

FEBRUARY 2026

CASELAW UPDATE

(Cases from January 1–31, 2026)

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**DIVORCE:
PROCEDURE AND JURISDICTION**

Decree Vacated for Lack of Jurisdiction Because Return of Service Did Not Indicate Husband Was Served with Citation.

1. *Torres-Martinez v. Torres*, No. 08-24-00389-CV, 2026 WL 118078 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (01-15-2026).

Facts: Wife filed for divorce and requested that Husband be served at one of two addresses in Wisconsin. At the final trial, Wife and her attorney appeared, but Husband did not. Wife briefly testified. That same day, the court signed a final decree of divorce, appointed Wife as the sole managing conservator of the parties' Children; ordered Husband to pay child support, medical support, and spousal support; and awarded Wife her attorney's fees. Husband filed a restricted appeal.

Holding: Reversed and Remanded.

Opinion: Husband asserted (1) the return of service was defective; and (2) Wife failed to establish the trial court had personal jurisdiction over him as a non-Texas resident. The appellate court only addressed the issue of service. Here, return of service only indicated that the petition for divorce was delivered to Husband. It did not reference the citation. Without proper service of citation, the trial court lacked jurisdiction over Husband. Because error was apparent on the face of the record, Husband was entitled to a restricted appeal, and the decree was vacated for lack of jurisdiction.

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Husband Not Entitled to Notice of Final Default Hearing Because Husband Failed to File an Answer.

2. *Pujols v. Rivas*, No. 11-24-00210-CV, 2026 WL 191731 (Tex. App.—Eastland 2026, no pet. h.) (mem. op.) (01-22-2026).

Facts: On the same day Wife filed her petition for divorce, Husband received notice that he was required to serve in a Louisiana penal institution. A person identifying as Husband's mother contacted the divorce court via letter asserting that she had a power of attorney over Husband, Husband only spoke Spanish, the divorce papers needed to be in Spanish, and Husband could not afford an attorney. This letter was allegedly also sent to Wife. No answer was filed. Husband was served with the divorce citation and petition while he was incarcerated. The mother sent another similar letter to the divorce court alleging Husband was indigent and again requesting the documents be provided in Spanish. About a month later, the trial court granted Wife's motion for an interpreter. Because there was no answer on file and Husband failed to appear at final trial, the court signed a default decree. Husband received the decree ten days later and filed no postjudgment motions or a request for findings. Almost two months after the decree was signed, Husband filed a pro se notice of a restricted appeal.

Holding: Affirmed.

Opinion: To succeed on a restricted appeal, error must be apparent on the face of the record. If the respondent fails to appear at trial in a divorce, the petitioner still must present evidence to support her claims. However, here, because there was no reporter's record, the appellate court was required to presume the evidence supported the judgment.

Husband additionally made due process complaints regarding notice of the final hearing and the court's failure to provide Husband with an interpreter. While there is no presumption of valid service, the record established strict compliance with service rules, and Husband was properly served. Because Husband failed to file an answer, he was not entitled to notice of the default setting. Similarly, the trial court was not required to sua sponte appoint an interpreter or inquire about Husband's personal appearance in the absence of any filing by Husband. Moreover, the complaint regarding an interpreter was of no consequence because the court appointed an interpreter on Wife's motion.

**DIVORCE:
INFORMAL MARRIAGE**

Jury Instruction Regarding Isolated References Being Insufficient to Support the "Holding Out" Element of Informal Marriage Proper to Assist the Jury in Understanding the Law.

3. *West v. Ward*, No. 09-24-00060-CV, 2026 WL 234041 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (01-29-2026).

Facts: Girlfriend filed a petition for divorce, alleging she and Boyfriend were informally married. She alleged that the couple planned to marry formally, but when they learned Texas recognized informal marriage, they simply agreed they were married and began holding themselves out as such. Boyfriend denied there was ever an agreement to be married but did not deny plans to possibly marry in the future. The trial court granted Boyfriend's unopposed motion to bifurcate the question of the existence of an informal marriage from the other issues in the case. Thus, the question of whether the parties were informally married was tried to a jury. After hearing conflicting evidence, the jury returned a verdict finding the parties were not married. The trial court



signed a final judgment accepting the verdict and ordering Girlfriend take nothing on her claims. Girlfriend timely filed a motion for new trial challenging the jury charge's instructions and the sufficiency of the evidence to support the verdict. After the denial of her motion for new trial, Girlfriend appealed.

Holding: Affirmed.

Opinion: In reviewing the evidence presented, the jury's finding that there was no agreement to be married was "not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust." Because that element was not proven, the appellate court did not need to address the other two requirements for proving an informal marriage.

Girlfriend also asserted the trial court abused its discretion in denying her motion for new trial based on newly discovered evidence Boyfriend tampered with a material witness. Girlfriend claimed that the parties' wedding planner was going to testify in favor of a marriage but ultimately declined to testify after being threatened by Boyfriend. Girlfriend further argued the testimony was not cumulative because it would have confirmed the parties were presently married and that their representations were not isolated references.

A party seeking a new trial on grounds of newly discovered evidence must demonstrate to the trial court that (1) the evidence has come to her knowledge since the trial, (2) her failure to discover the evidence sooner was not due to a lack of diligence, (3) the evidence is not cumulative, and (4) the evidence is so material it would probably produce a different result if a new trial were granted. A party's allegations alone will not be enough to obtain a new trial based on newly discovered evidence. Instead, the party must introduce admissible evidence at a hearing on the motion for new trial that establishes such essential facts as the party's lack of prior knowledge of the newly discovered evidence, the party's prior diligence toward discovering the evidence, and the nature of the newly discovered evidence.

Here, there was no record of a hearing on Girlfriend's claim of newly discovered evidence. During trial, Girlfriend twice asked the court to allow the wedding planner to testify remotely because of a sick child. Boyfriend objected because the wedding planner was not on Girlfriend's witness list. The record showed Girlfriend was not diligent because she did not list the wedding planner as a witness, did not file a motion to allow remote testimony, and did not take the planner's deposition before trial. Moreover, the trial court could have reasonably determined the testimony was cumulative of other testimony and, thus, did not abuse its discretion in denying the motion for new trial.

Finally, Wife challenged the jury instruction that included additional information than what is included in the pattern jury charge. The instruction stated:

Isolated references to each other as husband and wife, without more, are insufficient to establish that [Boyfriend] and [Girlfriend] each represented to others that they were married. Whether [Boyfriend] and [Girlfriend] had a reputation in the community for being married to one another is a significant factor in your determination of whether [Boyfriend] and [Girlfriend] each represented to others that they were married.

A jury charge should track the applicable statutory language as closely as possible, and the trial court should not burden the jury with surplus instructions. A proper jury instruction assists the jury, accurately states the applicable law, and is supported by both the pleadings and evidence. That said, not every correct statement of law belongs in the jury charge. A jury instruction impermissibly comments on the weight of the evidence when it encourages the jury to give undue weight to certain evidence.

Here, the jury heard evidence that Girlfriend told certain people she was married, while she told others she was engaged. The parties sometimes referred to each other as "husband and wife," but not always. Boyfriend asserted Girlfriend edited old Facebook posts to create references to herself as his wife. Given the evidence presented, the instruction was proper to assist the jury in understanding the law.

**DIVORCE:
SPOUSAL MAINTENANCE AND ALIMONY**

Evidence Sufficient to Support Finding that Wife, Despite Diligent Efforts, Was Unable to Meet Her Minimum Reasonable Needs; Because Parties Were Married for Over 10 Years, Wife Did Not Need to Establish She Suffered from an Incapacitating Disability.

4. *Mancha v. Mancha*, No. 11-25-00167-CV, 2026 WL 59369 (Tex. App.—Eastland 2026, no pet. h.) (mem. op.) (01-08-2026).

Facts: The parties married at 17- and 18-years old. Wife did not finish high school because Husband did not want her talking to boys at school. Husband physically abused Wife from the beginning of the marriage until their youngest daughter was three; however, his verbal and emotional abuse continued throughout the marriage. The physical abuse restarted after their children became adults, resulting in Wife calling the police multiple times. Shortly before the parties separated, Husband opened a separate bank account from which he made purchases for his new girlfriend and her children. In Wife's divorce petition, she asked for temporary spousal support and spousal maintenance. Wife had difficulty earning income due to ongoing health issues. At the time of trial, Wife lived rent-free in Husband's brother's home. Husband's brother testified that he wanted to start charging Wife rent. Neither party had retirement benefits, and both had significant debt. Wife asked for \$2500 a month in spousal maintenance for 7 years. The court granted her \$1000 a month for 2 years. Husband appealed pro se.

Holding: Affirmed.



Opinion: Husband challenged Wife's eligibility for spousal maintenance and argued Wife failed to rebut the presumption against spousal maintenance. The parties were married for more than 10 years, and Wife presented sufficient evidence to show she lacked sufficient property and earning ability to provide for her minimum reasonable needs. Wife's income and expense information was not exhaustive, but "a reasonable trial court can[not] ignore the indisputable fact that people must physically nourish themselves to survive. They must eat." Wife's income was substantially less than her minimum expenses.

Wife stopped attending school after 8th grade, and her only source of income was a business she operated at the mall and a crafts and jewelry business she operated with her daughter. Wife characterized the craft business as a hobby, and all the proceeds from that venture went to her granddaughter. Wife worked 30 hours a week at the mall business and paid someone else to keep the store open during the remaining mall hours. Husband contended Wife's choice to work only 30 hours was a sign of laziness that should have precluded her entitlement to spousal maintenance. Wife testified that she always felt ill and had trouble working full time. She also took care of her "grandbabies" as much as she could. Even if the trial court did not find an incapacitating disability, it could have found that Wife's health issues were a limitation on Wife's ability to meet her minimum reasonable needs.

Husband also argued that the trial court failed to consider the debts assigned to him under the decree when determining his net resources and ability to pay spousal maintenance. Husband presented conflicting information regarding his finances and testified that he had "a little bit leftover" each month. Based on the evidence presented, the trial court did not abuse its discretion in determining Husband's gross income for the purpose of assessing spousal maintenance.

Spousal Maintenance Award Struck Because Wife Presented Insufficient Evidence that She Exercised Due Diligence to Earn Sufficient Income to Meet Her Minimum Reasonable Needs.

5. *Douglas v. Douglas*, No. 07-25-00138-CV, 2026 WL 191578 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (01-21-2026).

Facts: Husband was an attorney, licensed in California and New York and in the process of getting licensed in Tennessee. At the time of divorce, the parties lived in Texas, and Husband's mother lived with them. Wife was a stay-at-home mother. Wife was arrested for allegedly assaulting Husband and his mother; however, the charges were no billed. Husband applied for a protective order. Shortly after the assault, Husband filed for divorce and rented an expensive home near the marital residence. Wife asked for spousal maintenance in a counterpetition. Wife had previously worked as a teacher but was having difficulty finding work due to her arrest. Husband was also struggling due to a three-month unpaid leave of absence from work and a lavish lifestyle.

After the conclusion of testimony, the trial court announced it intended to order spousal maintenance but noted Wife did not provide a specific request. The court instructed Wife to "put together some numbers" and submit them. Wife did so. Wife explained her difficulties finding work, stated there were no assets to divide, and the parties' debts were largely attributable to Husband, whose income exceeded Wife's income from a laundromat by 55 times. Due to the disparity of incomes, Wife asked for the maximum of \$5000 per month for five years. Husband argued Wife did not present evidence of her minimum reasonable needs nor any evidence to support the amount requested. He asked that the court limit the award to one year. The court ordered Husband to pay maximum guideline child support, did not award Wife any real property, and awarded Wife \$3500 a month in spousal maintenance for three years. Husband appealed.

Holding: Reversed and Rendered.

Opinion: On appeal, Husband argued the evidence was insufficient to support findings (1) that Wife lacked the ability to earn sufficient income to meet her minimum reasonable needs or (2) that she overcame the presumption maintenance was not warranted because she failed to exercise due diligence. The appellate court noted that the appeal had been transferred from Fort Worth, so that court's precedent was applied to Husband's appeal.

During her testimony, Wife asked to be allowed to relocate to California with the Children because there were better employment opportunities there. When Wife worked as a teacher, she earned \$30,000 a year. Wife did not present any evidence that she had proper credentials to find work as a teacher in California. Wife was highly educated, but she did not provide a copy of her resume at trial. Other than her assertions, Wife did not offer any evidence of job applications or rejections, except for a homeschool teaching job in California. Although she stated that she worked as a substitute teacher after the parties separated, she did not present any evidence she sought employment as a substitute teacher or was denied an opportunity to do so. Although Wife testified that she could not get a job due to her inability to pass a background check, Wife's criminal history did not automatically disqualify her from teaching. There was no evidence she lost her certificate to teach. Additionally, Wife did not have a criminal conviction on her record because the charges were no-billed. Because Wife did not present sufficient evidence to show she exercised due diligence to meet her minimum reasonable needs, the trial court abused its discretion in awarding spousal maintenance, and the appellate court rendered Wife take nothing on that claim.



**DIVORCE:
ENFORCEMENT OF PROPERTY DIVISION**

Judgment Nunc Pro Tunc 30 Years After Judgment Appropriate to Remove Decree’s Award of “Future” Retirement Benefits Not Awarded in Letter Rendition.

6. *Coon v. Thomas*, No. 02-25-00252-CV, 2026 WL 71143 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (01-08-2026).

Facts: About 30 years ago, a divorce decree awarded Husband 40% of Wife’s retirement benefits “existing by reason of [her] past, present, or future employment.” A letter ruling issued a few months before the decree was signed included a similar award of retirement, but the letter ruling did not include the quoted language. A QDRO was signed a few months after the decree and divided currently vested retirement plans. Neither party appealed.

About 5 years ago, Husband filed a petition for enforcement. Both parties moved for summary judgment, and Wife additionally asked for a judgment nunc pro tunc, asserting the inclusion of “future” employment in the decree was a clerical error. The trial court signed a judgment nunc pro tunc editing the decree as follows: “existing by reason of [her] ~~past, present, or future~~ employment as of [the date of the letter ruling].” Husband appealed, arguing the judgment nunc pro tunc completely changed the breadth of the original property division by severely narrowing his award to Wife’s retirement benefits.

Holding: Affirmed.

Opinion: In a prior appeal from this same case, the appellate court remanded proceedings for clarification of the record in light of *Baker v. Bizzle*, 687 S.W.3d 285 (Tex. 2024) to determine whether the letter ruling was a final rendition of the parties’ divorce.

Spouses can agree to divide future earnings, but this decree was not agreed. If the letter ruling divorced the parties, they were no longer spouses after that date, could not agree to divide future earnings, and the trial court could not divest either party of separate property acquired after that date. Thus, the question on appeal was whether the trial court could repair the decree by using a judgment nunc pro tunc based on the rendition letter that contained no problematic language but also did not expressly set out the date of rendition as a limit on the division of retirement.

A judgment nunc pro tunc can correct a clerical error, but it may not substantively alter an original judgment to correct a judicial error. A clerical error is a discrepancy between the entry of a judgment in the record and the judgment that was actually rendered by the court and that does not arise from judicial reasoning or determination. If a purported judgment nunc pro tunc corrects a judicial error instead of a clerical error, the judgment nunc pro tunc is void. However, even a significant alteration to the original judgment may be accomplished through a judgment nunc pro tunc so long as it merely corrects a clerical error.

When deciding whether a correction is of a judicial or a clerical error, the appellate court looks at the judgment actually rendered, not the judgment that should or might have been rendered. The letter ruling awarded Wife “60% of her retirement benefits with [her current employment] or elsewhere and [Husband was] awarded 40% of such retirement benefits by *Qualified Domestic Relations Order*.” (emphasis added by appellate opinion). When the decree failed to match this rendition, a clerical error occurred. The appellate court also noted that the QDRO included the date of the letter ruling, and neither party appealed from the QDRO. Additionally, the cases on which Husband relied were distinguishable from the facts of this case. The trial court did not err in issuing the judgment nunc pro tunc and denying Husband’s motion for enforcement.

Husband Not Entitled to Temporary Injunctive Relief Because Allegations of Irreparable Injuries Were Vague and Speculative; Receivership Appointment Vacated Because Order Impermissibly Modified Property Division by Stripping Wife’s Rights Granted in Decree and Because Receivership Sought Prematurely.

7. *A.W.E. v. D.M.F.N.*, No. 05-24-00507-CV, 2026 WL 116799 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (01-15-2026) (on reh’g).

Facts: Husband and Wife owned stock in a company, and the final decree of divorce ordered the sale of the company with Husband and Wife each receiving half of the net proceeds. The appellate court affirmed the decree after Wife appealed. Husband filed a petition to enforce, alleging Wife violated standing orders, failed to comply with the decree, and violated temporary injunctions pending appeal. After a hearing, the court signed an order imposing similar temporary injunctions and appointing a receiver to sell the company. Wife appealed.

Holding: Reversed and Remanded in Part.

Opinion: Wife first challenged the injunctions imposed against her. Specifically, she alleged the evidence was insufficient to support a finding of any irreparable injury. Wife was enjoined from acts such as contacting the company, threatening the company’s employees, filing lawsuits against the company, and making public statements about the company. The trial court found that in the absence of an injunction, Wife’s actions would prevent the ability to sell the company and leave the company with no adequate remedy at law.

At the hearing, the company’s senior vice president of operations in human resources testified that Wife’s actions made the vice president consider resigning; however, the vice president did not say she probably would resign. There was no evidence



that particular vice president was a key employee. The company's outside general counsel expressed concerns about the potential of people leaving the company, but those speculations could not support injunctive relief. Additionally, Husband complained of a RICO suit filed by Wife; however, the federal court ordered redactions that would redress any injury to the company from the potential disclosure of proprietary information. Husband's concerns about further lawsuits and potential disclosures were simply fear and apprehension that could not establish injury, let alone irreparable injury.

Husband additionally presented expert testimony regarding how Wife's actions could chill enthusiasm of potential buyers and experts. However, the testimony was vague and speculative and did not support granting injunctive relief. Further, there was no evidence that the company could not be compensated monetarily if Wife's actions did cause lost value in the future; meaning, Husband did not show that any potential injury was irreparable. Accordingly, the temporary injunctions were dissolved.

Wife additionally complained of the appointment of a receiver because the appointment impermissibly changed the property division in the divorce decree and because the conditions precedent to appointing a receiver had not yet occurred. The divorce decree permitted Wife to participate in the sale of the company, and the receivership order removed that right. Wife's participation was crucial to obtaining the highest price and deciding other terms of the sale. The receivership stripped Wife of those rights and authorized the receiver to make those decisions in Wife's name. This change substantively altered the division of property and was beyond the trial court's authority in a post-divorce enforcement suit.

Further, the final decree only permitted the appointment of a receiver if the parties disputed the sales process outlined in the decree. The record contained no evidence of such a dispute or that certain preliminary steps of the outlined process had occurred. Husband argued the trial court had authority to appoint a receiver to enforce the decree regardless of this plain language regarding the sales process. Accepting that argument would render the decree's provision regarding the appointment of a receiver meaningless. Accordingly, the receivership was vacated, and the case was remanded for further proceedings.

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

8. *McCarver v. McCarver*, No. 12-25-00063-CV, 2026 WL 181334 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (01-22-2026).

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

Holding: Affirmed.

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

Husband's affirmative defenses arose from the premarital agreement, which had been adjudicated in the divorce. To the extent he raised any new defenses not raised in the divorce proceeding, he could have. Husband was prevented by res judicata from raising those claims in the turnover proceeding.

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

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

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

Declaratory-Judgment Action Improperly Dismissed for Lack of Jurisdiction Because Family Code Chapter 9 Permitted Wife to Seek Clarification of Divorce Decree.

9. *In re Marriage of Lannen*, No. 10-23-00358-CV, 2026 WL 249018 (Tex. App.—Waco 2026, no pet. h.) (mem. op.) (01-29-2026).



Facts: The parties' agreed final decree of divorce gave Husband the first right of refusal to purchase certain real property from Wife and set the price for the sale. Nine years later, Wife filed a petition for declaratory judgment seeking a judgment that the first right of refusal was invalid or had been waived by Husband. Husband filed a general denial and special exceptions. Husband asserted that Wife's petition was an impermissible collateral attack on the divorce decree and asked the court to dismiss her petition. After a hearing, the court granted Husband's requested relief and dismissed Wife's petition. Wife appealed pro se.

Holding: Reversed and Remanded.

Opinion: Wife challenged the trial court's granting of Husband's special exceptions and dismissing her suit. Declaratory judgments are only appropriate if a justiciable controversy exists as the rights and status of the parties and if the controversy will be resolved by the declaration sought. Additionally, collateral attacks on final judgments are generally disallowed because it is the policy of the law to give finality to the judgments of the courts. Texas courts have generally held that the use of a declaratory judgment action to attack or "interpret" a prior judgment is an impermissible collateral attack. Only a void judgment may be collaterally attacked.

On the other hand, the Family Code specifies that the court that rendered a divorce decree retains continuing exclusive jurisdiction to clarify and enforce the divorce decree's property division, so long as the court does not change the decree's property division.

Liberalizing Wife's petition, she sought to clarify the parties' contractual rights regarding the right to first refusal. Thus, under the Family Code, the trial court had subject-matter jurisdiction to consider her petition. Therefore, to the extent her petition was dismissed for lack of subject-matter jurisdiction, the trial court erred. The appellate court noted that it expressed "no opinion on the merits of [Wife's] declaratory-judgment action."



Enforcement Order Failed to Follow Provisions in Divorce Decree Contemplating Breach and Providing Method for Enforcement; However, the Error Did Not Deprive Trial Court of Jurisdiction to Consider Enforcement Petition.

10. *Morrison v. Morrison*, ___ S.W.3d ___, No. 24-0053, 2026 WL 247877 (Tex. 2026) (01-30-2026).

Facts: The parties' divorce decree ordered that their marital residence be sold, and the net proceeds of that sale were to be divided equally. The decree also included provisions contemplating breaches relating to damaged or non-delivered property and provided enforcement remedies. Because Husband failed to comply with the decree, Wife moved for enforcement. The trial court rendered an enforcement order that awarded Wife 100% of the net proceeds from the sale of the marital residence. Husband appealed.

The appellate court determined the enforcement order went beyond the enforcement power of the trial court by modifying the property division. The court of appeals vacated the enforcement order and dismissed the case for want of jurisdiction. Wife petitioned the Texas Supreme Court for review.

Holding: Appellate Judgment Reversed; Remanded to Trial Court.

Opinion: Family Code Chapter 9 allows trial courts to enforce a divorce decree, but the trial court lacks subject-matter jurisdiction to modify a property division. This Chapter thus permits enforcement while protecting a decree's finality against successive collateral attacks. When a trial court exceeds enforcement mechanisms available to it, the resulting enforcement order is void and unenforceable; however, the decree remains subject to enforcement suits. "A court that exceeds its power to enforce does not lose the continuing enforcement jurisdiction it otherwise possesses."

To determine whether the trial court here had jurisdiction to render its enforcement order required an examination of the property division in the parties' divorce decree. The decree allocated half the proceeds from the sale of the marital residence to each spouse. It also accounted for the possibility of damage to the community estate before assets were divided via an enforcement provision. That enforcement provision included a method for valuation of damages and a method for collection of damages. Specifically, damages "shall be awarded to the other party, and *account for out of the proceeds from the sale of the marital residence.*" [emphasis added by Supreme Court].

Husband argued that using proceeds from the marital residence as a source for collecting damages resulted in a redivision of the divorce decree's property division. However, the enforcement provision in the parties' decree did not seek redivision. Rather, it provided a mechanism for collection of damages resulting from a breach of the decree, which was permissible under Chapter 9.

In the trial court's enforcement order, it awarded Wife 100% of the net proceeds of the sale of the marital residence based on Husband's noncompliance. However, the order failed to assign a value to Husband's breach as required by the parties' decree. Therefore, the enforcement order did not comply with the decree and was remanded to the trial court for further proceedings.

The court of appeals erred in finding the trial court's error deprived the trial court of any jurisdiction to consider the motion to enforce and render a proper enforcement order.



Partition Agreement Incident to Divorce Not Ambiguous; Trial Court Properly Granted Summary Judgment in Favor of Wife Seeking to Enforce Payments Due to Her from Husband.

11. *P.J.S. v. K.S.S.*, No. 03-24-00042-CV, 2026 WL 247197 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (01-30-2026).

Facts: Before the parties divorced, Husband obtained partnership interests that would be terminated if he divorced. However, the partnership agreed to waive its right to terminate based on certain terms in a Partition Agreement Incident to Divorce (PAID) between Husband and Wife. In addition to dividing the parties' community estate, the PAID required Husband to make certain monthly payments to Wife after the divorce was finalized, which were calculated as 50% of specified net profits "but in no event more than" a maximum dollar amount due to Wife. Another section guaranteed that Husband would pay at least \$11,500 if no distributions were received that month unless Wife remarried; in which event the payment would be reduced pursuant to a defined calculation.

Subsequently, Wife moved for enforcement because Husband failed to consistently pay the guaranteed amount. Both parties filed motions for summary judgment. Husband acknowledged he had not made payments but argued the PAID was ambiguous. The court granted Wife's motion and denied Husband's. Husband appealed.

Holding: Affirmed.

Opinion: Husband argued that the plain language of the PAID required him to make the guaranteed payment when the net profits were positive. However, in the months in which he did not pay, the net profits were negative. Husband argued he was not required to make payment under that circumstance. Contrary to Husband's assertion, nothing in the PAID required the net profits be positive. Husband's interpretation would require the court to add words to the agreement.

**SAPCR:
DISCOVERY**

Discovery Sanctions Improper Because Father Did Not Receive Notice of Potential Sanctions and Mother Did Not File a Motion to Compel Before Final Trial.

12. *In re D.J.*, No. 05-24-00962-CV, 2026 WL 265250 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (01-30-2026).

Facts: A divorce decree included provisions for the parties' child, including an obligation for Father—who had two master's degrees and a PhD—to pay monthly child support. The following year, Father filed a motion to terminate income withholding because he had just lost his job. After a hearing, the trial court temporarily reduced Father's child support obligation based on Father's monthly unemployment income. Just after that hearing, Wife retained counsel and served Father with discovery requests to which Father only partially responded.

At the final hearing, Father acknowledged failing to fully respond to discovery and stated he did not have the responsive documents at the hearing. Father testified that he had been applying for jobs but had not found one and that he had to borrow money to pay bills. On cross-examination, Father agreed that he owned real property, a retirement account, and an investment account. After Father rested, the court granted Mother's motion for judgment and denied Father's request to terminate child support, noting Father had not provided any documentation of his current financial situation that would enable the court to determine Father's assets and income. The court denied Father's request to terminate his child-support obligation, made the temporary reduction in Father's child-support obligation final, and ordered Father to pay a monetary sanction for discovery abuse. Father appealed pro se.

Holding: Affirmed as Modified.

Opinion: Father challenged the denial of his request to terminate his child-support obligation. Father bore the burden to present evidence of his historical and current financial circumstances, but he presented only limited evidence. Based on the record, the trial court did not abuse its discretion in denying Father's request.

Mother incurred \$4800 in attorney's fees, which was the amount set for the sanction award against Father. The trial court explicitly stated that the award was a discovery sanction and not simply an attorney's fee award. Sanctions for discovery abuse under Rule 215 may be imposed only after notice and a hearing. Notice is essential for the proper imposition of sanctions. Father did not receive proper notice for the imposition of sanctions. Moreover, sanctions for alleged violations known to movants before trial are waived if a hearing and ruling are not secured pretrial. Mother's counsel explained that he did not file a motion to compel due to the expense and limited timeframe before trial. Thus, the imposition of sanctions was an abuse of discovery, and the appellate court modified the order to vacate the sanctions.

Father additionally alleged the court was biased against him. However, the record did not establish a deep-seated favoritism or antagonism that would make a fair judgment impossible.



**SAPCR:
ALTERNATIVE DISPUTE RESOLUTION**

Court Required to Enforce Partial MSA's Agreement of Guideline Support and Could Not Offset That Amount to Account for Father's Travel Expenses.

13. *Gan v. Mathijssen*, No. 03-24-00115-CV, 2026 WL 232789 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (01-29-2026).

Facts: The parties married in the Netherlands and then moved to Texas. Father worked remotely in Texas for the University of Pennsylvania for a few years before moving to Pennsylvania. Mother remained in Texas. After Father moved, the parties cross-petitioned for divorce on the grounds of insupportability and entered into a partial MSA addressing most of the issues concerning their only Child.

At trial, Father testified that after separation, Mother depleted their accounts, and he asked that the depletion be considered in the just and right division. Father also detailed the travel costs associated with visiting the Child in Texas. Mother acknowledged taking some money at separation but contested the amount and invoked the Fifth Amendment regarding some of the transfers. Mother additionally sought reimbursement for alleged waste by Father and retroactive child support. At the trial's conclusion, the court adopted the MSA's provisions regarding conservatorship, possession, and access but found the child-support provisions were "clear as mud." The court found Mother breached her fiduciary duty to Father by the way she spent money. In a subsequent letter ruling, the court set child support at less than guideline due to travel costs and awarded Father a money judgment to reach a just and right division of the community estate. On Mother's request, the court issued detailed findings. Mother appealed.

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

Opinion: Mother first argued the trial court erred in setting Father's child support obligation at an amount less than the statutory guideline amount and less than what had been agreed to in the partial MSA. Further, Mother argued neither party requested that child support be set differently from what was in the MSA. Here, the MSA complied with the Family Code and listed certain issues that would be reserved for trial. Child support was not among those issues. Rather, the agreement provided that "current child support" would be "guideline child support per the current temporary order." The MSA was binding, and no exception allowed the trial court to deviate from that agreement. Thus, the appellate court reversed and rendered the amount of Father's child support obligation

Mother additionally challenged the just and right division. Specifically, she challenged the money judgment because her expenditures during the divorce were necessary and not wasteful. The trial court was in the best position to weigh the credibility of each witness's testimony and other evidence, which was legally and factually sufficient to support the trial court's findings.

**SAPCR:
PARENTAGE**

Adjudication of Paternity Unnecessary Because Father Was Both Presumed and Acknowledged Father.

14. *In re E.R.F.*, No. 04-25-00570-CV, 2026 WL 221259 (Tex. App.—San Antonio 2026, orig. proceeding) (mem. op.) (01-28-2026).

Facts: Mother, the Child, and Mother's two other children lived with Father for about six years. After an argument, and without notice to Father, Mother took the Children to live with Mother's family in Wisconsin. Father discovered what Mother was doing while she was at a motel in Oklahoma. Father physically took the Child from Mother over Mother's protests, and she continued to Wisconsin with her other children.

Father filed a suit to adjudicate the parentage of the Child. Mother denied that Father was the Child's biological father and claimed to have told Father that many years earlier. However, she acknowledged Father was the only father the Child had ever known, and Father was a good father. Father claimed to have believed he was the Child's father until receiving the results of a court-ordered DNA test. That test was ordered after Father had nonsuited his petition. Father was listed as the Child's father on the Child's birth certificate, and an acknowledgement of paternity that was endorsed by both Mother and Father indicated Father was the Child's father.

Father was the person who took care of the Child's health and wellbeing. He expressed concerns about Mother's ability to care for the Child and alleged Mother had threatened to harm herself. Father's sister corroborated Father's testimony.

Following the close of evidence in the temporary orders hearing, the court noted the nonsuit. Mother's counsel advised that the case was still live because of her request for genetic testing that had been filed before the nonsuit. Father's counsel asserted Mother had not filed a counterpetition before the nonsuit, and Mother did not contradict that assertion.

The trial court set the case for final trial and ordered Father to return the Child to Mother in Wisconsin within two days of the hearing. Father filed a petition for writ of mandamus.

Holding: Writ of Mandamus Conditionally Granted.



Opinion: An adjudication of paternity is not necessary if the man's paternity is established by other enumerated means. Father was the Child presumptive father because he resided with the Child and held out to others that he was the Child's father during the first two years of the Child's life. Additionally, Father had signed a valid acknowledgement of paternity. No evidence indicated a rescission proceeding had been initiated. Thus, despite Father's non-suiting of the petition to adjudicate parentage, which was wholly unnecessary given his status as described above, Father remained vested with the same parental rights as Mother with regard to the child.

The record clearly established that the trial court's order to send the Child to Wisconsin was based on its belief that paternity had not yet been established by adjudication. However, adjudication was unnecessary. The trial court's order required Father to relinquish custody of his Child and deprived the Child of the only home he had ever known and of access to his existing educational and medical providers, including his speech therapy and autism treatment.

The appellate court also noted that it appeared the trial court erred by continuing to act after Father's nonsuit. However, that question was not presented in the mandamus petition, and the answer was not clear from the mandamus record.

**SAPCR:
CONSERVATORSHIP**

Evidence Supported Appointing Father as the Child's Sole Managing Conservator.

15. *In re C.A.-G.S.*, No. 05-24-00114-CV, 2026 WL 166376 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (01-21-2026).

Facts: Father learned of the Child's existence after the Child's birth. After a trial on conservatorship, the court appointed Father as the Child's sole managing conservator and Mother as a possessory conservator. Mother appealed pro se.

Holding: Affirmed.

Opinion: Among other complaints, Mother challenged the sufficiency of the evidence to support the judgment. Among other evidence, Mother allowed the Child to develop nine untreated cavities, left the Child at an unlicensed daycare also referred to as a dope house, withheld the Child's medical records from Father, was ordered to install an ignition interlock device on her car after drinking and driving with a child in the vehicle, and prevented the Child from communicating with Father. Father had a stable job with regular hours, was married with children, provided the Child with insurance and medical care, and flew to Texas on short notice to ensure the Child did not spend the night in foster care. Father also enrolled the Child in speech therapy, which helped the Child's grades improve.

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Evidence Supported Imposing a Geographic Restriction on Mother's [The Child's Sole Managing Conservator] Exclusive Right to Designate the Child's Primary Residence.

16. *In re S.I.S.F.*, No. 04-24-00799-CV, 2026 WL 233852 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (01-28-2026).

Facts: Mother lived in the Dominican Republic, and Father lived in Texas. They met in Miami and pursued a long-distance relationship. When Mother became pregnant, she lived with Father in Texas. After they ended the romantic relationship, they continued living together for a while until Mother moved out. Shortly after Mother's move, Father initiated an original suit affecting the parent-child relationship. Mother asked for no geographic restriction on the Child's residence so that she could move with the Child to the Dominican Republic, or alternatively, a restriction to the U.S. so she and the Child could live in Florida.

After a three-day bench trial, the court appointed Mother as the Child's sole managing conservator with the exclusive right to designate the Child's residence within Bexar and contiguous counties so long as Father lived in one of those counties. Mother appealed.

Holding: Affirmed.

Opinion: Although Mother argued her domicile was in the Dominican Republic, she had resided in Bexar County for about 20 months. During that time, she visited a few other states in the US and only visited the Dominican Republic once. Thus, contrary to Mother's apparent argument, the restriction did not require her to abandon her home.

Further, the restriction did not hinge on what Mother considered to be her domicile but on what was in the Child's best interest. Mother claimed that she would have better opportunities to find work in the Dominican Republic. Father testified he would not be able to move from Bexar County to be closer to the Child if Mother moved. The Child had extended family in Bexar County. Mother had a history of making it difficult for Father to access the Child. Applying the evidence to the *Lenz* factors, the trial court did not abuse its discretion in imposing the geographic restriction.



Mother on Notice that Appointment of Father as Sole Managing Conservator Was at Issue Because of His Appointment as Temporary Sole Managing Conservator Despite No Pleading for that Specific Relief.

17. *In re I.N.A.M.*, No. 08-24-00342-CV, 2026 WL 233853 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (01-28-2026).

Facts: The OAG initiated a SAPCR for the four-month-old Child who lived with Mother. During the litigation, the trial court conducted a de novo review hearing at which all parties were present, but that transcript was not included in the appellate record. Immediately after the hearing, Father filed a motion for writ of attachment stating that “[Mother] made it very clear to the Court that she would not follow the Court’s Order and that she would keep the child no matter what was ordered. [Mother] yelled and cursed at the Court and Counsel. Her behavior towards the Court and her disregard for the child’s safety is alarming and of great concern.” Shortly thereafter, Mother’s attorney withdrew, and the court appointed Father as the Child’s temporary sole managing conservator. The court issued a writ to compel Mother to return the Child to Father. Mother amended her counter-petition alleging family violence and asking for Father’s parental rights to be terminated. The case was set for a jury trial at Mother’s request; however, Mother failed to appear. The court held Mother thus waived her right to a jury. When the other parties agreed to waive a jury, the panel was dismissed, and the court proceeded with a final bench trial. At the trial’s conclusion, the court signed a default judgment making the temporary orders (with Father being sole managing conservator) final and granted a judgment to Father for unpaid child support. Mother filed numerous post-judgment pleadings that were denied. She appealed pro se.

Holding: Affirmed.

Opinion: Among many other complaints, Mother argued the trial court erred in appointing Father as sole managing conservator when he did not plead for that relief. Both parties filed pleadings seeking conservatorship, possession and access, and support provisions regarding the Child, invoking the trial court’s jurisdiction to consider conservatorship. The court subsequently issued a temporary order naming Father as sole managing conservator. Thus, the record indicated that both parties understood at that point in the litigation that Father’s appointment as sole managing conservator was implicated in the case.

**SAPCR:
CHILD SUPPORT**

Despite Husband’s Claim of Unemployment, Evidence of CashApp Deposits Over a 14-Month Period Sufficient to Support Awarding Maximum Guideline Child Support.

18. *In re K.C.*, No. 05-24-00806-CV, 2026 WL 188026 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (01-23-2026).

Facts: Husband’s attorney withdrew prior to trial in the parties’ divorce, so Husband appeared pro se. After a three-day bench trial, the court issued a final judgment. Husband obtained an attorney and appealed the decree.

Holding: Affirmed.

Opinion: Husband first challenged the calculation of his net resources for the purpose of assessing his child-support obligation. The trial court found Husband’s income exceeded the maximum guideline amount and set the support accordingly. Husband argued he had been unemployed for years. Wife testified that although Husband had been unemployed, he had a furniture business that she learned about during discovery. Although Husband did not fully comply with discovery, Wife was able to determine that Husband had three CashApp accounts, and the primary account received nearly \$160k in deposits in a 14-month period. Husband argued that account was used for day trading and that he did not actually make any money over that period. Husband noted a withdrawal from his retirement for roughly the same amount; however, Wife testified those funds were separate from the CashApp income. The trial court was free to find Wife’s testimony to be more credible.

Husband also challenged the property division. The findings of fact stated that Husband was guilty of wasting the community estate, was guilty of mismanaging the estate, and had engaged in cruel treatment including family violence. Neither the findings nor the order included a specific award for a waste claim. The findings did not include any values for any assets, and Husband did not request additional or amended findings. Although the trial court referenced one of Wife’s exhibits in the final letter ruling, the letter ruling was not a substitute for findings. The evidence supported the findings regarding Husband’s behavior. Moreover, rather than argue the division was not just and right, Husband argued the trial court erred in making a division without sufficient evidence. Wife provided evidence of the nature and value of the estate. Husband appeared at trial, cross-examined Wife, and had the opportunity to present his own evidence. Husband could not fail to provide evidence at trial and then complain on appeal that the evidence was insufficient.

Finally, Husband complained of the orders for possession of the parties Child. However, the Child turned 18 before the opinion was issued, rendering the issue moot.



**SAPCR:
MODIFICATION**

Mother's Deteriorating Mental Health Was a Material and Substantial Change Supporting Modification.

19. *In re M.S.*, No. 02-25-00526-CV, 2026 WL 120064 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (01-15-2026).

Facts: The Child had high-functioning autism and delayed speech. An agreed order appointed the parents as the Child's joint managing conservators with Mother having the exclusive right to designate the Child's primary residence. About five years later, Mother began experiencing episodes of delusions and paranoia, for which she was prescribed medications. Mother abruptly stopped taking her medications, and her episodes became more frequent. A few months after that, Mother was involuntarily hospitalized for evaluation. Although Father expressed concerns, he temporarily allowed Mother to take possession of the Child after her release, which led to TDFPS initiating a termination suit. Shortly thereafter, at TDFPS's request, the court appointed Father as the Child's temporary sole managing conservator and appointed Mother as a possessory conservator. After a trial, the court made those designations permanent. Mother appealed.

Holding: Affirmed.

Opinion: Mother asserted the evidence was insufficient to support a finding of a material and substantial change in circumstances. A parent's deteriorating mental health can qualify as a material and substantial change that supports modification of conservatorship or limits on possession or access to the child. Mother asserted that the only evidence presented was her 9-day involuntary hospitalization. However, the evidence of Mother's mental-health deterioration was not limited to that isolated incident. Mother was not sleeping, eating, or taking her medications, and she believed people were watching her in her home. She frequently imagined a bullet hole in her skull and believed she had been chosen to stop the country from being run by the government. Mother believed people had been inhabiting the Child's body and that she had cameras in her eyes so that people could see what she was seeing. The Child had been placed with Father and was doing well in his care.

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Review of *Lenz* Factors Not Necessary When Mother Did Not Oppose Father's Request for a Geographic Restriction and When Neither Parent Intended to Relocate.

20. *In re A.N.G.*, ___ S.W.3d ___, No. 07-25-00156-CV, 2026 WL 231970 (Tex. App.—Amarillo 2026, no pet. h.) (01-28-2026).

Facts: The parties' divorce decree gave Mother the exclusive right to designate the Children's primary residence. A few years later, Father filed a suit to modify, seeking that right. After a bench trial, the court granted Father's requested relief. Mother appealed.

Holding: Affirmed.

Opinion: Mother framed her issue as a challenge to the "relocation" of the Children and complained of the trial court's failure to apply the *Lenz* factors. While Father did not include the request for a geographic restriction in his pleading, Mother did not object to that request when Father made it at trial. Mother and Father lived in different counties and did not express any intent to move. The court's order restricted the Children's residence to either of the two counties in which the parents currently resided. A change of the conservator with the right to determine the primary residence of Children necessarily involves a change of the Children's residence. In the absence of Mother's challenge to the geographic restriction and no facts indicating a potential relocation, the trial court did not abuse its discretion by failing to address the *Lenz* factors in its written findings of fact and conclusions of law.

Mother next directly challenged the trial court's decision to grant Father the exclusive right to designate the Children's primary residence. At trial, Father expressed concerns about stability in Mother's home and the criminal history of Mother's boyfriend. Father had concerns about the Children's eating habits, but Mother refused to discuss those concerns. Mother and Father had difficulty coparenting. Mother disparaged Father and interfered with the relationship between Father and the Children. The trial court did not abuse its discretion in appointing Father as the conservator with the exclusive right to designate the Children's primary residence.

**SAPCR:
ENFORCEMENT OF POSSESSION / CONSERVATORSHIP**

Order Requiring Father to Provide Mother with Copies of Photographs of Their Children Specific Enough to be Enforceable by Contempt.

21. *In re E.S.*, No. 13-25-00190-CV, 2026 WL 113723 (Tex. App.—Corpus Christi 2026, no pet. h.) (mem. op.) (01-15-2026).



Facts: Pursuant to a Colorado divorce decree, Father was required to provide Mother with copies of certain photographs of the parties' Children. More than eight years later, Mother sought to enforce this provision in Texas. The trial court found that the divorce decree lacked command language necessary to support a contempt finding and was not specific enough to be enforced by contempt because it did not identify the Children or provide a delivery address for the photographs. The court rendered a new order clarifying Father's obligation. Mother appealed pro se.

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

Opinion: Mother first challenged the refusal to hold Father in contempt. However, contempt orders cannot be challenged through direct appeal, so those complaints were dismissed by the appellate court for lack of jurisdiction.

Mother additionally challenged the trial court's clarification order, arguing it exceeded the court's authority. The parties had four Children. Two lived with Father, and two lived with Mother. The order required Father to provide photos of "the children." The trial court found that the order failed to identify which Children were subject to the order, provide a delivery address, or include command language. The appellate court disagreed and did not find the order sought to be enforced was ambiguous or unenforceable. The prior order described the Children as "of this relationship" and specified a date range. The plain language of the order required electronic copies of the photographs to be delivered. Additionally, the prior order stated that Mother would provide Father with a prepaid envelope in which he could insert a storage device to return to Mother. Father was given two weeks to complete the task. No conjecture was required. Finally, the appellate court did not understand what command language the trial court believed to be lacking. The order stated that Father "shall" comply with the provisions. Nothing indicated Father's compliance was optional. Accordingly, the trial court abused its discretion in rendering the clarification order.

**SAPCR:
ENFORCEMENT OF CHILD SUPPORT**

Father Failed to Establish Claimed Transfers Were Direct Child-Support Payments to Mother.

22. *Owens v. Johnson*, No. 01-24-00137-CV, 2026 WL 233134 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (01-29-2026).

Facts: Father filed a suit to reduce his child-support obligation. Mother responded with a countersuit and motion to enforce unpaid child support. Father was in the US Army, and his status had changed to reserve, which lowered his income. Additionally, he was no longer eligible for housing and food allowances due to a remarriage. Father's medical expenses for the Children had also increased. Father asked that his obligation be reduced to less than a third of the previously ordered amount. On cross-examination, Father conceded that the statements he provided were incomplete and that he had not provided evidence of his income. Mother generally disputed Father's testimony. While she acknowledged a reduction of Father's obligation was appropriate, her estimated obligation was more than twice what Father proposed. Mother stated she based her estimate on an online military pay calculator, but the trial court sustained Father's hearsay objection when Mother tried to introduce the calculator into evidence.

Mother based her arrearages claim on OAG records. Father claimed to have made significant direct payments to Mother, resulting in no arrearages. The trial court reduced Father's child-support obligation to an amount between the two parties' requests, but closer to Mother's, and confirmed an arrearage based on Mother's evidence. Father appealed.

Holding: Affirmed

Opinion: Father first argued the court erred in relying on the online military pay calculator. However, the court excluded the calculator as hearsay. When a trial court sitting as factfinder rules that proffered evidence is inadmissible, the appellate court presumes that, consistent with the trial court's ruling, that court disregarding the evidence in making its decision. Nothing in the record defeated that presumption.

Father further argued the court should have accepted his calculation of his income. However, the trial court was in the best position to review the evidence and determine its credibility. Moreover, Father failed to provide complete documentary evidence regarding his income.

Next, Father argued the court erred in assessing arrearages. Father argued that his redacted bank statements conclusively established he had already paid the amounts due directly to Mother. The bank statements included notations that they were transfers to Mother, but the record did not divulge who made those notations. Further, there was no evidence of the funds being received by Mother or that they were sent for the purpose of child support. Again, the trial court was in the best position to review the evidence and determine its credibility.



FAMILY VIOLENCE / PROTECTIVE ORDERS

Evidence Supported Including the Parties' Children as Protected Persons in Protective Order Based on Finding of Family Violence by Father Against Mother.

23. *Russell v. McDonald*, No. 15-25-00052-CV, 2026 WL 175205 (Tex. App.—15th Dist. 2026, no pet. h.) (mem. op.) (01-22-2026).

Facts: Mother applied for a family-violence protective order against Father on her behalf and on behalf of the parties' Children. After a hearing, the protective order was granted. Husband appealed the order as it applied to the Children.

Holding: Affirmed.

Opinion: Father challenged the sufficiency of the evidence to include the Children as protected persons. The Family Code defines family violence as an act against another family member. Family includes individuals who are parents of the same child. Mother testified that Father was the Children's father and described an incident in which Father came to Mother's home, damaged the home, and threatened to beat Mother. Father denied the allegations. The evidence supported a finding family violence occurred. The statute does not require that the violence was directed against the Children for the Children to be included as protected persons. Father complained that the protective order interfered with his attempts to be an active father, but the appellate court had no power to modify the order. Only the trial court had authority to modify the protective order.

MISCELLANEOUS

Probate Court Erred in Failing to Abate Probate Proceeding Pending Wife's Appeal of Divorce Decree.

24. *In re Estate of Benavides*, No. 04-21-00077-CV, 2026 WL 158823 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (01-21-2026).

Facts: Daughter was appointed as a guardian of her elderly Father. Daughter then moved Father out of the home he shared with Wife and filed for a divorce on Father's behalf. After the divorce was granted, Wife appealed.

Before that appeal concluded, Father died. Daughter filed an application to probate Father's will. Wife filed challenges to the probate proceeding. Daughter moved to strike Wife's pleadings and dismiss her from the probate proceeding. Wife asked for a limited abatement pending the appeal of the divorce. The trial court denied the abatement and dismissed Wife from the suit for lacking standing. Wife appealed that ruling. While Wife's appeal from the probate proceeding was pending, the Texas Supreme Court ruled in the appeal from the divorce decree. The Texas Supreme Court vacated the divorce decree because Daughter failed to obtain a finding that pursuing the divorce was in her Father's best interest. *In re Marriage of Benavides*, 712 S.W.3d 561 (Tex. 2025). After the Supreme Court's ruling, the appellate court requested further briefing in the probate appeal.

Holding: Reversed and Remanded.

Opinion: After a review of its own jurisdiction, the appellate court held that the order denying abatement and dismissing Wife from the probate proceeding foreclosed Wife's participation in the suit and was therefore a final, appealable order.

Wife initially challenged the denial of her motion to abate. In supplemental briefing she additionally challenged the dismissal for lack of standing. The appellate court determined the two issues were intertwined, giving it jurisdiction to consider both issues.

The granting of a plea in abatement in a later-filed suit is mandatory when "an inherent interrelation of the subject matter exists in two pending lawsuits." Here, Wife's standing in the probate case was dependent on the final determination of her appeal of her divorce. Final judgment on standing in the probate case should have been deferred until her appeal of the divorce was resolved. Further, because the trial court vacated the divorce decree, the judgment on which Daughter relied for her standing argument was nullified.

