the parties’ minor Child moved out of the marital residence. Wife filed for divorce, and Husband counter petitioned. Husband failed to appear at a temporary orders hearing, so the associate judge signed default temporary orders that included orders that gave Husband exclusive use of the marital residence, ordered the sale of that residence, and required Husband to pay spousal support. After subsequent hearings, the temporary spousal support obligation was removed but reinstated. After yet further litigation, a receiver was appointed to sell the marital residence. After conducting a final hearing and conferring with the Child, the court signed “Rulings in Final Divorce Pending Entry of Judgment on Final Order.” The court explained that in reaching a determination on the just and right division, it considered, among other factors, Wife’s debts and Husband’s failure to pay temporary spousal support, failure to pay the mortgage pending sale of the residence as ordered, noncompliance with the house sale, and “lack of obligation to pay child support.” The court ordered Husband to pay about \$1800 a month in future child support and \$9000 total in retroactive child support and awarded Wife attorney’s fees and half the equity in the marital residence after payment of the receiver. The final decree mostly matched the initial final ruling and found Husband was voluntarily underemployed. Husband appealed.

Holding: Reversed and Remanded.

Opinion: Husband challenged the child support order because there was no evidence of his earning capacity. Rather, there was evidence he had been unemployed for years, was on food stamps, and made approximately \$12k in the year before the divorce. Although there was evidence Husband possessed advanced educational credentials and had significant potential financial resources available through his chiropractic license and other business pursuits, there was no substantive or probative evidence of his earning potential. Even if Husband was intentionally underemployed, there was no evidence of the amount of his potential net resources. There was no evidence of how much money Husband previously earned as a chiropractor or through any other business venture. Accordingly, the trial court abused its discretion in its assessment of child support.

SAPCR: MODIFICATION

Although Mother and the Child Moved to California, Texas Retained Continuing, Exclusive Jurisdiction Because Visitation with Father Took Place in Texas, and Giving Father the Exclusive Right to Designate the Child’s Primary Residence was in Child’s Best Interest Because, in Part, Mother Weaponized Access to the Child when Dissatisfied with Father.

34. *In re S.S.W.*, No. 05-25-00649-CV, 2026 WL 2273205 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-06-2026).

Facts: Mother filed a petition to modify the parent-child relationship and sought a declaratory judgment pursuant to the UCCJEA that Texas was an inconvenient forum and that she had lived in California with the child since the child’s birth. She asserted Father no longer resided in Texas and had moved to Florida. Mother asked for a stay of proceedings on condition of a custody proceeding being commenced in California. Mother asked for several exclusive rights, including the exclusive right to designate the Child’s primary residence. She additionally requested for an increase in child support and for Father to be fully responsible for travel expenses for visitations with the Child. Father responded with similar requests in a counterpetition.

At trial, both parties addressed whether Texas retained continuing exclusive jurisdiction. The court denied Texas was an inconvenient forum and declined to sign a declaratory judgment. Mother offered testimony regarding her decision to move to California. On cross-examination Mother admitted to refusing to allow Father to see the Child because she was angry with Father’s attorney. The parties did not agree on treatment for the Child, who had some developmental issues related to a speech impediment. Mother claimed to like the Child’s “baby voice” and did not want to treat the impediment. Mother resisted providing updates to Father. For example, when he messaged Mother because he heard there were fires near her, she refused to provide information about whether she and the Child were safe.

At the hearing’s conclusion, without reading its ruling into the record, the court advised Mother that its ruling was based on Mother’s inability to put the Child’s best interest above Mother’s personal grievances and perceived slights. The court signed a final order and issued findings. Mother was granted the exclusive right to designate the Child’s primary residence in Texas. Mother’s motion for new trial was overruled by operation of law. She appealed.

Holding: Affirmed.



Opinion: Mother first challenged the trial court's determination that it had subject-matter jurisdiction to modify the prior order. Once a Texas court obtains continuing, exclusive jurisdiction, it retains that jurisdiction until there is no longer a significant connection with Texas or substantial evidence in Texas is no longer present. Mother argued neither parent resided in Texas, so it could no longer exercise jurisdiction. However, Father testified he lived with his wife in Texas and that visitation with the Child took place in Texas. Moreover, Mother's pleading acknowledged Texas had continuing, exclusive jurisdiction. Additionally, even if California became the Child's "home state," under the UCCJEA Texas would retain continuing, exclusive jurisdiction so long as there was a significant connection with the state.

Mother next argued the court erred in failing to find Texas was inconvenient forum. In its findings, the court acknowledged the Child had spent more time in California. However, it further found this fact was a result of Mother denying possession time to Father. The court also noted that distance between Mother and the court was not a factor because she utilized Zoom throughout the proceedings. Overall, in considering the statutory factors provided in the UCCJEA, the court did not abuse its discretion in finding Texas was not an inconvenient forum.

Mother further argued the court erred in modifying the right to designate the Child's primary residence. After considering all the evidence, the trial court did not abuse its discretion in finding the modification was in the best interest of the Child.

Order Enforcing Divorce Decree Did Not Operate as Res Judicata to Prohibit Presentation of Evidence in Subsequent Modification Trial.

35. *In re J.C.L.L.*, No. 05-25-00145-CV, 2026 WL 2258713 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-05-2026).

Facts: A divorce decree imposed a geographic restriction on the primary residence of the parties' two Children. The restriction on Mother would be lifted if Father moved outside the prescribed geographic area. Before the divorce was final, Father began dating a woman in California who was cast in a Netflix reality show. That woman gave birth to two Children by Father, and the family appeared on the reality show. Mother struggled with this chain of events.

Father spent time in California but lived with his parents in Texas. Believing Father had moved to California, Mother notified Father of an intent to move to California. Father did not consent to the move and threatened to take the matter to court. Mother did not follow through with the move at that time. Father married the mother of his two youngest children and maintained that they lived in Texas.

Three years after her first message regarding a move, Mother sent Father another message notifying Father that they had moved to California. Mother explained the benefits of the move, including that the Children would attend "the top school in the entire nation" and that the move would alleviate financial stress and responsibilities because she would have more support.

Father filed a petition to modify and sought the exclusive right to designate the Children's primary residence in Texas. Father obtained an emergency TRO and filed a motion to enforce the decree, alleging 14 violations by Mother. In response to the modification suit, Mother asserted Father did not live in Texas and was being dishonest about his residence. She asserted she was ready to prove Father resided in California for over 51% of the time in the prior 36 months. Father amended his enforcement pleading to allege 73 violations.

Father obtained a default judgment against Mother in the enforcement proceeding. Mother appeared pro se at a subsequent setting, and further orders were rendered against her. She filed an amended petition asserting that the current order would endanger the Children's physical health or significantly impair their emotional development.

After a bench trial, at which the court-appointed parent facilitator testified, the court found material allegations in Father's petition were not true and that allegations in Mother's petition were true. It granted Mother the exclusive right to designate the Children's primary residence within a single county in California or another county in Texas. Father appealed.

Holding: Affirmed.

Opinion: Father argued res judicata prevented the court from re-litigating his place of residence at the bench trial. He argued that the court could not have found in the enforcement suit that Mother violated the decree without also finding Father resided in Texas.

Res judicata requires proof of the following elements: (1) a prior final judgment on the merits by a court of competent jurisdiction, (2) identity of parties or those in privity with them, and (3) a second action based on the same claims that were raised or could have been raised in the first action. An enforcement suit and modification suit are two entirely different types of proceedings. The enforcement orders established Mother violated the geographic restriction in place at the time of the alleged violations. It did not adjudicate whether the geographic restriction was in the best interests of the Children or if Mother's move constituted a material and substantial change. Thus, Father's modification suit was not a "second action based on the same claims as were raised or could have been raised in the first action."

Next, to the extent Father argued there was no material and substantial change in circumstances, he judicially admitted to that ground for modification. Mother and Father disagreed as to the specific facts that constituted a material and substantial change, but both argued such a change existed.

Father further argued there was no evidence he resided in California or that moving the Children to California would be in their best interest. The court reviewed the best interest standards laid out in the Family Code, *Holley*, and *Lenz*. Mother testified that Father was an absent Father, and she lacked support in Texas. She was engaged to a man who provided financial stability. The environment for the Children was better in California, and she had family in California. While there was additional evidence



both for and against the move, the trial court did not act unreasonably, arbitrarily, or without reference to guiding principles in reaching its decision.

Father Failed to Establish Judgment Nunc Pro Tunc was Void Because He Failed to Include Anything in the Record Establishing the Judgment Rendered.

36. *In re B.K.M.*, No. 08-25-00133-CV, 2026 WL 2359368 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: When the first SAPCR Order was issued, Mother and Father had one Child. After the second Child was born, the OAG initiated a suit to establish parentage of the younger Child and to modify orders pertaining to the older Child. Multiple judgments were subsequently entered, with at least one being signed without the court having knowledge of a prior order. Maternal Grandmother intervened and was appointed sole managing conservator with both parents being ordered to pay child support to Grandmother. A subsequent nunc pro tunc order purportedly corrected Father's child support obligation and arrearages but did not mention Grandmother.

Father filed a petition to modify the order that appointed Grandmother as sole managing conservator. While that modification proceeding was pending, Father filed a bill of review, alleging the order he was currently seeking to modify was void because he was not served with Grandmother's petition in intervention. The bill of review proceeding was later dismissed for want of prosecution. In the modification proceeding, the court determined the order appointing Grandmother as sole managing conservator was void and dismissed all pending litigation. No one appealed. The order in effect had named Mother as sole managing conservator and gave Father possession rights only upon Mother's agreement, and Father was not ordered to pay child support.

A few weeks later, Father filed a new modification suit. He filed a motion to amend his petition because, given the prior order had been declared void, he had overpaid child support to Grandmother. At a hearing, the court explained there were no pleadings on file for reimbursement of overpayment but also clarified "there should have been no child support accumulated after" the void order. Both parties testified Father did not have a consistent relationship with the Children, though they offered different reasons. After hearing evidence and conducting in-chamber interviews with the Children, the court modified the order to name both parents joint managing conservators and gave Father a limited possession order. In ordering Father to pay child support, the court referenced the nunc pro tunc order. Father appealed pro se.

Holding: Affirmed.

Opinion: Among other complaints, Father challenged the nunc pro tunc order because it made judicial and not clerical changes to the prior order. After a court loses plenary power, it cannot "correct" judicial error, and a judgment nunc pro tunc that attempts to do so is void. A party can challenge a void judgment by collateral attack at any time. Father did not challenge the nunc pro tunc through a timely direct appeal, and his notice of appeal for this appeal did not reference the nunc pro tunc. His petition to modify treated the nunc pro tunc as a valid order by seeking to modify it. Moreover, Father did not include any information in the record to establish whether the nunc pro tunc accurately reflected the judgment rendered and, thus, failed to meet his burden on appeal.

Father challenged the appointment of Mother as the conservator with the exclusive right to designate the Children's primary residence and in ordering him to pay child support to her because she had no affirmative pleadings on file. However, Father invoked the trial court's jurisdiction, and it had discretion to render conservatorship, possession, and support orders that were in the best interest of the Children.

Father next challenged the sufficiency of the evidence to support the judgment. However, no record was made of the interviews with the Children, and without those records, the appellate court presumed the trial court had sufficient evidence before it to reach its judgment.

Mother Bore the Burden to Ensure a Record was Made of in-Chambers Interviews with the Children, and the Absence of a Record was Not Presumptively Harmful.

37. *Guadalupe v. Rodriguez*, No. 03-25-00569-CV, 2026 WL 2339164 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: A divorce decree appointed the parents joint managing conservators with independent decision-making responsibilities. Mother had the exclusive right to designate the Children's primary residence within Texas. Father had a standard possession schedule and was ordered to pay child support. Twelve years after the divorce, Father moved to modify and asked to have the exclusive right to designate the Children's primary residence. He alleged the Children would tell the court in chambers that they wanted him to have that right.

While the modification was pending, Father filed a suit to enforce possession, and the court found Mother had violated the order on six days in a single month.

The modification suit was tried to the bench. The court interviewed the Children, but no record was made of the interviews. An associate judge issued the ruling. Although Mother moved for de novo review, her request was untimely, and the district judge adopted the associate judge's ruling. The court granted Father's request to be named the conservator with the exclusive right to designate the Children's primary residence and ordered Mother to pay child support. Mother appealed pro se.



Holding: Affirmed.

Opinion: Among many other complaints, Mother argued the trial court failed to ensure a record was made of the in-chambers interviews. However, the court does not bear responsibility for ensuring a record is made of these interviews. “And contrary to [Mother’s] argument that the absent record is presumptively harmful, we conclude that the interviews of the children, who were both over the age of twelve when interviewed, constitute evidence for the purposes of the missing-records presumption, meaning that we must presume that those interviews contain sufficient evidence to support the trial court’s final order.”

Reduction of Child Support Not Required to be Retroactively Applied to Date of Citation; Contempt Orders Could Not be Challenged via Appeal.

38. *In re S.L.R.*, No. 12-26-00052-CV, 2026 WL 2444711 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (08-19-2026).

Facts: The parties’ agreed decree included provisions for child support, medical support, and monthly payments towards a then-existing arrearage. A bit over a year later, Mother filed a motion to modify and a motion for enforcement. At the conclusion of a temporary orders hearing, the court indicated an intent to deny the requested modification and asked the parties to try to reach an agreement. The parties did not reach an agreement, and Mother nonsuited her petition. However, about a year after that, she filed another motion to modify and for enforcement. Father responded with a request to reduce his monthly child support obligation. The court found Father in contempt for numerous violations of the existing order, confirmed child support and medical support arrearages, modified the possession schedule, reduced Father’s child support obligation, ordered Father to pay attorney’s fees, and committed Father to jail but suspended that sentence on condition of Father’s future compliance. Father appealed.

Holding: Dismissed in Part; Affirmed in Part.

Opinion: Father asserted the trial court erred by not retroactively applying the reduction in child support to the date of service of citation. At the hearing, the parties stipulated to a specific amount of arrearages if the reduced child support was not retroactively applied. The trial court set the effective date for the modification within the range permitted by the Family Code, which was not an abuse of discretion.

Father additionally challenged the contempt orders. However, contempt orders are not appealable and must be challenged via a petition for writ of mandamus when the contemnor is not confined. The court found no authority to treat this appeal as both an appeal and a petition for writ of mandamus and dismissed this issue for want of jurisdiction.

Father failed to adequately brief his remaining issues.

Father Failed to Establish His Earning Potential Had Decreased Since the Prior Child Support Order and Overall Failed to Establish a Material and Substantial Change to Support Reducing His Obligation.

39. *Higley v. Jorgensen*, No. 03-24-00568-CV, 2026 WL 2523930 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (08-27-2026).

Facts: An agreed divorce decree required Father to pay monthly child support to Mother. The following year, the parties agreed to modify the geographic restriction on the Children’s residence. The year after that, Father filed a petition to modify conservatorship and child support. Mother filed a no-evidence motion for summary judgment alleging no material and substantial change in circumstances justified a modification. The court granted Mother’s motion to compel discovery regarding Father’s income, denied her motion for sanctions, but awarded her nominal attorney’s fees. The court later granted the no evidence motion for summary judgment. Father filed a motion for reconsideration, in response to which Mother again sought sanctions. At a subsequent hearing, Mother’s attorney testified that Mother had incurred over \$50k in attorney’s fees in the modification suit as a result of responding to Father’s multiple motions and amended motions, Father’s opposition to a mandatory venue transfer, Father attempting to set hearings on issues already ruled upon, and Father’s frivolous requests for production. The court reversed its summary judgment ruling, finding a scintilla of evidence regarding a modification being in the best interest of one of the Children. The court awarded Mother \$5000 in attorney’s fees associated with Father attempting to revoke his prior agreement to modify the geographic restriction because Father’s request was not based in law. Father’s attorney withdrew, and Father proceeded pro se.

At trial, Father testified about his income and how it had fluctuated since the divorce. He explained that he had previously received stipends for housing and food as a traveling nurse that he was no longer receiving. Father requested a decrease in his child support based on his decreased income. He claimed to be working twice as many hours to earn the same amount of money.

Mother’s attorney requested fees again but only for work done after the prior hearing. Mother’s attorney testified that Father’s multiple motions had caused considerable work, yet the motions were not ever set for hearing. Mother’s attorney further noted that nominal fee awards were inadequate to discourage Father’s conduct.

The court denied Father’s requested modification and awarded Mother about \$14k in attorney’s fees. Father appealed.

Holding: Affirmed.

Opinion: Father argued the trial court ignored his drastic reduction in income that resulted in him having to work extreme hours in order to keep up with child support payments and reduced his time with his Children.

Because less than three years had elapsed since the prior order, Father was required to establish a material and substantial change to support modification. Not every change qualifies as material and substantial. Father presented no evidence of how the requested modification would have been in the Children's best interest, and the trial court would not have abused its discretion in denying Father's request for that reason. Father's W-2 showed an increase in income. Even though Father presented evidence that his new job did not include reimbursement for food and housing, the trial court could have reasonably determined Father's earning potential had not diminished.

Father next challenged the award of attorney's fees. The court had already found Father engaged in sanctionable conduct by seeking relief not warranted by existing law and without evidentiary support. Moreover, even if the record did not support awarding fees for filing a frivolous request, the Family Code provides broad authority to award fees in a SAPCR.

Despite Allegations of Abuse, Father Failed to Establish a Material and Substantial Change in Circumstances to Support Modification.

40. *Marroquin v. Villarreal*, No. 03-26-00188-CV, 2026 WL 2575349 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (08-31-2026).

Facts: The parents were joint managing conservators, with Father having the exclusive right to designate the Child's primary residence and Mother having a standard possession order. Father filed a modification petition asking for sole managing conservatorship and a 12-month supervision requirement to be imposed on Mother. When the trial court denied Father's requested relief, he appealed pro se.

Holding: Affirmed.

Opinion: Father based his petition on allegations of abuse, neglect, and alcohol abuse. In addition to the claims being ruled out, Mother testified that she had to submit to random drug and alcohol testing at work. Mother asserted that Father only sought modification after she told him she was going to contact "child support" to see if they could lower her monthly payments based on the facts she had another child, and her job hours were cut. Mother asserted that Father sought to "bribe" her into agreeing to him having full custody and her having supervised visits in exchange for a return to her of "some" child support. Text messages supported Mother's story. The trial court did not abuse its discretion in implicitly finding there had been no material and substantial change in circumstances.

SAPCR:
ENFORCEMENT OF POSSESSION / CONSERVATORSHIP

Contempt Orders Vacated for Ambiguities and Failure to Include Conditions Under Which Father Could Purge Himself of Civil Contempt.

41. *In re M.M.*, No. 02-26-00411-CV, 2026 WL 2275223 (Tex. App.—Fort Worth 2026, orig. proceeding) (mem. op.) (08-06-2026).

Facts: Three years after the parties' divorced, Mother moved to enforce possession of the Children based on a threat by Father not to return the Children after Christmas vacation. The court denied Mother's request for a restraining order but ordered that the possession provisions of the divorce decree remained in effect. The Court specifically ordered Father to return the Children at noon on December 28, pursuant to the decree. Father did not return the Children. Mother sought a writ of habeas corpus and writ of attachment, but the requests were not ruled on. Mother subsequently filed an enforcement proceeding and asked for Father to be held in contempt and included other alleged violations of the divorce decree.

After a hearing, the court held Father in contempt and awarded Mother attorney's fees "as child support." The court ordered the "cumulative judgment" be paid in installments until paid in full. The court suspended Father's commitment for two years on conditions including Father abiding by orders and paying attorney's fees. A few months later, Mother moved to revoke Father's suspension of commitment for his failure to pay attorney's fees as ordered. Father then filed a petition for writ of mandamus in the appellate court challenging the entire order as void. The appellate court stayed enforcement of the order pending a resolution of the mandamus proceeding.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Father first argued the criminal-contempt order was fatally ambiguous. The order contained one provision stating Father would be confined for 60 days, while also containing a provision that he be confined 180 days. Due to this discrepancy, the criminal contempt part of the order was void.

Father next argued the civil-contempt order failed to include conditions by which he could purge himself of contempt. The order segregated civil and criminal contempt, with the award of attorney's fees immediately after an order that Father was in civil



contempt and was sanctioned for each [civil] violation enumerated above. However, nothing in the attorney's fee provisions indicated payment of fees would purge Father of contempt. Instead, the suspension of commitment for the criminal-contempt finding was conditioned on the payment of attorney's fees. Contrary to Mother's assertion, the order did not make clear that payment of fees could purge Father of civil contempt. Further, if no condition could purge Father of civil contempt, then the contempt finding was a surplusage. Because the appellate court could not determine the intent of the civil contempt provisions, the order was not sufficiently clear and was void.

Although Father failed to comply with the possession-and-access terms of the decree, the court's contempt and commitment orders were void. Thus, the attorney's fee award based on that finding was also vacated. The court also awarded Mother attorney's fees in connection with her habeas corpus filing. However, those fees were not authorized in the enforcement proceeding.

**SAPCR:
ENFORCEMENT OF CHILD SUPPORT**

Contempt Order Vacated Because It Held Father in Contempt for an Alleged Violation Committed Before the Underlying Order was Signed, Held Father in Contempt for Violations Not Alleged in the Enforcement Motion, and Failed to Find Father's Noncompliance was Willful.

42. *In re Peacock*, No. 14-26-00253-CV, 2026 WL 2445076 (Tex. App.—Houston [14th Dist.] 2026, orig. proceeding) (mem. op.) (08-20-2026).

Facts: After the parties' divorced, Mother filed a motion for enforcement regarding child support, health insurance for the Children, and a provision requiring Father to prove he had life insurance coverage. Father responded with a claim that he lacked the financial resources to provide support in the amount ordered and that he had already made direct payments to Mother. After an evidentiary hearing, the trial court signed a contempt order that Father challenged by petition for writ of mandamus.

Holding: Writ of Mandamus Conditionally Granted in Part; Denied in Part.

Opinion: Father asserted he was denied due process in the contempt proceedings. Mother's motions alleged Father missed two child support payments. The first of the two payments was due more than a week before the trial court signed the final decree of divorce. The trial court abused its discretion in finding Father in civil contempt for failing to make a payment that was due before the child-support order was reduced to writing.

In finding Father in contempt for failing to make the second payment, the trial court found Father was able to pay the amount due at the time of the contempt hearing, yet willfully and intentionally did not pay. The court made no finding as to whether Father was able to pay on the date the payment was due. The order additionally found Father failed to make additional child support payments after the first two missed payments despite Mother not having a pleading on file regarding the subsequent payments. Father was not afforded due process. Moreover, the court seemed to simultaneously take Father's direct payments into account by reducing the amount of arrearages owed, while also holding Father in contempt despite the direct payments.

The trial court also found Father in criminal contempt for allowing the Children's health insurance coverage to lapse, based on the decree's order that he maintain coverage for the Children. Neither the motion for enforcement nor the contempt order provided a date or general time frame for when Father's act or omission constituted criminal contempt. Additionally, there was no finding Father willfully violated the order regarding insurance coverage. Similarly, the trial court found Father in criminal contempt for failing to provide proof of life insurance coverage but made no finding that the failure was willful.

The appellate court overruled Father's final issue asserting the underlying decree was unenforceable by contempt.

Mother's Motion for Enforcement was Timely Filed Within Two Years of the Child's Graduation from High School; Father Waived Need for Personal Service by Making General Appearance.

43. *In re S.V.*, No. 05-23-00324-CV, 2026 WL 2498758 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-25-2026).

Facts: Over the course of the Children's lives, Father had already raised 22 appeals relating to the Children. At the time of the present appeal, the Children were both over the age of 18, but at the time of the underlying proceeding, the youngest Child was still 17 years old. In an earlier suit, the trial court found Father in arrearages for a bit over \$15k in child support and ordered him to pay monthly child support until the obligation, including interest, was paid in full. Father failed to make any voluntary payments, but Father's income tax refund was intercepted twice to pay part of the balance due. Mother filed a new enforcement action to confirm arrearages plus interest and to hold Father in contempt.

In the most recent enforcement suit, Mother was required to obtain an order for substituted service, and a return was filed into the record. Father appeared at the initial setting and was ordered to reappear a few months later. On the same day as the first setting, Father filed a motion to vacate because he alleged Mother was required to personally serve him, and substituted service was improper. Father filed what was interpreted as a motion for dismissal based on an alleged statute of limitations. Father then made a single monthly payment pursuant to the prior order and then sought dismissal based on a claim that he had brought himself into compliance through that payment.



Father appeared at the second setting, and the court ordered mediation. Father made a second payment pursuant to the prior order, and again alleged the proceeding was “superfluous” because he was in compliance. Mediation was not successful. Father requested a continuance of the next hearing because he alleged he had COVID and needed to obtain counsel. The court denied the request but recessed for a few days. At the resumed final hearing, Mother presented evidence, and the court signed an order granting her requested relief. The arrearages had reached a bit over \$34k, and the court additionally awarded Mother attorney’s fees and costs assessed as child support. The court heard and denied Father’s post-judgment motions, and he appealed.

Holding: Affirmed.

Opinion: Father argued a two-year statute of limitations prohibited Mother’s enforcement action. The relevant Family Code provides:

- (a) The court retains jurisdiction to render a contempt order for failure to comply with the child support order if the motion for enforcement is filed not later than the second anniversary of the date:
 - (1) the child becomes an adult; or
 - (2) on which the child support obligation terminates under the order or by operation of law.

This is not a statute of limitations but a determination of jurisdiction. Father noted the Child had graduated high school more than 2 years before trial in Mother’s suit. However, the court did not find Father in contempt but only assessed arrearages and attorney’s fees. Moreover, Mother’s motion was timely filed in the month the Child graduated. Additionally, Father presented no argument as to why Mother’s subsequently amended motion would change the fact her original motion was filed timely.

Father next argued the trial court erred in authorizing substituted service because Mother sought contempt. Father waived his complaint by making a general appearance. Regardless of whether his physical appearance in court constituted a general appearance, Father requested affirmative relief by filing his motion to vacate the order authorizing substituted service. This action constituted a general appearance.

Father additionally argued the trial court abused its discretion in awarding attorney’s fees after Father became in compliance with the order through his two voluntary payments during the litigation. The appellate court construed this argument to be that his posting of a supersedeas bond in the appeal of the prior order (finding him \$15k in arrears) suspended his obligation to make monthly payments on the arrearages. However, the Family Code provides that an appeal from a final order, with or without supersedeas bond, does not suspend the order unless the court rendering the order specifically suspends the order. Tex. Fam. Code § 109.002. Father presented no record of a court-ordered suspension. Father was not in compliance.

Father further argued the court erred in denying him a continuance to obtain counsel. Father had appeared at two hearings without counsel. The court granted a recess due to Father’s assertion he did not feel well enough to proceed due to COVID. Father was admonished at a hearing before the final hearing as to his right to counsel because contempt was sought. Father had three months’ notice of the proceedings and appeared at three prior settings. Father was not held in contempt and was not incarcerated. Father’s motion for continuance was not verified. Based on the record, the appellate court could not conclude that Father’s failure to secure counsel was not the result of his own fault or negligence, and the trial court did not abuse its discretion in denying Father’s motion for continuance.

Father Obligated to Pay Court Ordered Agreed Additional Child Support Notwithstanding the Fact that the Provision for the Payments in the Agreed Order was Entitled “Voluntary Payments for the Benefit of the Child.”

44. *DeSimone v. Zook*, No. 03-25-00497-CV, 2026 WL 2575102 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (08-31-2026).

Facts: The parties had one Child together. Mother asserted the parties were informally married, while Father denied the existence of a marriage; however, that question was not at issue in this appeal. In a suit affecting the parent-child relationship, the parties reached an agreement regarding financial support, conservatorship, and possession.

A few months later, Father filed a motion to enforce the agreed order, alleging violations of the possession order. Mother filed a competing motion to enforce, asserting violations of the order’s support provisions. After an evidentiary hearing, the court signed a final order. Father appealed.

Although he had requested findings, none were issued. Rather than request abatement for the purpose of obtaining findings, Father filed his appellate brief.

Holding: Affirmed.

Opinion: Father first complained that the trial court committed harmful error in failing to issue findings and asked the appellate court to direct the trial court to issue findings. However, after Father filed his opening brief but before he filed a reply brief, the trial court issued findings, rendering this issue moot. Father’s complaint in his reply brief that he was prejudiced by the lack of findings was conclusory, and he failed to establish any harm.

Father next argued the trial court improperly construed the “voluntary payments” provision of the agreed order. Father asserted that he was permitted to voluntarily opt out of making the payments. Mother and the trial court disagreed, finding that Father owed Mother \$48,000 for failure to make the “voluntary payments” to which he agreed in addition to regular monthly child support. The appellate court applied rules of contract interpretation to this provision to determine that Father “voluntarily” agreed



that he “shall” make payments as detailed in the provision. “[Father’s] proposed construction [was] unreasonable in the context of the paragraph and the Agreed Order in its entirety and would render the additional provisions in the paragraph meaningless.”

Father also challenged the award to Mother for attorney’s fees because she failed to segregate her claims for which fees are recoverable from which they were not. Assuming segregation was necessary, Father failed to raise this objection in the trial court and, thus, waived the complaint for appellate review.

SAPCR:
REMOVAL OF CHILD / TERMINATION OF PARENTAL RIGHTS

Caseworker’s Conclusory Testimony Parroting TDFPS’s Pleadings was Insufficient to Support a Finding that Termination of the Parents’ Parental Rights was in the Children’s Best Interest.

45. *In re M.A.*, ___ S.W.3d ___, No. 11-26-00054-CV, 2026 WL 2339171 (Tex. App.—Eastland 2026, no pet. h.) (08-13-2026).

Facts: When the Children were 7 and 9 years old, Father left Mother for Mother’s friend. TDFPS became involved when Mother attempted suicide and told Father the Children were going to die. Father discounted Mother’s claims. Initially, the Children were placed with Father while Mother received therapy. After a hair follicle test result for Father showed signs of use of methamphetamine, the Children were moved to a kinship placement. Both parents continued testing positive for drugs; however, Father submitted two clean urine tests. Father participated in substance abuse therapy but relapsed before finally completing the program. A month after completing the program, he tested positive for cocaine. Mother’s hair follicle tests still showed trace amounts of drugs, but the results were consistently improving. Mother was prescribed low-THC for PTSD and was not advised by the TDFPS caseworker that using it was illegal in Texas because the caseworker believed there was a compassionate-use exception.

The TDFPS caseworker did not consistently meet with the parents monthly as required and did not know some details about their lives before removal or during the litigation. Nevertheless, the caseworker opposed returning the Children to the parents. He stated that the parents’ lack of sobriety constituted a continuing danger. He acknowledged Father was in an inpatient treatment program at the time of trial but did not believe Father had overcome his addiction issues yet.

Employees at the supervision facility testified that Mother had been consistent and seemed to have improved her parenting capabilities. The Children seemed happier. The visitations with Father had also gone well.

After a trial, the court terminated the parents’ parental rights on endangerment grounds. The court noted in a memorandum ruling that “evidence of improved conduct, especially of short duration, ... does not negate the parents’ long and continuing history of irresponsible choices that endangered their children, including but not limited to years of illegal drug use.” It further found that not all of the parents’ testimony was credible. Further, the court included a footnote that TDFPS’s efforts were not ideal but were, as a whole, reasonable. Both parents appealed.

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

Opinion: Father challenged the endangerment findings. Despite Father acknowledging to TDFPS that the Children were not safe with Mother and despite agreeing not to permit unsupervised visits with Mother, Father left the Children with Mother because he chose to continue using methamphetamine. This decision, in conjunction with Father’s years of drug use was sufficient to support the endangerment findings as to Father.

Both parents challenged the best interest finding to support termination. The caseworker’s testimony parroted TDFPS’s pleadings and was conclusory. The testimony collapsed under cross examination and left the court with verifiably false assertions. Conclusory testimony does not amount to more than a scintilla of evidence and is no evidence at all. The caseworker’s conceded lack of material knowledge, his complacent and inadequate investigation, and occasional, blatant dishonesty could not be said to be “solid and substantial reasons” to find that the termination of Mother’s and Father’s parental rights was in the Children’s best interest.

While there was evidence of drug use, there was no evidence the parents exposed the Children to illegal drugs, other harmful substances, or failed to adequately supervise their Children. There was no evidence of the Children’s home conditions. The supervisors never smelled marijuana on Mother or worried that she was under the influence of illicit drugs.

Drug use is a common occurrence in TDFPS cases, and drug use often coincides with parental indifference. However, significant weight should be given to parents who put forth genuine efforts and show improvement. While the caseworker testified that the parents did not meet expectations, he did not clearly communicate the expectations to the parents. Further, delays in compliance with the service plan were largely due to TDFPS delays, lack of communication, inadequate investigation, and other failures. Overall, in this case, TDFPS failed to “clear the high bar” of establishing termination was in the Children’s best interest.

Both parents also challenged the finding that TDFPS made reasonable efforts to return the Children before the final termination hearing, but a continuing danger remained preventing return. Here, TDFPS had changed its goal from reunification to termination before the caseworker was assigned to the case. This goal change was not communicated to the parents and possibly explained the caseworker’s inaction. Moreover, as stated above, there was no factual basis for the caseworker’s stated concerns.



**SAPCR:
ADOPTION**

Father Not Entitled to Petition for Bill of Review Three Years After Adoption Order Despite Biological Mother's Failure to Serve Him Because Father Had Not Filed with the Paternity Registry.

46. *Muraira v. Hall*, No. 03-24-00508-CV, 2026 WL 2435105 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (08-20-2026).

Facts: Father and Biological Mother broke up shortly after learning Biological Mother was pregnant, but they remained cordial with one another. A month before the Child's birth, Biological Mother asked Father to give up his parental rights. Father refused. Biological Mother stopped communicating with Father, and Father did not know how to contact her.

In the year after *Obergefell*, Biological Mother married Adoptive Mother. They filed a suit to terminate the "unknown" Father's parental rights so Adoptive Mother could adopt the Child. The adoption was finalized when the Child was five years old. A paternity registry search indicated no man had registered as father of the Child.

Three years later, Father filed a petition for bill of review, asserting he was not properly served with the termination suit and that the Mothers committed fraud to obtain their desired judgment. Father filed a motion for summary judgment. Adoptive Mother also filed a motion for summary judgment, stating she did not know Father was the Child's father. Biological Mother filed a plea to the jurisdiction and motion to dismiss asserting Father was barred from collaterally attacking the termination/adoption order and asking the court to dismiss Father's suit. The trial court granted Father's petition for bill of review, adjudicated Father as the Child's father, and stating an intent to deny the Mothers' requested relief in the adoption/termination proceeding. The court then signed an order denying Biological Mother's motion and plea. After Biological Mother's motion for new trial was overruled by operation of law, she appealed.

Holding: Reversed and Rendered as Dismissed.

Opinion: A direct attack on a judgment must be brought in the same court that issued the challenged judgment. Father's petition for bill of review was filed into a different court from the one that granted the adoption/termination, and the petition for bill of review was not transferred to the correct court. Although the two courts were in the same county and were both district courts of general jurisdiction, "[a] court has *no power to correct* the judgment of another court of co-equal jurisdiction." [emphasis in opinion]. Accordingly, the second court did not have jurisdiction to consider Father's petition for bill of review *as a direct attack* on the adoption/termination order. However, a co-equal court *can* consider a collateral attack on a judgment that is void. Here, Father alleged the adoption/termination order was void for lack of service. Therefore, the second court did have jurisdiction to review Father's petition to the extent that his attack on the judgment was a collateral attack—a claim the judgment was void.

In her plea to the jurisdiction, Biological Mother asserted that under the Family Code, the validity of an adoption order is not subject to attack after six months after the date the order is signed. The appellate court noted in a footnote that the cited statute was not as straightforward as it might have appeared. The Texas Supreme Court has previously held that while the Family Code provisions expedite termination proceedings, those provisions must yield to due process.

To successfully collaterally attack a judgment, the petitioner must establish the judgment is void on its face. The attacked judgment is presumed valid. Unlike a direct-attack bill of review, Father was not entitled to conduct discovery. Rather, the review was limited to the record that existed before the court at the time the attacked judgment was rendered.

Regardless of the veracity of Biological Mother's assertion the Child's father was "unknown," only certain individuals are entitled to service under the Family Code. Because Father had not filed with the paternity registry, he was not entitled to service. The adoption/termination order stated that "[a]ll persons entitled to citation were properly cited," which was true. The second court abused its discretion in granting the bill of review.

FAMILY VIOLENCE / PROTECTIVE ORDERS

Because Court Found that the Offense Involved Family Violence, it Had a Ministerial Duty to Include an Affirmative Family Violence Finding in the Judgment Against Aggressor.

47. *In re State of Texas*, No. 03-26-00522-CV, 2026 WL 2265718 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (08-06-2026).

Facts: The State charged Aggressor with the felony offense of continuous violence against the family. The indictment alleged acts against Victim that constituted family violence as defined by the Family Code. A jury acquitted Aggressor of that offense but found him guilty of the lesser-included misdemeanor offense of assault causing bodily injury, family violence. The court rendered judgment on the verdict and reset the matter for punishment.

At the punishment hearing, the court sentenced Aggressor to 365 days' confinement, probated for two years, and assessed a \$1000 fine. It announced it would assess or impose the Batterer's Intervention Program as a condition of probation but would hold that in abeyance. The court explained it wanted a "carrot." If any requirement of probation was violated or missed, the BIP requirement would be imposed.

The State requested a finding of family violence. The court asked about the ramifications of that, and the State explained that a second offense could be charged as a third-degree felony and it imposed a \$100 fine as a condition of probation. The



court asked if the finding could be abated as part of the conditions of probation. The State did not believe it could. Regardless, the court said the finding and \$100 fine could be included but abated as a condition of probation. The State sought mandamus relief.

Holding: Writ of Mandamus Conditionally Granted

Opinion: In a criminal case, to obtain mandamus relief, a relator must first show she has no adequate remedy at law to redress her alleged harm. This requirement is satisfied even if the remedy technically exists but is so uncertain, tedious, burdensome, slow, inconvenient, inappropriate, or ineffective as to be deemed inadequate. Second, the relator must show that she has a clear right to the relief sought—that is, when the facts and circumstances dictate but one rational decision under unequivocal, well-settled, and clearly controlling legal principles. A court's failure to make an affirmative finding of family violence may not be appealed by the State. Thus, the first prong of mandamus relief was satisfied.

Article 42.013 of the Code of Criminal Procedure provides, "In the trial of an offense under Title 5, Penal Code," which includes assault, "if the court determines that the offense involved family violence, as defined by Section 71.004 of the Family Code, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of the case." Similarly, Article 42A.504 provides, "If a judge grants community supervision to a defendant convicted of an offense under Title 5, Penal Code, that the court determines involves family violence, the judge shall require the defendant to pay a fine of \$100 to a family violence center."

The statutory language is clear. However, the situation was not as clear as the State suggested. The jury found Aggressor guilty of the lesser-included misdemeanor charge. That definition did not require the act be intentional. The jury charge included the definition of assault, but it did not include the definition of family violence or reference Family Code Section 71.004. Moreover, it is the judge, not the jury that makes the required family-violence finding. Thus, the appellate court could not conclude from the jury finding of guilt that the court determined the offense involved family violence. The guilty verdict on which the district court rendered judgment could have been based on a belief that Aggressor had knowingly or recklessly assaulted Victim, which would not support a finding of family violence.

Nevertheless, it was apparent from the punishment hearing that the court determined the offense involved family violence. Similarly, BIP is a special condition where the offense involved family violence. Because the court determined the offense involved family violence, it had a ministerial duty to make the affirmative finding and impose the \$100 fine.

No Authority Supported Boyfriend's Claim that a Judge Could Not Sanction Him for Seeking a Protective Order when a Different Judge Presided over the Protective Order Hearing.

48. *Kamel v. Zacharko*, No. 05-25-00799-CV, 2026 WL 2324433 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-11-2026).

Facts: Four days after Girlfriend's Chapter 7B Code of Criminal Procedure protective order based on stalking was granted, Boyfriend filed his own application for a protective order against Girlfriend. The application was denied because the visiting judge found Boyfriend's testimony was not credible and his evidence was insufficient.

Girlfriend moved for sanctions, arguing Boyfriend's application was groundless, brought in bad faith, and brought solely for the purpose of harassment. The court found good cause existed to sanction Boyfriend and ordered him to pay \$3150 in reasonable attorney's fees to Girlfriend. Boyfriend appealed.

Holding: Affirmed.

Opinion: Boyfriend alleged the court violated his due process rights by preventing him from completing an objection. Boyfriend failed to preserve any objection and failed to present harmful or reversible error.

At the outset, this exchange occurred:

COURT:	Once y'all get settled, please announce your appearances for the record.
[Boyfriend]:	Your Honor, before we proceed, I would like to exercise my right and object—
COURT:	To a sitting District Judge? Is that what you're going to object to?
[Boyfriend]:	If that's —
COURT:	Overruled. I'm a sitting District Judge. There's no objection.

The record reflected Boyfriend made no further attempt to state the basis for his objection. On appeal, Boyfriend asserted "[w]hatever [I] intended to object to is forever lost because [the judge] prevented [me] from speaking." Boyfriend failed to even articulate to the appellate court what he intended to raise through an objection. He presented nothing for review.

Boyfriend also complained of the sanction against him. Husband's legal authority bore no relevance to his complaint, and the trial court had authority to issue sanctions under Rule of Civil Procedure 13.

Boyfriend complained that the judge who issued sanctions against him was not the same judge who heard his application for a protective order. No authority supported the proposition that a district judge operating within a centralized, rotating docket system could not issue a ruling on a motion if she did not preside over previous pre-trial hearings or directly hear all of the same evidence that each of the previous district judges heard.



Chapter 7B Code of Criminal Procedure Protective Order Based on Stalking Did Not Require Evidence of Fear of Bodily Injury or Death—Evidence of Harassment Was Sufficient.

49. *Kamel v. Zacharko*, No. 05-25-00591-CV, 2026 WL 2352050 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: Previously, Girlfriend obtained a temporary injunction against ex-Boyfriend/neighbor for stalking. Boyfriend appealed, and the appellate court dissolved the injunction because the court's order was a conclusory statement and did not specify reasons Girlfriend would suffer irreparable harm. The appellate court expressed no opinion as to whether Girlfriend was eligible for a protective order under the Code of Criminal Procedure (a "7B protective order").

A month later, Girlfriend initiated a new lawsuit and obtained a 7B protective order based on stalking. She filed a 12-page declaration in support of her application. After Boyfriend was served with a temporary ex parte protective order, he filed motions pro se to dissolve it. After hearing evidence, the court granted Girlfriend's application, which included findings regarding the relationship and Boyfriend's behavior. Boyfriend appealed pro se.

Holding: Affirmed.

Opinion: Boyfriend first challenged the temporary ex parte order. However, temporary orders become moot after entry of a final order. Thus, the appellate court lacked subject matter jurisdiction to consider these complaints.

Boyfriend next argued there was no evidence of stalking. Boyfriend incorrectly argued that stalking requires a fear of bodily injury or death. This ignores the statute under the Penal Code, which prohibits two alternate types of conduct—stalking based on threats of bodily injury or death and stalking based on harassing behavior. Here, there was ample evidence to support a harassment finding.

Respondent's Excessive Online Posts Containing Derogatory Comments About Applicant's Appearance Supported 7B Protective Order.

50. *Ballard v. Durham-Hunt*, No. 15-26-00060-CV, 2026 WL 2407976 (Tex. App.—15th Dist. 2026, no pet. h.) (mem. op.) (08-18-2026).

Facts: The county attorney's office filed a protective order on Applicant's behalf for protection from Respondent. Applicant signed an affidavit in favor of the requested relief, including allegations that Respondent made over 85 posts in an 8-month period on Instagram containing photos and criticisms of Applicant's appearance. Applicant claimed to have been alarmed and in fear for her safety. Respondent worked at the high school of which Applicant was the principal, and Respondent had posted on Facebook under an assumed name complaining about the school's administration. Applicant explained Respondent had been arrested for harassment and would continue to harass Applicant online out of anger regarding the pending criminal case. After an evidentiary hearing, the court rendered a Code of Criminal Procedure Article 7B protective order. Respondent appealed.

Holding: Affirmed.

Opinion: Respondent argued the order, findings, and record did not clearly identify the conduct that supported the finding that Applicant was a victim of stalking. At the hearing, Applicant testified about 60 pages of posts by Respondent on an account focusing on Applicant's hair and feet and making derogatory comments about Applicant's appearance. Under a different account, Respondent posted grievances about the school, the school district, and Applicant's actions. Additionally, the court issued findings of fact specifying the conduct supporting its decision. Respondent failed to show she was entitled to any more detailed findings than what was provided.

Respondent also argued the protective order was unconstitutional because it burdened public-concern reporting and commentary and records-request activity. Respondent failed to raise a First Amendment complaint in the trial court and, thus, failed to preserve it for appeal. Similarly, although Respondent complained on appeal about firearm restrictions, she did not bring that claim in the trial court.

Respondent further complained the trial court abused its discretion by not allowing her to appear remotely. In determining whether a party had good cause for objecting to a method of appearance, a court should consider the following factors:

- (1) case type;
- (2) court proceeding type;
- (3) the number of parties and witnesses;
- (4) the complexity of the legal and factual issues;
- (5) the type of evidence to be submitted, if any;
- (6) technological restrictions such as lack of access to or proficiency in necessary technology;
- (7) travel restrictions such as lack of transportation, distance, or inability to take off work;
- (8) whether a method of appearance is best suited to provide necessary language access services for a person with limited English proficiency or accommodations for a person with a disability; and
- (9) any previous abuse of a method of appearance.



While Respondent complained that she could not travel from Florida due to her need to care for her disabled husband (who traveled to Texas with Respondent to testify), she did not address any of the other factors and failed to establish an abuse of discretion.

Husband and His Attorney Jointly and Severally Liable for Sanctions for Seeking Relief Through an Application for Protective Order Under a New Cause Number Despite Being Denied Relief for the Exact Same Claims for a Protective Order in the Parties' Ongoing Divorce Proceeding; However, Attorney's Fee Award Reversed for Insufficient Evidence.

51. *Fourie v. Fourie*, No. 09-25-00276-CV, 2026 WL 2562042 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (08-31-2026).

Facts: While a divorce with a small Child was pending, Husband filed an application for a protective order to protect him from Wife. Husband alleged Wife had engaged in acts of family violence. Wife responded with a motion for sanctions, asserting Husband's claims were barred by res judicata because he had already sought a protective order in the divorce based on the exact same allegations. Wife asserted the application was filed in bad faith and for harassment.

At the commencement of the hearing, Wife noted that Husband had failed to exchange exhibits with her. Husband explained to the court that he did not think an exchange of exhibits was necessary because Wife already had all the exhibits because "[n]othing ha[d] changed." The judge pointed out to Husband's attorney that Wife's claim in her request for sanctions was that the issues had already been addressed. After discussion, the court determined Husband did not intend to offer any exhibits during the hearing.

During Husband's testimony, the court confirmed that the divorce proceeding was ongoing and the parties were represented by the same attorneys in both the divorce and protective order suit. The court confirmed that Husband's request for a protective order in the divorce had already been denied. Husband claimed Wife intimidated him. The court clarified that Husband considered Wife's mere presence to be intimidation and that Wife worked at the Child's daycare.

When questioned by the judge as to why Husband's attorney did not think the application was barred by res judicata, Husband's attorney complained that Wife's motion did not contain a certificate of conference. However, Husband's attorney acknowledged he did not read Wife's motion before coming to the hearing. Although instructed not to question Wife about instances occurring before the date on which the protective order was denied in the divorce, Husband's attorney's first question to Wife asked about an instance occurring four months before that date. Wife denied intimidating Husband. She also explained that the alleged criminal charges Husband filed against her were dismissed twice—as he tried to make the same allegations twice.

Wife's attorney testified about her experience and the fees incurred in this proceeding. She testified that Husband filed the application in bad faith and for harassment and noted that he filed the application in a county outside of where Wife resided. She pointed out that the only difference between Husband's first and second supporting affidavits was that in the second affidavit, Husband included a sentence stating he had been denied relief in the county in which the divorce was ongoing.

After Husband's closing, the court concluded Husband was merely seeking a "do-over." The court sanctioned Husband and his attorney jointly and severally for \$5000 (Wife's attorney's fees) and denied the application for a protective order. Husband appealed.

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

Opinion: Although the trial court issued detailed findings, in his appellant's brief, Husband failed to challenge any specific finding of fact or conclusion of law. Unchallenged findings are binding on an appellate court unless the contrary is established as a matter of law.

Contrary to Husband's assertions the trial court did not abuse its discretion in limiting Husband to presenting only evidence of events occurring after his protective order was denied, and the evidence was sufficient to support the trial court's finding that Husband failed to prove his case.

Additionally, based on the record, the court did not abuse its discretion in granting Wife's motion for sanctions or in finding that res judicata barred Husband's claims. However, although Wife's attorney provided some testimony regarding the fees incurred, she did not provide testimony about the amount of time she spent preparing the motion for sanctions, the amount of time spent on preparing for the hearing, nor did she provide a breakdown for how she arrived at a request for \$5000 in fees. Accordingly, the amount of fees was reversed and remanded for further proceedings.

MISCELLANEOUS

While Wife Established She was an "Interested Person" in Husband's Estate, She Lacked Standing to Challenge His Will Because She Did Not Show How Blocking Probate was Necessary to Protect Her Asserted Interests.

52. *In re Estate of Brown*, No. 01-24-00610-CV, 2026 WL 2339341 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: A final decree of divorce ordered the parties to sell a jointly owned property and split the proceeds. The decree additionally awarded Wife a parcel of real property, the salvage vehicles on that land, and "an additional 130 of the salvage motor vehicles" but did not specify which 130 vehicles in any fashion.



The jointly owned property was sold, and the proceeds were placed in the court's registry. The distribution of these funds was addressed in another appeal (No. 01-24-00263-CV, 2026 WL 627431). Wife has filed a petition for review in the Texas Supreme Court from that appeal.

Wife asserted she had salvage vehicles stored on Husband's property that went missing after the appointment of the dependent administrator. Wife maintained that a tenant renting the property sold the salvage vehicles and faulted the dependent administrator for failing to secure the property. Wife alleged that Husband's estate owed her for the missing vehicles.

The tenant had applied to probate the will. Wife contested the will as a forgery, leading to the above-referenced prior appeal. After the appealed judgment for a post-divorce division of property was affirmed, the tenant moved to dismiss Wife's will contest for lack of standing. Wife responded that she was a creditor based on her claims against the estate for the missing salvage vehicles. After hearing evidence, the court ordered Wife to remove all her vehicles on the property, and then she would have no further claim pursuant to the divorce decree or otherwise. The court held that even if Wife had a claim regarding the missing vehicles, she could pursue a claim for damages, but as to the will contest, "she's not coming in as a creditor." The court granted the tenant's motion to dismiss. In response to Wife's motion for new trial, the dependent administrator argued Wife had filed no claim as a creditor. After the motion for new trial was denied, Wife appealed pro se.

Holding: Affirmed.

Opinion: "Under the Estates Code, any 'person interested in an estate' may contest its administration in probate court." A "person interested" in an estate is "an heir, devisee, spouse, creditor, or any other having a property right in or claim against an estate being administered." "To have standing to contest a will, a person must first establish this interest." An interested person, including a creditor, may have standing to file a claim against the estate.

To establish standing, Wife was required to demonstrate that blocking probate of the will was necessary to protect her asserted interest. Wife did not demonstrate this standing.

Wife argued she had standing based on her appeal pending in the Texas Supreme Court and based on her claim to the salvage vehicles. Wife had, at most, shown she was an interested party. However, she did not show how the probate of the will would affect her claim against the estate, which could continue regardless of whether Husband's assets were administered under a will.

In Partition Suit After the End of Relationship Between "Unmarried Conjugal Cohabitants," Boyfriend was Entitled to Offset of Equity Buyout from Girlfriend to Account for Direct Payments for the Preservation and Maintenance of Their Shared Home.

53. *Hunter v. Von-Zehman*, No. 07-26-00124-CV, 2026 WL 2359367 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: Boyfriend and Girlfriend were "unmarried conjugal cohabitants who jointly purchased a home as their family homestead." The couple intentionally never married due to Girlfriend's German Air Force survivor benefits. Together, they raised children from separate relationships. After 15 years, Boyfriend moved out and filed a suit for partition, and Girlfriend agreed to Boyfriend's proposed buyout. However, they each claimed competing offsets for contributions to the property. After a trial, the court valued the home, ordered Boyfriend to pay Girlfriend for her half interest and denied both parties' offset claims. Both parties appealed.

Holding: Affirmed as Modified.

Opinion: Boyfriend argued the trial court abused its discretion in failing to credit him for expenditures he made that were necessary to protect and preserve the common property. A forensic accountant testified about mortgage payments, property taxes, and homeowners insurance premium payments Boyfriend made. Additionally, Boyfriend paid for tree trimming and fence replacement. The court found the testimony was credible, but it was only "marginally of benefit as it was incomplete." The trial court did not adopt the tracing report because it was not a complete analysis due to the accountant not being provided complete information. Boyfriend argued this decision was arbitrary. The appellate court held that regardless of the reliability of the report, Boyfriend was entitled to an offset for the expenditures made in preserving the residence that were supported by the evidence in the record.

Girlfriend argued she should have been entitled to credit for homeowner's insurance payments made by her that were omitted from Boyfriend's calculations. Both parties agreed these payments were made. Under Texas law, cotenants who expend funds to protect or preserve common property are entitled to pro rata reimbursement. Girlfriend was entitled to a half-credit of the insurance payments.

At trial, Girlfriend argued the parties had agreed to share the homestead equally regardless of who made direct payments for preservation and maintenance, with neither party expecting reimbursement. Boyfriend admitted to depositing \$4000 a month into a joint account but could not explain why. The court found Boyfriend was not credible on this point. Boyfriend argued the statute of frauds applied, so any alleged oral agreement was not enforceable. Girlfriend argued the court erred by denying admissibility of evidence of complete performance as an implied-in-fact contract as an exception to the statute of frauds. Boyfriend argued this issue was not preserved because this exception was not addressed at trial, and Girlfriend's pleading stated the parties "did not have a written or oral contract." The final order found the statute of frauds applied and denied Girlfriend's contract-based claims for damages or reimbursement.



The appellate court agreed with Boyfriend that Girlfriend failed to preserve the error by stating the exception when her evidence of an oral contract was excluded at trial. Additionally, Girlfriend made no offer of proof for the excluded evidence. Further, the Texas Business and Commerce Code requires agreements made on consideration of nonmarital conjugal cohabitation to be in writing. Moreover, Girlfriend judicially admitted in her pleading that no oral contract existed.

Citing the Texas Finance Code, Boyfriend argued the court erred by failing to specify post-judgment interest rates. Boyfriend also requested that, pursuant to the Finance Code, post-judgment interest accrued from the date of the second final judgment issued after both parties sought reconsideration rather than the initial judgment. The appellate court held that post-judgment interest applied to its modified judgment retroactively to the date of the trial court's second final judgment.

Because the appellate court sustained Boyfriend's first argument but overruled all other issues, Boyfriend's buyout payment to Girlfriend was offset, reducing her money judgment accordingly.

Wife's Appeal of the Divorce Decree Dismissed Because She Accepted the Benefits of the Decree By Selling Real Property Awarded to Her in the Decree and Which Represented the Entirety of the Parties' Community Estate.

54. *In re Smith*, No. 10-24-00021-CV, 2026 WL 2350194 (Tex. App.—Waco 2026, no pet. h.) (mem. op.) (08-13-2026).

Facts: Wife filed for divorce, and the court severed the issue of the enforceability of the parties' premarital agreement. The court found in a final judgment that the agreement was enforceable, and Wife did not appeal that final judgment. Subsequently, the parties stipulated to some issues, but others remained contested for a divorce trial. After a final decree was rendered in which Wife was awarded 100% of the community estate, Wife appealed. She intended to challenge on appeal certain characterization determinations and the denial of her reimbursement and interspousal tort claims.

While the appeal was pending, Wife sold the real property awarded to her in the divorce decree, representing the entirety of the community estate. Husband filed a motion to dismiss based on the acceptance-of-benefits doctrine.

Holding: Dismissed.

Opinion: Under the acceptance of benefits doctrine—which bars appeal if the appellant voluntarily accepts the judgment's benefits and disadvantages the opposing party—litigants cannot enjoy the fruits of a judgment while simultaneously challenging its validity. Merely using, holding, controlling, or securing possession of community property awarded in a divorce decree does not constitute clear intent to acquiesce in the judgment and will not preclude an appeal absent prejudice to the nonappealing party.

Here, Wife did not merely use, hold, control, or secure possession of the property; she sold it. No community property remained after Wife's sale. Both the Family Code and the parties' agreement required the trial court to divide the community estate in a just and right manner. If Wife's characterization complaints were sustained, it would require remand of the entire community estate. Yet, the community estate no longer existed. Additionally, the community estate was comprised of real property, which is nonfungible and could not necessarily be restored to the community for redivision. Thus, Husband would be prejudiced by a consideration of Wife's appellate complaints.

In Absence of a Petition to Modify, Court Lacked Authority to Add Additional Restriction in Underlying Order as Part of Enforcement Proceeding.

55. *Johnson v. Herrera*, No. 01-25-00345-CV, 2026 WL 2522649 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (08-27-2026).

Facts: Father initiated a SAPCR. Five years later, the court conducted a final trial and rendered a permanent injunction against Mother, enjoining her from harassing, among others, a specific non-party individual and his employees and Quest Diagnostics. Mother appealed, but the appeal was dismissed for want of prosecution. While the appeal was pending, Quest Diagnostics filed a motion to enforce the order. Mother responded with a motion to dismiss for lack of standing and to vacate the underlying order. The trial court granted the enforcement and found Mother in contempt. The court additionally required Mother obtain consent from the court before contacting Quest Diagnostics. The court subsequently denied the motion to dismiss. Mother filed a motion to disqualify or recuse the trial judge. The presiding judge of the local administrative judicial region denied the motion. Mother filed a notice of appeal with respect to all three judgments.

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

Opinion: An order granting or denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law. The appellate court was unaware of any "other law" that would permit it to review by direct appeal the order denying her motion to disqualify. The court held it lacked jurisdiction to consider that issue.

An order denying a motion to vacate is not independently appealable. Although a motion to vacate can extend the time by which a party must file a notice of appeal, the motion must be filed within 30 days pursuant to Texas Rule of Civil Procedure 329b. Mother's motion to vacate was untimely and was not otherwise an order from which an appeal was authorized.



A contempt order must be challenged by petition for writ of mandamus or for habeas corpus. A contempt order cannot be challenged by appeal. However, absent appropriate pleadings and proof, a trial court may not extend the scope of the contempt proceedings and by its order modify or reform prior orders. Thus, although the appellate court lacked jurisdiction to review the finding of contempt, the remainder of the trial court's order exceeded the scope of a contempt proceeding by requiring Mother to obtain court consent before contacting Quest Diagnostics even though it did not use the words "modify" or "reform."

The trial court's authority to enter permanent injunctions in a SAPCR proceeding rests on the court's statutorily mandated consideration of the child's best interest. Here, the injunction related to the "the custody of the child" in the sense that it was entered in a SAPCR proceeding. Based on prior caselaw, the appellate court had jurisdiction to consider whether the order exceeded the scope of a contempt proceeding.

Mother argued the pre-approval restrictions violated her freedom of speech. Father responded that the injunction was simply an act of enforcing the court's judgment. However, Father did not explain how the additional restrictions complied with the Family Code. To modify the order, a party would have had to file a modification petition pursuant to Family Code 156, and no such petition was filed. No one pleaded and proved a material and substantial change in circumstances or that the requested modification was in the Child's best interest. Accordingly, the court struck the additional requirements.

Mother asked the court to consider portions of her brief as a petition for writ of mandamus to the extent the appellate court lacked jurisdiction to consider her issues on appeal. While there is authority to support considering an entire brief as a petition for writ of mandamus on request of the party, there is no authority for treating a brief as both an original proceeding and an appeal.

Texas Court Did Not Abuse Its Discretion in Extending Comity to Mexico Courts to Determine Validity of Mexico Divorce Decree; However, the Appellate Court Remanded for a Determination of Whether an Abatement Instead of Dismissal of the Texas Suit, Pending Resolution of the Mexico Proceedings, Would be More Proper.

56. *Zaragoza v. Fuentes*, No. 01-24-00497-CV, 2026 WL 2575428 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (08-31-2026).

Facts: The parties married in New Mexico in 1953. They had five children together. In 2014, Wife filed for divorce in Texas. Husband responded that the trial court lacked jurisdiction because the parties divorced in Mexico in 1959. Wife asserted that she had no knowledge of the Mexico divorce and that it was procured without due process. Wife asked the Texas court not to recognize the Mexican decree. She also challenged the validity of the decree in Mexico courts. Litigation in Texas, including appeals, have been ongoing for over 10 years, and the record indicates that litigation is ongoing in Mexico as well.

Wife obtained a divorce decree in Texas in 2015, but that decree was reversed three years later with an instruction to hold a comity hearing pursuant to Texas Rule of Civil Procedure 308b.

Husband argued that the Texas divorce should be dismissed with prejudice, and the court should give comity to Mexico to resolve the Mexico divorce proceeding. The Texas trial court agreed to allow Mexico to first resolve its litigation but dismissed the Texas case *without* prejudice. The Texas court was clear that it did not recognize or enforce the 1959 divorce decree. Instead of reviewing whether the decree was procured through due process, the trial court invoked principles of comity to decline to proceed in Texas. Wife, who is now in her 90s, appealed.

Holding: Affirmed.

Majority Opinion: (J. Caughey, J. Gunn, J. Morgan)

The appellate court noted that the trial court had discretion in determining to extend comity to Mexico. However, the remedy was questionable. If Mexico were to find the decree was not enforceable, then Texas could continue with the divorce litigation. If Mexico accepted the decree as enforceable, that still would not answer the question of whether Texas found the decree to be obtained through due process and to be recognizable in Texas.

A Texas court may, in appropriate circumstances, pause or dismiss Texas proceedings in a particular case according to principles of international comity. Comity is a rule of practice, convenience, and expediency rather than of law. The concept of comity is distinct from the inquiry of whether Texas may recognize or give effect to a foreign judgment. The question is whether proceeding in Texas would be unreasonable considering the following non-exhaustive factors:

- (a) the link of the activity to the territory of the regulating state;
- (b) the connections, such as nationality, residence, or economic activity, between the regulating state and the person principally responsible for the activity regulated;
- (c) the character of the activity to be regulated, the importance of regulation to the regulating state, the extent to which other states regulate such activities, and the degree to which the desirability of such regulation is generally accepted;
- (d) the existence of justified expectations that might be protected or hurt by the regulation;
- (e) the importance of the regulation to the international political, legal, or economic system;
- (f) the extent to which the regulation is consistent with the traditions of the international system;
- (g) the extent to which another state may have an interest in regulating the activity; and
- (h) the likelihood of conflict with regulation by another state.

The burden falls on the party urging comity (here, Husband). Texas Rule of Civil Procedure 308b governs the procedure to determine whether, as a matter of comity, to recognize or enforce a judgment based on foreign law in a SAPCR.



Here, the Texas court did not reach that determination. Rather, it decided to first allow Mexico to conclude its own ongoing proceedings. Rule 308b(f) enables the trial court to issue any order necessary to preserve the principles of comity while protecting against violations of constitutional rights and public policy. On the record below, the Texas court did not abuse its discretion in extending comity.

The legal question was not whether the parties ever married but whether they remained married after the alleged Mexico divorce in 1959. If the Texas court disregarded that divorce, the parties were still married in 2014, and Wife could pursue a Texas divorce. However, if the divorce was valid, Husband's lack-of-jurisdiction argument would be correct.

Before a Texas court can give effect to a foreign judgment, the Texas court must determine the judgment was obtained in a manner consistent with our notions of due process. The ongoing Mexico proceedings do not necessarily resolve critical questions for the Texas divorce case. But, they could do so.

The trial court did not attempt to resolve the question of whether the 1959 decree was valid. It did not address whether the decree was procured in a manner consistent with due process principles. It did not purport to recognize or enforce the divorce. In considering the above factors, this decision was within the trial court's discretion.

However, the appellate court remanded the case to the trial court to consider whether abatement, rather than dismissal would be the proper remedy. If the case is abated, all filings remain part of the file, but if the case is dismissed, the proceedings would need to begin anew after the conclusion of the foreign proceedings. Moreover, even if the divorce is recognized in Mexico, the Texas court would still need to determine whether to recognize the decree.

The appellate court noted that the trial court appeared to have misunderstood the due process inquiry. The trial court focused only on Mexican law, where the question was whether the decree comported with our understanding of due process principles.

Concurring Opinion: (J. Morgan)

The parties are in their 90s and this case has been pending for over 10 years. The Mexico proceedings will likely be unhelpful to a 308b analysis because the foreign court is unlikely to weigh in on whether the Mexico decree comported with American law. Considering the length of time the Mexico litigation has been pending—with no end in sight—"the prospects of help from the south are dim." Rather than waiting, the trial court could just conduct a 308b hearing now. However, the appellate court cannot *order* the trial court to conduct such a hearing.

