# MAY 2026
# CASELAW UPDATE

(Cases from April 1–30, 2026)

**Prepared by:**

**Beth M. Johnson**
**BETH M. JOHNSON, PLLC**
8150 N. Cent. Expy, Ste. 250
Dallas, Texas 75206
(972) 467-5847
beth@bethmjohnson.com

## DIVORCE:
## PROCEDURE AND JURISDICTION

**Because Mother Had Filed an Uncontested Statement of Indigency, the Trial Court Could Not Order Mother to Pay One-Half of the Costs Oo Mediation.**

1. ***In re Ramirez***, __ S.W.3d __, No. 13-26-00185-CV, 2026 WL 911595 (Tex. App.—Corpus Christi–Edinburg 2026, orig. proceeding) (04-02-2026).

**Facts:** Mother obtained free legal representation through legal aid in her divorce proceeding and filed a statement of indigency in the trial court. The trial court referred the parties to mediation, but Mother objected because she had no funds to pay the mediator. Father agreed to pay the entire cost of that mediation, so the parties attended mediation and agreed to temporary orders. Later, the trial court referred the parties to a second round of mediation. Mother reminded the court of her inability to pay for mediation, and Father refused to pay for Mother's portion a second time. The trial court stated:

> This is the problem with Legal Aid. I understand they're a non-profit organization, but they want to take cases. The nature of the beast with these cases is that there's mediation, there's social studies. And we're not going to say, oh just because we're this person, tack it on the other guy. That's not the way it works. You want to take the case or get off the case, that simple.
>
> Both sides are paying for it. We're not going to be tackling that issue here. So[,] you can file your objections if you want to preserve it for the record for appeal, but I don't know how—I don't think it's going to go anywhere honestly because you get on it, you pay for it.

The trial court denied Mother's subsequent written objection, and the appellate court dismissed Mother's appeal for lack of jurisdiction. Mother then sought mandamus relief. Father responded in the appellate court, stating he agreed to pay the entire cost of mediation. Mother replied that Father's agreement did not moot her petition for writ of mandamus.

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

**Opinion:** "The concept that courts should be open to all, including those who cannot afford the costs of admission, is firmly embedded in Texas jurisprudence." "Our state Constitution and our rules of procedure recognize that our courts must be open to all with legitimate disputes, not just those who can afford to pay the fees to get in." "Access to the civil justice system cannot be denied because a person cannot afford to pay court costs." Court costs include mediation fees.

Under Rule 145, "[a] party who cannot afford payment of court costs must file the Statement of Inability to Afford Payment of Court Costs approved by the Supreme Court or another sworn document containing the same information." The party "should" also submit with the statement "any available evidence" of the party's inability to afford the payment of costs and some specified matters listed in the rule provide prima facie evidence of the inability to pay. An uncontested statement of inability to pay is conclusive as a matter of law. "It is an abuse of discretion for any judge … to order costs in spite of an uncontested affidavit of indigence."

A party cannot be required to pay costs unless the proper procedure laid out in Rule 145 is followed, which includes notice, an evidentiary hearing, and an order finding whether the declarant is indigent. "The test for determining indigence is straightforward: 'Does the record as a whole show by a preponderance of the evidence that the applicant would be unable to pay the costs, or a part thereof, or give security therefor, if he really wanted to and made a good-faith effort to do so?'"

Mother asserted the trial court abused its discretion in ordering her to pay mediation costs, and to the extent the order was premised on the concept that her counsel should pay for costs, the court erred as a matter of law. In her reply, Mother asserted Father's offer to pay did not render her issue moot because the issue is "capable of repetition."

The "capable of repetition" exception to the mootness doctrine applies when: (1) the challenged action was too short to be fully litigated before the action ceased or expired, and (2) a reasonable expectation exists that the litigant will be subject to the same action again. Under the circumstances of this case, where the challenged order had yet to be vacated, the question presented a justiciable controversy.

Mother's statement of indigency was unchallenged. It was provided on a form approved by the Texas Supreme Court. Mother did not receive 10 days' notice of any challenge to her inability to pay costs, and the court held no hearing on Mother's ability to pay. The record here did not indicate whether legal aid had agreed to pay costs on Mother's behalf or whether Mother was responsible for costs of court. Regardless, Mother's uncontested statement of indigency was conclusive as a matter of law. It was an abuse of discretion for the trial court to order Mother to pay half the costs of mediation.

---

**Husband Entitled to Bill of Review to Set Aside Default Decree of Divorce Due to Lack of Service of Citation.**

2. *In re J.A.*, No. 05-25-00943-CV, 2026 WL 951840 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-08-2026).

**Facts:** Husband and Wife were married for 10 years. Wife obtained a default divorce decree, but the parties continued to live together. Husband learned about the divorce two years later. He filed a petition for bill of review, but the trial court denied the petition. Husband requested findings, but none were issued. The trial court heard Husband's motion for new trial but denied that as well. Husband appealed.

**Holding: Reversed and Remanded.**

**Opinion:** Husband argued the trial court erred in denying his bill of review because the default judgment was void for lack of personal jurisdiction. Trial courts lack jurisdiction over a defendant who was not properly served with process. A complete failure of service deprives a litigant of due process and a trial court of personal jurisdiction; the resulting judgment is void and may be challenged at any time. Personal jurisdiction is a question of law, which appellate courts review de novo.

No-answer default judgments are disfavored and cannot stand when a defendant was not served in "strict" compliance with applicable requirements. There are no presumptions in favor of valid issuance, service, or return of citation. The party requesting service bears the responsibility for ensuring that service is properly accomplished and reflected in the record.

Here, the record did not contain any return of service. Wife did not assert a return of service was filed. Without proof of service, the court could not make a presumption service was valid. The trial court erred when it granted the default judgment and in denying Husband's petition for bill of review.

---

**Email Issues Causing Father's Attorney to be Unaware of Service Until After Rendition of Default Judgment Sufficient to Support Lack of Conscious Indifference Prong of *Craddock* Test.**

3. *Carpenter v. Carpenter*, No. 04-24-00817-CV, 2026 WL 1020545 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (04-08-2026).

**Facts:** Mother obtained a no answer default divorce decree that gave her the exclusive right to designate the Child's primary residence and the exclusive rights to make certain decisions concerning the Child. Father's visitation with the Child was ordered to be supervised. Mother was awarded child support, spousal maintenance, and the marital residence. The court entered permanent injunctions against Father and awarded Mother attorney's fees. A week later, Father filed an answer, and on the 30th day after the judgment, he filed a motion for new trial. Father attached affidavits from him and his attorney that averred that Father emailed the petition to his attorney, but they were not aware his attorney had not received it until after receiving the default judgment. Father's motion was set for hearing, but it was dropped because Mother's attorney had a vacation letter on file. Due to this delay, Father's motion was overruled by operation of law. Father appealed.

**Holding: Reversed and Remanded.**

**Opinion:** Father asserted the trial court abused its discretion in denying his motion for new trial and argued the evidence was insufficient to support the judgment. Mother responded that the appellate court should not consider Father's complaint about the motion for new trial because he failed to set it for hearing. A hearing is not required to determine a motion to set aside a new trial. Moreover, Father did attempt to set a hearing. Due to the vacation letter, the trial court agreed to consider the motion by submission and subsequently denied it.

The Texas Supreme Court has recently instructed that default judgments are greatly disfavored. "Where factual allegations in a movant's affidavits are uncontroverted, it is sufficient that the motion for new trial and accompanying affidavits set forth facts which, if true, would satisfy the Craddock test." Any doubts about a default judgment must be resolved against the party who secured the default.

Here, Father's attorney explained that problems with its email account caused the firm not to receive Father's email with the divorce petition. The firm was not aware Father had been formally served with citation. The affidavits were not controverted. Father's affidavit additionally set forth his meritorious defense and established that Mother would not be prejudiced by a new trial.

---

**Comity Extended to Mexico Divorce Judgment, Which Deprived Texas Trial Court of Subject-Matter Jurisdiction over Texas Divorce Proceeding.**

4. *In re Marriage of Gonzalez San Emeterio and Gonzalez*, No. 13-24-00255-CV, 2026 WL 961754 (Tex. App.—Corpus Chisti–Edinburg 2026, no pet. h.) (mem. op.) (04-09-2026).

**Facts:** The parties married in Mexico and later moved to Texas. Husband filed a no-fault divorce petition in Mexico. About six months later, Wife filed for divorce in Texas. About six months after that, Husband answered the Texas suit and filed a counter-petition. Neither party advised the Texas court of the Mexico proceedings. The Mexico court granted the divorce about a month after Husband's answer in the Texas suit. Wife appealed that judgment in Mexico, asserting she had not been properly served. The Mexico appellate court affirmed the judgment. While Wife was not properly served, because Husband was seeking a no-fault divorce, his desire to divorce alone was sufficient to support the dissolution of marriage. The Mexico appellate court held

that the divorce judgment could not be voided but the parties' other rights remained intact and could be asserted through auxiliary proceedings.

Husband filed a notice of nonsuit and plea to the jurisdiction and motion to dismiss in Texas. Husband asserted the Texas court lacked subject matter jurisdiction because the parties were already divorced. Wife argued the Texas court was not required to give "full faith and credit" to the Mexico judgment because its validity was disputed. She argued Husband was required to raise the affirmative defense of res judicata and did not do so. She additionally challenged the timing of his notice to the Texas court of the Mexico judgment. Husband responded that Wife's argument about timing referred to enforcement proceedings and that was not the relief Husband sought.

After hearing from the parties, the Texas court found no marriage existed, it lacked subject-matter jurisdiction, and the Mexico appellate decision deserved respect and comity. Wife appealed.

**Holding: Affirmed.**

**Opinion:** Wife first argued the Mexico order could not serve as a basis for lack of jurisdiction because Husband was required to raise the issue as an affirmative defense of res judicata.

A plea to the jurisdiction challenges the court's jurisdiction without regard to the merits of the claims. If a marriage has already been dissolved, the court lacks subject-matter jurisdiction to dissolve the marriage again. Wife's cited authority was not on point and did not address jurisdiction or foreign judgments. Relatedly, Wife argued in her second issue that the question was not jurisdictional. Because it was a jurisdictional issue, the appellate court also overruled this appellate complaint.

Wife next argued the trial court abused its discretion in granting comity to the Mexico judgment because Husband failed to comply with Rule 308b.

Comity is a principle under which the courts give effect to a foreign order not as a rule of law but rather out of deference and respect. States are not required to give full faith and credit to foreign judgments. Whether to extend comity to a foreign judgment is a matter of discretion. The extension of comity to a judgment obtained without due process is an abuse of discretion. Texas Rule of Civil Procedure 308b provides the procedure for determining whether to extend comity to foreign family law orders.

Husband invoked Rule 308b in his plea to the jurisdiction by asking the court to recognize the Mexico judgment and dismiss the Texas suit as a result of the Mexico proceedings. The trial court seemingly determined 308b did not apply because it failed to follow the procedural components of that rule. For example, the court failed to conduct a pretrial conference or make appropriate orders including those regarding the submission of material for determining foreign law. Wife did not challenge the adequacy of the trial court's procedures. She never alleged that untimely notice prejudiced her from raising her arguments against recognition of the Mexico judgment.

Finally, Wife argued the extension of comity to the Mexico judgment was erroneous because service was defective when applying Texas law. Rule 308b does not require foreign countries to apply Texas law. Wife did not argue she was not served, she was not afforded an opportunity to participate in the Mexico proceedings, or that the judgment was fraudulent. The trial court did not abuse its discretion in extending comity.

---

**Petition for Bill of Review was Not "Post-Judgment Motion" in the Context of Restricted Appeal, so Father's Petition for Bill of Review Did Not Preclude Him from Timely Seeking Restricted Appeal.**

5. *In re I.J.W.*, No. 08-25-00116-CV, 2026 WL 1026957 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (04-15-2026).

**Facts:** Mother filed a petition to modify the parent-child relationship and served Father through substituted service. Father failed to answer or appear. Six months after the trial court signed a default order, Father filed a notice of restricted appeal.

**Holding: Affirmed.**

**Opinion:** Mother asserted Father was not entitled to a restricted appeal because he filed a timely post-judgment motion—an amended bill of review. The petition was not part of the record but was attached to Mother's brief in an appendix. Documents attached to appellate briefs are not part of the record and may not be considered by the appellate court.

Regardless, the appellate court disagreed with Mother's characterization. A petition for bill of review is filed under a different cause number from the case in which the challenged judgment was rendered. The record in a bill of review is not limited to the trial court record existing at the time of judgment. The parties may present evidence to support a bill of review. The key distinction between these pleadings is that post-judgment motions must be filed within 30 days after judgment is signed and operate to extend the trial court's plenary power. A bill of review is an independent action to set aside judgment. Father's filing of a bill of review did not preclude him from filing a restricted appeal.

Father asserted he was entitled to restricted appeal because service of citation was improper. Mother's process server, who was authorized to serve citations, testified about her attempts to serve Father and her belief that further attempts to personally serve him were impractical. The trial court authorized substituted service with specific instructions that were followed. At trial, the court took judicial notice of the substituted service. Father failed to demonstrate error on the face of the record.

---

**Wife Failed to Establish She was Not Properly Served in the Divorce, so Her Subsequent Failure to Timely Appeal After Her Motion for New Trial was Overruled by Operation of Law Precluded Her Ability to Seek Bill of Review.**

6. *In re E.A.*, No. 05-24-00420-CV, 2026 WL 1125817 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-24-2026).

**Facts:** The parties were married with one Child. When Husband filed for divorce, he obtained an order for alternative service and, later, a default final decree of divorce. The same day the decree was signed, Wife filed a pro se motion to set aside the order, asserting she had not been served. A judge orally granted Wife's motion, but no order was signed before the expiration of plenary power. Wife did not appeal. Nearly four years later, Wife filed a petition for bill of review. The judge who had orally granted the motion testified that she did not recall questions about service in the underlying case. She stated that she was never presented with an order to sign. The docket did not reflect any finding regarding improper service. The judge testified that if she had made such a finding, the docket would have reflected such. The record reflected that service complied with the order granting substituted service. Wife testified that lived at the address noted in the substituted service order and return of service. Husband testified that Wife told him she was served when she was served. Wife acknowledged to have been dodging service in credit card suits around that time. Both parties testified that there were talks of reconciliation while the divorce was pending, but Husband denied Wife's assertion that he told her the divorce was dismissed. The trial court denied Wife's petition for bill of review, and she appealed.

**Holding: Affirmed.**

**Opinion:** To be entitled to relief in a bill-of-review proceeding, the petitioner must show that her failure to file a notice of appeal was not due to any fault or negligence of her own or of her counsel. However, if the bill of review is based on non-service, the lack-of-negligence showing is not required.

On appeal, Wife claimed that she established she was never served and, thus, satisfied the necessary elements to be entitled to a bill of review. The record reflected that service complied with the Rules, and Wife's bare claims that she never saw the petition or that it was "maybe" affixed to the wrong door were insufficient to prove nonservice.

Because Wife failed to appeal from the decree, whether she had a meritorious defense and whether there was an official mistake was irrelevant to the legal analysis. Because Wife failed to exhaust legal remedies, she was not entitled to the equitable relief provided by a bill of review.

## DIVORCE: INFORMAL MARRIAGE

**Wife Presented Sufficient Evidence to Defeat No-Evidence Summary Judgment on Question of Informal Marriage.**

7. *Lopez v. Lengyel*, No. 03-24-00358-CV, 2026 WL 968919 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (04-10-2026).

**Facts:** The parties were professional online streamers. They began a relationship in 2018 and moved to Texas in 2019. During COVID, they discussed their relationship status. According to Wife, the parties agreed that they were married despite not having a formal ceremony. At some point during COVID, Husband returned to Canada, where he was a citizen. They wanted Wife to visit him in Canada, but due to COVID restrictions, she would only be allowed to do so if the parties were married. The parties agreed that they would represent a marriage to the Canadian government and that Husband's mother would verify the marriage. Wife informed at least three Delta employees of the marriage. While in Canada, Wife told her viewers on a livestream that the parties were common-law married.

Once the parties returned to Texas, Husband told Wife that he wanted to keep the marriage a secret. However, Wife told tens of thousands of viewers about the marriage, as well as informing her family, housekeeper, two friends, several members of law enforcement, and "people at the bills company." Wife used Husband's name on packages and orders and deliveries. She gave Husband anniversary cards. Wife added Husband's phone to the "family plan" and put his cars on her insurance. Wife's mother acknowledged that Husband never told her the parties were married, but she had witnessed him refer to Wife as "wife" in Spanish. He would agree with the housekeepers when they referred to Wife as his wife, though the housekeeper testified she did not talk to Husband much. The housekeeper believed the parties were married.

There was also evidence that Wife referred to Husband as her boyfriend, even after their Canada visit. Wife used this language to avoid drawn out arguments with Husband.

After Wife filed for divorce, Husband purchased a wedding ring for her while they were visiting California. Wife consistently wore that ring in Texas.

The trial court granted Husband a summary judgment that no marriage existed, and Wife appealed.

**Holding: Reversed and Remanded.**

**Opinion:** Orders on summary judgments are reviewed de novo and indulge every reasonable inference in favor of the non-movant. The existence of an informal marriage requires evidence of (1) an agreement; (2) cohabitation; and (3) holding out. All three elements must exist at the same time.

While cohabitation can provide some evidence of an agreement to be married, "given society's modern attitudes towards cohabitation, 'evidence of holding out must be particularly convincing to be probative of an agreement to be married.'" Here, the evidence concerning the Canada trip raised more than a scintilla of evidence as to whether the parties agreed to be married.

Wife testified that she frequently used Husband's name when making purchases and discussed being married in front of Husband's mother. The housekeeper, a mutual friend, family members, and a few utility providers were told that the parties were married. The housekeeper believed the parties were married based on their conduct. The parties represented to the Canadian government that they were married. This evidence created a fact issue as to whether the parties were married.

Whie Husband pointed to conflicting evidence, that is not the standard in a summary-judgment proceeding. Husband attempted to distinguish between what people inside Texas believed versus non-Texans. However, there was evidence that at least some of the parties' Texas community may have believed the parties were married. Finally, Wife's occasional references to Husband as boyfriend merely created a fact issue and did not establish, as a matter of law, that the parties were not married.

## DIVORCE: ALTERNATIVE DISPUTE RESOLUTION

**Husband Contractually Waived Right to Appeal Through Explicit Provision in MSA.**

8. *McMaster v. McMaster*, No. 04-24-00328-CV, 2026 WL 927230 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (04-01-2026).

**Facts:** A year after signing an MSA, the trial court conducted a motion to enter a final decree of divorce in conformity with that MSA. The court denied Husband's request to continue the entry hearing and signed a final decree. Husband filed a motion for new trial, asserting he had withdrawn his consent to the MSA before Wife had signed it. After a hearing on the motion for new trial, the trial court denied Husband's motion. He appealed.

**Holding: Affirmed.**

**Opinion:** Husband argued that because he withdrew his consent before Wife signed the MSA, there was no meeting of the minds, and the trial court abused its discretion by incorporating the MSA into the final decree. The Docusign verification documentation attached to Husband's affidavit in support of his motion for new trial did not support Husband's allegation because it did not show when Wife signed the MSA. In her response to Husband's motion for new trial, Wife asserted Husband's timeline was incorrect and that she signed the agreement at mediation, not the day after. The MSA reflected that the parties and the mediator signed the agreement on the same day.

Husband additionally complained the trial court erred in not referring the parites' disputes to arbitration in accordance with the MSA and in signing a decree that altered the legal description of real property awarded to him. However, the MSA explicitly waived any right to appeal the rendition of judgment in the divorce. Thus, the appellate court dismissed Husband's remaining issues for contractual waiver.

---

**Wife Triggered Forfeiture Clause of Premarital Agreement by Requesting Relief Prohibited by Agreement.**

9. *Kausland v. Volek*, No. 05-25-00881-CV, 2026 WL 898547 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-01-2026).

**Facts:** Before marriage, the parties signed an agreement in contemplation of marriage that included a provision that Wife would be entitled to a $50k payment if Husband filed for divorce within two years of marriage, and she would be entitled to a $20k payment if the marriage lasted longer than two years. If Wife challenged the agreement, she would forfeit these payments. The marriage lasted less than 14 months. Husband petitioned for divorce, and Wife answered, requested temporary orders, and sought to enforce the agreement. Subsequently, the trial court granted Husband's motion for summary judgment and found Wife was not entitled to the $50k payment. After a final decree was signed, Wife appealed.

**Holding: Affirmed.**

**Opinion:** Wife asserted the trial court erred in granting summary judgment because she did not challenge any aspect of the agreement. However, in her request for temporary orders, Wife requested several elements of relief directly inconsistent with the agreement. She moved for spousal support, attorney's fees, and costs, all of which were prohibited by the agreement. She renewed her request for attorney's fees in each subsequent pleading. Under the plain language of the agreement, by asking for relief inconsistent with the agreement, Wife triggered the forfeiture clause.

---

**Arbitrator Did Not Exceed Its Authority by Ordering Husband to Pay for a QDRO to Divide Retirement Accounts Pursuant to Parties' Premarital Agreement.**

10. *Wood v. Wood*, No. 14-25-00250-CV, 2026 WL 959315 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (04-09-2026).

**Facts:** The parties signed a premarital agreement providing that no community estate would be created. If a joint account was opened, each party would own a 50% separate-property interest in the account. Upon marriage, Husband would convert certain retirement accounts to joint accounts.

When the marriage became insupportable, the parties signed an MSA reciting that no community property existed and referenced attached tables that identified their separate property. The MSA did not include any tables, but it referenced Schedules A through F, just as the premarital agreement had. Specifically, the MSA said that Exhibit F reaffirmed the parties agreement regarding the 50/50 partition of Husband's retirement accounts. The MSA also contained an arbitration clause to resolve drafting disputes.

After signing the MSA, Husband filed for divorce, and Wife filed a general denial. Wife filed a proposed divorce decree, but Husband objected, asserting it did not comport with the MSA. The court granted Husband's motion for arbitration.

The arbitrator commented that Husband might have had a fiduciary duty regarding the Schedule F accounts, but there was no evidence of mismanagement. The arbitrator held that to determine each party's share of the Schedule F accounts, Husband would have to pay for a QDRO and supply the necessary documentation. The arbitrator did not find that Husband had an obligation to provide an accounting to Wife. While the arbitrator did not explain this reasoning, the appellate court noted that in the premarital agreement, Wife had voluntarily waived any further disclosures regarding property, including its value. Husband prepared a decree, which included a provision requiring Husband to hire QDRO services within 30 days of signing the decree. The trial court signed Husband's proposed decree over Wife's objection. She appealed.

**Holding: Affirmed.**

**Opinion:** Wife argued the trial court should have vacated the arbitrator's award because it impermissibly recharacterized the Schedule F accounts as divisible assets. Wife acknowledged that she agreed to arbitration in the MSA but argued the arbitrator exceeded this authority by making substantive rulings on property rights.

The arbitrator explained that the parties had partitioned their property in the premarital agreement, and no community property existed. Nothing in the arbitrator's award conflicted with that partition. The arbitrator had the power under the MSA's arbitration clause to make the drafting guidance in the arbitration award.

Wife additionally argued that the decree divested her of her separate property. This argument was not clear and did not appear to be grounded in the record. Wife cited no authority to support her claim that a QDRO is exclusively used to divide community property.

Wife further asserted the decree erroneously disposed of a pending claim for breach of fiduciary duty. Wife did not file any counterpetition and made no affirmative request for relief other than for attorney's fees. Wife asserted the claim existed because the arbitrator addressed it. However, the arbitrator said there was no evidence of mismanagement.

---

**Wife's Claims that Her Prior Attorney "Bullied" Her into Signing MSA Did Not Support Claim that the MSA was Procured Through Duress.**

11. *Rademacher v. Rademacher*, No. 03-24-00343-CV, 2026 WL 1025739 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (04-16-2026).

**Facts:** During the divorce litigation, the parties signed an MSA. Almost a month later, Wife obtained new counsel and, a couple of weeks after that, filed a motion to set aside the MSA. Wife claimed she was coerced into signing the MSA. At a hearing on Wife's motion, she testified to a long list of ailments, including PTSD, ADHD, and hormone and immune disorders. She had four different attorneys during the divorce. Wife terminated the first attempted mediation because her attorney was unprepared. Wife's second attorney withdrew for lack of payment. The third attorney attended the mediation that resulted in the MSA. Wife testified that she could not validate the values presented in the spreadsheet of the parties' property, but the attorneys and mediator pressured her to make a decision that day. Wife stated that her lawyer and the mediator bullied her by telling her they were attorneys, and she was not. Wife claimed to have felt a kind of fear, worry, and nervousness. She believed she had no other choice but to sign the MSA.

Wife acknowledged she had ended a prior mediation, but she claimed the prior mediation never truly started because her attorney was unprepared. At the second mediation, the mediator kept telling Wife certain things were not going to happen in court because certain property was Husband's separate property. Wife's attorney purportedly told Wife that she would not get more in court than what was being offered that day in mediation. Wife referenced her ailments and stated she was feeling panicked when signing the MSA. The trial court denied Wife's motion to set aside the MSA. Wife appealed.

**Holding: Affirmed.**

**Opinion:** The MSA met the statutory requirements to entitle the parties to judgment on the MSA. Wife argued the MSA should have nevertheless been set aside because it was procured under duress. Duress occurs when some kind of threat renders a person incapable of exercising free agency and unable to withhold consent. Wife had previously ended a mediation. She did not explain how her ailments caused her to be incapable of exercising free agency and unable to withhold consent. Wife perceived unwelcome legal advice as bullying, and following that advice did not mean her acceptance of the MSA was involuntary, coerced, or procured by duress.

## DIVORCE: PROPERTY AGREEMENTS

**Divorce Remanded Because Trial Court Improperly Found Premarital Agreement was Void.**

12. *In re Marriage of Potyondy*, No. 05-24-00312-CV, 2026 WL 1149310 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-28-2026).

**Facts:** Days before marriage, the parties signed a premarital agreement. At the time of the divorce trial, Husband lived in California, and Wife lived in Texas with the parties' three Children. At the time of the agreement, Husband had savings, and Wife was in debt. They were both 30 years old. Husband testified that they discussed the making of an agreement, Husband hired an attorney, and the agreement went through many revisions before being signed. Wife asserted she was only given two days to review the agreement and felt she had no option but to sign. The agreement provided that upon divorce, community property would be divided equally, but Husband would be reimbursed for half of the difference between Husband's positive net worth and Wife's negative net worth at the time of marriage.

The trial court concluded the agreement was unconscionable when signed and was therefore void. The court found Wife was young, did not understand the ramifications of what she was doing, and lacked legal representation. Husband appealed.

**Holding: Reversed and Remanded.**

**Opinion:** Husband asserted the trial court incorrectly found the premarital agreement was unenforceable. Texas law generally favors premarital agreements. A premarital agreement can only be found to be unenforceable if it was not signed voluntarily; or if the agreement was unconscionable when made *and* certain disclosures were not made.

Here, the trial court's finding about unconscionability did not fully address the disclosure portion of the statute. While there were some findings regarding disclosure, the court did not find that Wife "did not have or reasonably could not have had, adequate knowledge of the property or financial obligations of" Husband's assets and libilities when she entered the agreement. There was no evidence pertaining to this required element. Moreover, the agreement itself included a provision stating that each party acknowledged that he or she had, or reasonably could have had, a full and complete knowledge of the property owned by the other party, as well as complete knowledge of all financial obligations of the other party. Wife presented no evidence to challenge this provision of the agreement.

In a footnote, the appellate court noted that the finding that 30-year-old Wife was too young to understand the ramifications did not support a conclusion that Wife lacked adequate knowledge of the property and financial obligations of the parties.

## DIVORCE: PROPERTY DIVISION

**Wife Not Harmed by Trial Court's Failure to Timely Send Her a Copy of Signed Findings of Fact and Conclusions of Law.**

13. *Oguamanam v. Oguamanam*, No. 01-24-00628-CV, 2026 WL 942426 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (04-07-2026).

**Facts:** After a twelve-year marriage, Husband filed for divorce. The court concluded Wife committed $130k of fraud on the community estate and rendered appropriate orders. Wife filed a timely request for findings of fact and conclusions of law and a notice of past due findings. The court signed findings prepared by Husband's attorney. Wife appealed.

**Holding: Affirmed.**

**Opinion:** Wife asserted that she did not receive the findings until during the appeal. She had initially filed an appellant's brief complaining of a lack of findings. However, upon learning findings had been issued, she requested a supplemental clerk's record and filed an amended brief.

Wife asserted that had she been timely aware of the findings, she would have requested additional findings, without which, she was unable to properly present her appeal. Based on this failure, Wife asked the appellate court to vacate the just and right division and grant her a new trial or grant her a temporary remand with 10 days to request additional findings.

Assuming the trial court failed to send the findings to Wife, Wife failed to show injury. Wife could have requested additional findings when she first learned of the original findings. A court may issue findings even if it lacks plenary power of the case. Wife offered no explanation for why she did not do so. Wife could have asked the appellate court to abate the case while she requested additional findings, but she did not do so. Instead, Wife merely asked for more time to file an appellant's brief.

Next, the court considered whether the trial court's failure to send Wife the original findings prevented her from properly presenting her appeal. The trial court has no duty to make additional findings that are not relevant to the judgment. If the proposed additional findings do no more than request explanations of the court's ruling in the case, they are not required. In her brief, Wife listed the additional findings she would have requested. The trial court had already made findings regarding some of the items on Wife's list and other merely sought a more detailed explanation of the trial court's reasoning. One sought finding asked for the rationale behind the calculation of an attorney's fee award for which only one dollar amount was presented at trial. Wife did not need the requested finding to present an appellate argument regarding the fee award. Because Wife failed to show harm, this complaint was overruled.

---

**Money Judgments Purportedly Based on Husband's Fraud and Other Bad Behavior Reversed Because Awards were Inconsistent with Family Code.**

14. *In re Marriage of Howlett*, No. 07-23-00177-CV, 2026 WL 1141322 (Tex. App.—-Amarillo 2026, no pet. h.) (mem. op.) (04-27-2026).

**Facts:** After a 16-year marriage, the parties decided to separate and signed a separation agreement in which Wife gave up possession of the marital residence, waived any interest in Husband's retirement account, and relinquished post-divorce support. Husband, in turn, agreed to "take care of" her and "help her get back on her feet." Husband agreed to pay monthly amounts well exceeding his disclosed monthly salary. A few months after filing for divorce, Husband attempted to revoke the agreement, alleging it was unenforceable. In addition to a job with the state of Texas, Husband organized anime conventions and concealed his income relating to those conventions. Husband's bank responded to a subpoena regarding a bank account controlled solely by Husband for the anime conventions. No corporate documents were related to the "foundation" named as the account holder. The statements showed the movement of hundreds of thousands of dollars. When confronted, Husband pleaded the Fifth Amendment.

The trial court found Husband to be an unreliable witness who had tampered with documents and knowingly misstated his sources of income. The court divided the community estate, found the marital residence to be Husband's separate property, awarded Wife spousal maintenance of $5000 per month, and rendered four money judgments of $250,000 each. In its findings, the court did not offer details for how it calculated the money judgments. Rather, it stated the four judgments were for: (1) part of the just and right division relating to hiding monies; (2) fraud on the community; (3) rights and benefits Wife gave up through the separation agreement; and (4) exemplary damages for providing false documents and testimony. Two of the judgments were secured by liens on Husband's separate property homestead. Husband appealed.

**Holding: Reversed and Remanded.**

**Opinion:** On appeal, in 13 issues, Husband challenged 3 of the 4 money judgments. Because the fourth judgment for exemplary damages was unchallenged, it remained undisturbed by appeal. All three of the other judgments recited injury to Wife's separate estate but also referenced injuries to the community estate resulting from the same acts. The trial court did not clearly distinguish which acts caused what types of injury, how the court determined the $250,000 values, or why the awards were to Wife instead of to the community estate.

In a divorce, there is no separate action for fraud when the fraud was not perpetrated upon a spouse's separate estate but was perpetrated upon the community estate. The only cause of action in that situation is a claim for the value of the innocent spouse's interest in the community property wrongly displaced.

Here, the trial court's findings left open the possibility that it intended to award damages to Wife for independent torts. The appellate court reviewed the sufficiency of the evidence in that light. The court referenced abuse by Husband and intentional infliction of emotional distress. Wife testified about verbal abuse and gaslighting that led to a suicide attempt.

The Rules do not require the trial court to itemize every element of every cause of action; however, the appellate court cannot make presumptions about findings supporting a cause of action unless the trial court makes a finding as to at least one element of that cause of action. When there are no findings as to any element of a particular cause of action, the appellate court treats that omission as a deliberate decision not to award relief on that claim. Here, while a finding referenced emotional distress, none of the findings regarding damages referenced emotional distress as an injury for which the compensation was intended.

Although the trial court referenced credible evidence that Husband caused injury to Wife's separate estate, there was no separate property confirmed as Wife's and no separate property of Wife identified as lost based on Husband's actions.

The only evidence of injury related to Husband's concealment of income, falsification of bank records, and misappropriation of community funds, which pertained to injuries to the community estate, not Wife individually. Accordingly, the evidence was legally insufficient to support any of the three challenged money judgments.

Fraud on the community is presumed when one spouse disposes of the other spouse's interest in community property without that spouse's knowledge or consent. Once the presumption arises, the burden shifts to the disposing spouse to prove the dispositions were fair. Here, there was substantial evidence of unaccounted for funds, and Husband failed to explain where the funds went. Thus, the Family Code required reconstitution and division of the community estate. The trial court did not do

this. The trial court's solution of money judgments was not a proper substitute for the statutory requirements. Additionally, the three judgments overlapped, and a plaintiff may not recover more than once for the same harm. The appellate court was unable to determine whether the judgment constituted an impermissible double recovery. Accordingly, the entire property division was reversed and remanded for a new division.

In a cross-appeal, Wife argued the trial court erred in finding the marital residence was Husband's separate property despite community contributions to the mortgage. Husband purchased the home before marriage, and subsequent mortgage payments do not alter the separate character of property. The trial court did not err in finding the marital residence was Husband's separate property.

---

**Property Division Reversed Because Liability of an LLC was Included in the Just and Right Division of the Community Estate.**

15. *Morales v. Morales*, No. 01-24-00498-CV, 2026 WL 1171118 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** The parties were married for over 25 years before cross petitioning for divorce. Each offered disputed evidence about the character and value of various assets. After considering the evidence, the court signed a final decree. Husband appealed.

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

**Opinion:** Husband challenged the trial court's characterization of an SBA loan as a community obligation because it was a debt belonging to a corporation. Thus, including it as a liability of Wife in the division of the community estate materially affected the just and right division. Wife responded that it was proper to award the debt to her because she was personally liable for the loan.

"A bedrock principle of corporate law is that an individual can incorporate a business and thereby normally shield himself from personal liability for the corporation's contractual obligations." This shield extends to limited liability companies and "stems from the presumption of legal separateness that exists between a limited liability company and its members." The Business Organizations Code provides that a member or manager cannot be held liable for "a debt, obligation, or liability of a limited liability company, including a debt, obligation, or liability under a judgment, decree, or order of a court" except as specified in the company's agreement. When dividing property in a divorce proceeding, "a spouse's ownership interest in a corporation can be characterized as either separate or community property," but "corporate assets and liabilities are owned by the corporation and, absent a finding of alter ego, are not part of the community estate."

Here, Wife testified that the business was incorporated during the marriage and proffered the original closing loan documents that identified the business as the loan's borrower. The documents noted that the company was an LLC. The documents did not reflect that Wife was a borrower or was obligated to pay the loan. No agreement between Wife and the LLC was offered into evidence. While a member of an LLC may have an individual liability for a company debt, no such documentary evidence was offered here. Wife's baseless opinions could not support her conclusory statement regarding her liability. She would have had to explain the factual basis for her conclusion, and she did not. Because there was no evidence the debt was a joint liability, the court erred in including it in the just and right division of the community estate. Because the error materially affected the division, the entire property division was reversed and remanded for a new division.

## DIVORCE: SPOUSAL MAINTENANCE AND ALIMONY

**Evidence Supported Spousal Maintenance for Wife Suffering from Schizophrenia and Requirement that no Periodic Review Occur Within Two Years of Oral Rendition.**

16. *Dominguez v. Dominguez*, No. 11-24-00191-CV, 2026 WL 958192 (Tex. App.—Eastland 2026, no pet. h.) (mem. op.) (04-09-2026).

**Facts:** Husband filed for divorce, and Wife filed a counterpetition in which she asked for spousal maintenance. Before trial, the parties agreed on all issues except the maintenance, which was tried to the bench. Wife's mother had been appointed Wife's guardian due to episodic psychotic symptoms. Wife had been seeing a psychiatrist for two years for auditory hallucinations. Wife had not worked outside the home for over 20 years. She had not applied for governmental assistance because she did not know she could until recently receiving that information from her psychiatrist. The parties' agreement awarded Wife the marital residence, which she planned to sell and use those proceeds for the purchase of a new home. Wife additionally received about $1.5 million per the agreement.

Husband testified that he sought divorce because Wife did not want to be with him anymore, and he felt he needed to protect himself from her. He had paid for all the parties' expenses during the divorce, including temporary spousal support. He agreed to pay health insurance premiums for COBRA health insurance for Wife for three years following the divorce. Because many of the assets were not readily liquid, Husband agreed to a schedule of payments to Wife. Husband acknowledged Wife's diagnosis of schizophrenia but disagreed that she was ineligible for work. He noted that she was able to care for her granddaughter and drive to court for trial. He did not know whether Wife's monthly expenses were reasonable.

Wife's mother/guardian testified about Wife's expenses. Wife's doctor testified that Wife's medications and therapy would cost Wife $2450 out-of-pocket monthly. He did not believe Wife was capable of making any rational, long-term decisions. He believed that because Wife presented well, she would be capable of obtaining a job but not necessarily keeping one.

The trial court determined Wife was eligible for spousal maintenance and awarded her $4000 a month until further order of the court. The court disallowed any review of the order for at least two years. Husband appealed.

**Holding: Affirmed.**

**Opinion:** Husband did not dispute Wife had an incapacitating mental disability, but he argued the trial court (1) miscalculated Wife's minimum reasonable needs; (2) incorrectly found Wife lacked sufficient property to provide for her minimum reasonable needs; and (3) disregarded Wife's potential ability to obtain governmental assistance.

Husband argued that entertainment, eating out, life insurance, money for their son and grandchildren, money for Christmas gifts, and money for caring for Wife's dog were not "needs" or for Wife's personal benefit. Husband also argued that Wife failed to identify any specific future costs associated with housing and that she should have provided a reasonable estimate for the type of residence she would seek after the sale of the marital residence. Finally, Husband asserted that because Wife did not drive often, her alleged transportation costs were inflated. If all the challenged costs were removed from Wife's calculations, her minimum reasonable needs were less than $1000 a month.

Under the abuse of discretion standard, the evidence supported the trial court's determination. Moreover, when questioned about Wife's expenses, Husband stated he did not know whether the expenses were reasonable. Wife's mother testified about the property Wife intended to buy. The court's order took effect 30 days after closing the sale of the marital residence, indicating the court took into consideration Husband's continued obligation to pay bills associated with that residence. Wife's mother testified about car insurance and the outstanding lien on the car Mother was awarded. The other categories of expenses presented to the court reflected an average Wife had spent in the past year. The trial court had the opportunity to hear the testimony and review the evidence and did not abuse its discretion.

Although Husband asserted Wife was awarded sufficient assets to meet her minimum reasonable needs, many of those assets were not liquid. The court is not required to determine whether the person seeking maintenance will be able to provide for the minimum reasonable needs in the future. Rather, the court must consider that ability at the time of divorce. The evidence indicated Wife would be unable to readily access any funds from the property division and did not have consistent independent income at the time of trial.

Similarly, at the time of final trial, Wife had not applied for governmental assistance, so the court was unable to consider such payments in its determination of whether Wife could currently meet her minimum reasonable needs. However, the court did include in its order that any disability payments must be deducted from Husband obligation and that if the disability payments exceeded $4000 a month, Husband's obligation would be terminated. Additionally, because Wife was awarded maintenance due to an incapacitating disability, she was not required by the statute to show due diligence in providing for her minimum reasonable needs.

Husband next argued the trial court erred in prohibiting him from seeking review of the maintenance order for at least two years because this restriction violated Chapter 8 of the Family Code. The appellate court noted that the two years had already passed, mooting the issue. Moreover, the trial court was not required to provide for a periodic review of the maintenance award. If Husband sought a reduction, he would need to prove a material and substantial change. Applying contract interpretation principles, the provision appeared to refer to the anticipated periodic review, not to a potential modification.

---

**Contractual Monetary Obligation for Monthly Payments to Compensate Wife for Interest in the Community Estate Could Not be Enforced by Contempt.**

17. ***White v. White***, __ S.W.3d __, No. 12-24-00325-CV, 2026 WL 1025547 (Tex. App.—Tyler 2026, no pet. h.) (04-15-2026).

**Facts:** Husband was ordered to pay "spousal maintenance" pursuant to an agreed final decree of divorce. Husband was to pay Wife for her share of equity interest in the marital residence and the community interest of the parties' business. After a single larger payment, Husband (not represented by counsel at the time) agreed to pay Wife $2000 a month in "spousal maintenance" until the full obligation was paid, which would take almost 7 years. The decree contained an enforcement clause indicating that nonpayment of the obligation would be enforceable by contempt pursuant to Chapter 8 of the Family Code. Husband failed to make any of the required payments. Wife filed an enforcement action that resulted in a judgment for arrearages. When Husband continued not to pay, Wife filed a second enforcement action asking for Husband to be held in contempt and imprisoned for nonpayment pursuant to Section 8.059. At trial Husband argued the obligation was contractual support and not governed by Chapter 8. The court agreed with Husband regarding the obligation and signed a new arrearages judgment. Wife appealed.

**Holding: Affirmed.**

**Opinion:** Wife argued the court erred in failing to hold Husband in contempt. It was undisputed that the parties agreed to the monetary obligation. For a contractual spousal maintenance obligation to be enforceable by contempt, the obligation must satisfy the prerequisites of Chapter 8. If the obligation is merely a part of the division of the community estate, it is not enforceable by contempt.

Here, there was nothing in the record indicating Wife had established eligibility for Chapter 8 maintenance. There was no evidence Wife could not meet her minimum reasonable needs or was disabled. She admitted the obligation was to compensate her for her interest in the community estate.

Wife argued that because the enforcement provision disallowed enforcement by contempt if the amount or duration of support exceeds the statutory maximums, the opposite must have been true. Wife's interpretation ignored the essential statutory requirements for an order of maintenance. Although the amount and duration of Husband's obligation was within guidelines, Wife never presented evidence to support an award of Chapter 8 maintenance, so Chapter 8's enforcement remedies were unavailable to her.

## DIVORCE: ENFORCEMENT OF PROPERTY DIVISION

**Husband Granted Declaratory Judgment in Post-Divorce Breach of Contract Based on Wife's Failure to Pay Her Agreed Share of Taxes Due in the Year of Divorce.**

18. *Fuhrman v. Fuhrman*, No. 09-24-00155-CV, 2026 WL 1025550 (Tex. App.—Beaumont 2026, no pet. h.) (mem. op.) (04-16-2026).

**Facts:** The parties agreed to a final decree of divorce but subsequently disputed their respective liability for tax obligations for the year of divorce. Husband sued wife for breach of contract and sought a declaratory judgment and attorney's fees. Wife counterclaimed that Husband breached the contract and sought similar relief. After a bench trial, the court found the decree was enforceable, Husband had performed his obligations, and Nancy had breached hers. The court awarded Husband a money judgment plus attorney's fees. Wife appealed.

**Holding: Affirmed.**

**Opinion:** Wife argued the trial court erred in finding Husband performed his contractual obligations because he failed to provide her with a copy of his K-1. However, the K-1 income was included in the tax return provided to Wife, and the trial court recessed trial for Husband to obtain a copy of his K-1 to show that the amounts were the same on the two documents.

Husband was a retired accountant. In the MSA on which the decree was based, the parties had agreed that they would file taxes separately for the year of divorce. Husband had concerns about taxes that had already been paid from his retirement income and wanted some reimbursement. Husband agreed he would pay taxes on the first $270,000 of the federal income tax owed for that tax year, and any remaining due after that initial $270,000 would be divided between the parties. After a bench trial, the court found that Wife owed Husband $187,244 for her share of the tax liability, which was the amount calculated by a CPA, who testified without objection. Under the abuse of discretion standard, the trial court was free to take Husband's and the expert's testimony as more credible than that of Wife.

**Money Judgment Did Not Alter Division but Properly Enforced Decree After Husband Depleted Account Holding Funds Awarded to Wife.**

19. *Sheehan v. Sheehan*, No. 11-24-00223-CV, 2026 WL 1025549 (Tex. App.—Eastland 2026, no pet. h.) (mem. op.) (04-16-2026).

**Facts:** After the parties' divorce, Husband appealed, raising arguments about the characterization of moneys received from a personal-injury settlement. The appellate court affirmed the decree, including a provision awarding Wife a sum of nearly $65k from one of Husband's bank accounts.

Wife filed an enforcement suit, and Husband responded that the account was empty. Husband acknowledged a restraining order prior to the decree prohibited him from depleting the account. However, Husband had purchased cars, boats, ATVs, and a new house for his son that his son transferred back to Husband after the divorce was final. Husband took $126k out of a retirement account, incurring about $24k in penalties. The trial court found Husband failed to comply with the decree despite an ability to do so and awarded Wife a money judgment plus attorney's fees. Husband appealed.

**Holding: Affirmed.**

**Opinion:** Husband argued the enforcement judgment impermissibly modified the divorce decree. Along with its enforcement remedies, a trial court may render a money judgment if a party fails to comply with a divorce decree and delivery of the awarded property is no longer an adequate remedy. The court may also award reasonable attorney's fees in a suit to enforce a property division. Wife was awarded a money judgment from a specific account. However, Husband violated a court order and depleted the funds in that account. a money judgment for damages cause by Husband's actions was appropriate.

## SAPCR:
## PROCEDURE AND JURISDICTION

**Child's Name Change in Default Judgment Not Authorized Because Mother Had Not Pleaded for that Relief.**

20. *In re B.C.*, No. 02-25-00230-CV, 2026 WL 1041631 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (04-16-2026).

**Facts:** Mother initiated a SAPCR, seeking sole managing conservatorship and child support. Father filed a pro se notice appointing someone (who was not a licensed attorney) as his attorney in fact. (The appellate court noted in a footnote that Father had previously attempted to appoint this same non-lawyer as his representative in a DWI proceeding.) The same day Father filed his notice, the parties were notified of the bench trial setting. Because Father did not appear, the court signed a default judgment. Father's appointed representative filed a motion to set aside the default within 30 days. Father appealed. (He attempted to appeal through his appointed representative, but the appellate court advised him that he could not be represented by a non-licensed attorney.)

**Holding: Affirmed as Modified.**

**Opinion:** Most of Father's issues were unsupported by citation to applicable authority, contradicted by the record, unpreserved, or inadequately briefed. However, while his briefing was inadequate, appellate courts attempt to "reach the merits of an appeal whenever reasonably possible."

Contrary to Father's assertion, he was given notice of the trial setting. Father had personally appeared for the scheduling conference. Additionally, he had attached an email to his motion to set aside the default in which he asked for a continuance of final trial. Also, contrary to Father's assertion, he was given notice of the final judgment, and his motion to set aside that judgment was timely filed. Father complained about the trial court's denial of his requested continuance; however, his email request did not comply with the Rules of Civil Procedure. Father raised an additional complaint purportedly regarding recusal and the UCCJEA, but the appellate court could not ascertain his complaint and determined it was waived for inadequate briefing.

In his final issue, Father asserted the trial court erred in changing the Child's name when Mother had not pleaded for that relief. Because the order did not conform to the pleadings, the appellate court modified the judgment to delete the Child's name change and otherwise affirmed the judgment.

---

**Order Requiring Partial Payment of Costs Despite Statement of Indigency Reversed Because Court Failed to Conduct Evidentiary Hearing Before Rendering Order.**

41. *In re Name Change of A.J.G.*, No. 08-26-00070-CV, 2026 WL 1096284 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (04-22-2026).

**Facts:** Mother filed a pro se petition to change her Child's name along with a statement of inability to pay costs. No one challenged the statement; however, the trial court issued orders setting "indigency hearings." Before the scheduled hearing, Mother submitted supporting documentation regarding the statement. The court entered an order stating that at an oral evidentiary hearing, it was disclosed that Mother had been receiving child support. The court found Mother's income was about $600 more per month than what she claimed in her statement. It further noted that Mother owned a home valued at about $135k according to the tax appraisal. Without commenting on Mother's expenses, the court ordered that Mother could afford to pay court fees at a reduced cost. After the hearing, Mother filed a supplemental affidavit to clarify she was no longer employed by the same employer, affecting the court's analysis of her income. Mother timely appealed. The appellate court noted that under Rule of Civil Procedure 145, she was required to appeal within 10 days.

**Holding: Reversed and Rendered.**

**Opinion:** The court reporter notified the appellate court that no record was made. The appellate court issued an order directing the clerk and reporter to prepare and file the record of the trial court proceedings and noted that the order stated an oral evidentiary hearing took place. The clerk complied, but the reporter provided no further response.

On appeal, Mother asserted no evidentiary hearing occurred. Rather, she was questioned by the county attorney and court coordinator without the trial court being present. Afterwards, Mother was informed that she could pay discounted court costs, and the county attorney told her she could make payment arrangements or set a hearing. Although Mother requested a hearing, no hearing was set, and the order was signed.

This process failed to comply with Texas Rule of Civil Procedure 145. A contest to a statement of indigency must contain sworn evidence, not mere allegations, that the statement was false when made or that it was no longer true because of changed circumstances. Alternatively, the court may on its own require the declarant to prove the inability to afford costs. The declarant is entitled to 10 days' notice of an evidentiary hearing. The test is not merely whether the declarant can pay the costs but whether the declarant can afford to pay costs and still pay for basic essentials like housing and food.

Here, no one contested the statement. There was no basis for the court's sua sponte "hearing." Other than the recitation in the order, nothing in the record indicated that an evidentiary hearing occurred. Further, the court's order failed to include

requisite findings detailing how it determined Mother was able to pay costs. While it made a determination about her income, it did not consider her monthly expenses, without which, the court could not have ascertained whether Mother could *afford* costs. Given the evidence, the trial court was directed to allow Mother to proceed with her petition for a name change without payment of court costs or fees.

---

**Texas's UIFSA Jurisdiction over Texas Father's Child Support Obligation Did Not Give Texas UCCEJA Jurisdiction over Child Who Had Resided in Mississippi Her Entire Life.**

22. *In re Anthony*, No. 04-26-00256-CV, 2026 WL 1161459 (Tex. App.—San Antonio 2026, orig. proceeding) (mem. op.) (04-29-2026).

**Facts:** The Child was born in Mississippi, where she resided with Mother. Mother contacted the Mississippi OAG about child support, which in turn contacted the Texas OAG because Father lived in Texas. The Texas OAG initiated a suit in Texas pursuant to UIFSA. The Texas court found Father was the Child's father and set a child support obligation. Father then filed an original SAPCR, seeking possession and access. Mother filed a special appearance, request for the court to decline jurisdiction, and original answer. Father filed a motion to consolidate the child support and child custody suits. The court consolidated the suits, and Mother sought mandamus relief.

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

**Opinion:** Texas only has jurisdiction to make an initial child custody determination pursuant to the requirements set forth in UIFSA (Section 152.201). The physical presence of, or personal jurisdiction over a party or a child is neither necessary nor sufficient to make a child custody determination. The Child's home state was indisputably Mississippi. Father argued that Texas could exercise jurisdiction because no other state had yet exercised jurisdiction and because the Child had significant connections with Texas. The significant connections analysis is only invoked when a Child has no home state or the home state has declined to exercise jurisdiction. Because Mississippi was the Child's home state, the trial court abused its discretion in exercising jurisdiction over the child-custody suit.

## SAPCR: Temporary Orders

**Trial Court Retained Authority to Modify Temporary Orders Pending Appeal During the Pendency of Father's Appeal.**

23. *O'Brien v. O'Brien*, No. 03-25-00334-CV, 2026 WL 1171409 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** Father appealed from a final decree of divorce. The trial court signed temporary orders pending appeal requiring the parties to attend mediation and Father to pay an attorney's fee judgment to Mother. After unsuccessful mediation, Mother filed an amended motion to modify the temporary orders pending appeal, in which she requested support, attorney's fees, and security to suspend the property division. In response, Father argued the trial court lacked jurisdiction to render new temporary orders because the 60-day deadline had passed. Mother filed in the appellate court a "motion to remand" requesting the appellate court to direct the trial court to conduct a hearing on her motion to modify the temporary orders pending appeal.

**Holding: Appeal Abated Pending Trial Court Hearing.**

**Opinion:** Father's argument ignored the subsection of the temporary-orders-pending-appeal statute providing that a trial court retains jurisdiction to modify and enforce temporary orders pending appeal unless the appellate court supersedes the order. The only limitation on modification under the SAPCR temporary-orders provision (Section 109.001) is (1) a material and substantial change in circumstances, and (2) the requested modification is equitable and necessary for the safety and welfare of the child. The case on which Father relied found that a trial court was prohibited from awarding attorney's fees after the appeal had been disposed of. Thus, the orders were not *during the pendency of an appeal*. Accordingly, the appellate court abated the appeal to allow the trial court to conduct a hearing on the requested modification of temporary orders pending appeal and directed Mother to submit a motion to reinstate or status report by a date certain.

## SAPCR: Alternative Dispute Resolution

**Because Order on MSA Not Rendered Before Expiration of Plenary Power, Grandparents Could Not Rely on the MSA to Give Them Jurisdiction in Modification Suit.**

24. ***In re B.W.A.***, __ S.W.3d __, No. 03-25-00931-CV, 2026 WL 917433 (Tex. App.—Austin 2026, orig. proceeding) (04-01-2026).

**Facts:** The Children's biological father died before the younger of the two Children was born. A few years later, Adoptive Parents filed a petition to adopt the Children. The paternal grandmother, maternal grandparents, (collectively "Grandparents"), Adoptive Parents, and the Children's biological mother signed an MSA in which the mother agreed to voluntarily relinquish her parental rights, an agreed order would be presented to the court that gave the Grandparents limited supervised possession of the Children and provided the mother's relinquishment of parental rights would not terminate the Grandparents status as "grandparents." No party sought a hearing or order relating to the MSA. The trial court signed an order terminating the mother's parental rights, and a few weeks later, it signed an order granting the Adoptive Parents' petition for adoption. Neither of these orders referenced the MSA.

Roughly seven years later, the Grandparents alleged their access to the Children had been denied. The maternal grandmother initiated a modification proceeding, basing her standing on the MSA. The Adoptive Parents filed a plea to the jurisdiction. The paternal grandparents moved for entry of an order based on the MSA. After several hearings, the trial court denied the plea to the jurisdiction. The Adoptive Parents petitioned for mandamus relief.

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

**Opinion:** In the absence of the MSA, Family Code Section 153.434 explicitly prohibited Grandparents from requesting possession because the father had died, the mother's rights had been terminated, and Children were adopted by a person other than a stepparent. The MSA provided that the Adoptive Parents would be estopped from ever asserting Grandparents lacked standing. The parties provided no explanation for why they did not obtain an order on the MSA until years later. The parties were all aware of the termination and adoption orders.

In the mandamus proceeding, the Adoptive Parents noted that the maternal grandmother's modification petition did not identify what prior order she sought to modify. The Grandparents focused on their entitlement to judgment under the Family Code. They also argued that the Adoptive Parents benefitted from the MSA and then sought to avoid the very obligation to which they agreed.

The execution of the MSA, absent a motion or petition asking the trial court to enter an order on the MSA, was not a request to the trial court seeking possession and access. Estoppel cannot confer jurisdiction where none exists. The adoption order contained a "Mother Hubbard" clause but did not state that it was final, disposed of all claims and parties, or that it was appealable. However, there were no other pending claims in the trial court at the time the adoption order was entered. The only parties to the proceeding were the Adoptive Parents. The Grandparents did not intervene or otherwise seek relief. Thus, the adoption order was a final order, and the court's plenary power expired years ago.

Following the Dallas Court of Appeals' reasoning in *In re C.T.H.*, __ S.W.3d __, No. 05-22-01202-CV, 2025 WL 3285467, at *7 (Tex. App.—Dallas 2025, no pet. h.), the Austin court agreed that Family Code Section 153.0071 requires a trial court to enter judgment on an MSA while it retains plenary power.

## SAPCR: CONSERVATORSHIP

**Father Could Not be Appointed a Joint Managing Conservator After Trial Court Made a Family Violence Finding Against Father.**

25. *Hanson v. Nwachukwu*, No. 03-25-00281-CV, 2026 WL 899574 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (04-02-2026).

**Facts:** Mother filed an original SAPCR seeking sole managing conservatorship of the parties' Child. Mother alleged Father had a history or pattern of committing family violence against her in the previous two-year period. Father filed a counter petition seeking joint managing conservatorship. At a bench trial, Mother testified about extensive violence and Father's arrest. Father did not deny his actions but asserted the actions did not constitute family violence because his criminal case was dismissed. At the hearing's conclusion, the court orally made a finding of family violence but stated that Father was proactive in addressing it, getting counseling, and taking classes. The court acknowledged that the finding rebutted the presumption against joint managing conservatorship; however, it found that joint managing conservatorship would nevertheless be in the Child's best interest. Mother appealed.

**Holding: Reversed and Remanded.**

**Opinion:** There is a rebuttable presumption that appointment of the parents as joint managing conservators is in the best interest of the child. But this presumption is removed—and the trial court is prohibited from appointing the parents as joint managing conservators—if the trial court makes "[a] finding of a history of family violence involving the parents of a child." Because a family-violence finding reflects that the evidence of physical abuse is credible, it not only bars the trial court from appointing the parents as joint managing conservators but also creates a rebuttable presumption that (1) appointment of the abusive parent as sole managing conservator is not in the child's best interest and (2) unsupervised visitation with the abusive parent is not in the child's best interest. The prohibition on appointing the parents as joint managing conservators when the trial court makes a

finding of family violence involving them seems "to be based on the assumption that two people cannot be expected to cooperate to the extent necessary to co-parent when one of the parents has abused the other parent or a child."

The trial court's appointment of the parents as joint managing conservators was in direct contravention of the Family Code and constituted an abuse of discretion.

---

**Father Could Not be Appointed Joint Managing Conservator in Light of Uncontroverted Evidence of Domestic Violence in the Two-Year Period Before the Divorce was Initiated.**

26. *In re Zermeno*, No. 07-26-00068-CV, 2026 WL 1041856 (Tex. App.—Amarillo 2026, orig. proceeding) (mem. op.) (04-16-2026).

**Facts:** The parties were married with seven Children, five of whom were minors at the time of divorce. Father asked for sole managing conservatorship based on Mother's alleged neglect of the Children. One of the adult Children supported Father's request. Mother filed a counter petition and asked for sole managing conservatorship based on Father's history of family violence. Father and the adult Children complained Mother did not keep the home clean and did not consistently care for some of the younger siblings. The adult Children also testified about Father's drinking problems and domestic violence against Mother. Father's new girlfriend testified Father stopped drinking and was a good parent to their newborn child. Father admitted to hitting Mother several times while intoxicated and when she discovered he was having an affair. Father claimed to have stopped drinking. Mother testified Father had hit her while sober, but she did not call the police because Father took her phone. Mother complained Father would not let her work, which was why she struggled to provide sufficient food for the Children. The trial court entered a temporary order appointing the parents as joint managing conservators and, because the Children had been residing with Father at the time of the hearing, granted Father the exclusive right to designate the Children's primary residence. Mother sought mandamus relief.

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

**Opinion:** Mother argued the trial court abused its discretion in appointing Father joint managing conservator in the face of uncontroverted testimony of domestic violence.

Section 153.004 provides that a court may not appoint joint managing conservators if credible evidence is presented of a history or pattern of past or present child neglect or abuse against the other parent, a spouse, or a child. It further provides a rebuttable presumption that appointment of a parent as sole managing conservator with the exclusive right to determine the primary residence is not in the child's best interest if credible evidence is presented of a history or pattern of past or present child neglect or abuse against the other parent, a spouse, or a child.

The appellate court agreed with Mother that the trial court abused its discretion in appointing Father as a joint managing conservator when faced with uncontroverted evidence of Father's family violence within the two-year period preceding the filing of divorce. The court declined to render an order appointing her as a sole managing conservator and instead remanded the issue to the trial court to determine conservatorship issues when faced with the possibility of two offending parents.

---

**Evidence Supported Geographic Restriction that Included Orlando, Florida.**

27. *In re Marriage of Runyon*, No. 10-25-00066-CV, 2026 WL 1030662 (Tex. App.—Waco 2026, no pet. h.) (mem. op.) (04-16-2026).

**Facts:** Father filed for divorce a month after the birth of the parties' only Child. The court conducted a bench trial and signed a final decree. Father appealed.

**Holding: Affirmed.**

**Opinion:** Father asserted the trial court abused its discretion in awarding Mother a disproportionate share of the community estate. Specifically, he asserted the court erred in securing a money judgment with a certificate of deposit because Mother had not pleaded for an equitable judgment or lien. Mother pleaded for a just and right division of the community estate and requested any other relief to which she was entitled. This requested relief was sufficient to support the judgment. Additionally, in reviewing evidence relevant to the *Murff* factors, particularly that Father's income was 10x that of Mother's, the evidence supported awarding Mother a disproportionate division of the community estate.

Father additionally challenged the geographic restriction on Mother's right to designate the Child's primary residence because the restriction allowed Mother to move to Florida with the Child. The Court applied the *Lenz* factors and noted both parties had family in Florida, the parties' families lived relatively close to each other within Florida, Mother's extended family was close knit, neither party was from Texas, Father moved to Texas to complete a medical residency, Mother's family testified they would be able to provide support for Mother in Florida, Mother received a job offer in Florida that would pay her more and would allow Mother to use her degree, Father had historically traveled to Florida at least once a month, and the decree gave Father a superior right to possession when he visited Florida. The record contained ample evidence to support the geographic restriction.

Father next argued the court erred in failing to offset his child support obligations with travel expenses. The evidence showed that Father historically travelled to Florida regularly and earned significantly more than Mother. Father presented no evidence of travel expenses he would incur in exercising his visitation rights. The court did not abuse its discretion in not awarding Father child support credit for travel expenses.

## SAPCR: CHILD SUPPORT

**Mandamus Granted to Correct Trial Court's Refusal to Grant Motion to Compel Production of Tax Returns.**

28. *In re Johnson*, No. 03-26-00121-CV, 2026 WL 958566 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (04-09-2026).

**Facts:** Mother and the Child lived in Hawaii, and Father lived in Texas. Because Father had not seen the Child in three years, he filed a suit to adjudicate parentage and child-support obligations. Mother responded with a petition seeking above guideline child support. After a trial on the merits, the court denied Mother's request. Mother appealed, and the case was remanded to allow Mother to testify remotely during trial.

On remand, the trial court conducted a hearing on Mother's motion to compel discovery. She sought unredacted (other than Social Security numbers) tax returns for the last two years with all schedules and attachments. The trial court stated an inclination to compel the discovery but asked the parties to file briefs. Husband produced one page of his 2022 tax return and two pages of his 2024 tax return with redactions. In a deposition, Father stated that he sold his convenience store business, could not recall his W-2 income, and would not disclose the amount he received from the sale due to an NDA. Father testified he had brokerage accounts between $1 million and $50 million, real estate investments, and an entity that owned a plane. Father believed he should pay maximum guideline child support. After the trial court denied Mother's motion to compel, she sought mandamus relief.

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

**Opinion:** Mother argued she was entitled to more financial information than what Father produced and asked for an order requiring Father to produce tax returns for the prior two years.

In the context of child-support proceedings, the trial court must require parties to produce copies of their federal income tax returns as well as sufficient information of net resources and ability to pay child support. The plain language of the Family Code makes clear that the trial court has a duty to require the parties to comply with this disclosure requirement. Father argued the trial court had the discretion to allow redactions that were immaterial or irrelevant to the issues in dispute. Father asserted the evidence supported a finding that his income exceeded the maximum guidelines, which shifted the burden to Mother to establish the Child's proven needs.

Pursuant to the relevant Family Code Section, Mother's claim required her to present evidence of the Child's proven needs, Father's net resources, and the parties' income and circumstances. Even without the statutory mandate that income tax returns be produced, the returns are relevant and discoverable. The trial court clearly abused its discretion in denying Mother's motion to compel.

Father argued Mother was not entitled to mandamus relief because she had an adequate remedy by appeal. Allowing Father not to produce the requested returns would impact Mother's ability to prove her claim because the missing discovery would not be part of the appellate record. Father argued Mother's delay in seeking mandamus relief was unreasonable, but any delay was caused by the trial court having not yet signed a written order. Additionally, the record showed Mother had been experiencing significant health issues.

---

**Name Change Reversed and Rendered for Insufficient Evidence; Retroactive Child Support Reversed and Remanded for Insufficient Evidence.**

29. *In re K.L.M.*, No. 05-25-00829-CV, 2026 WL 1149319 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-28-2026).

**Facts:** When the Child was two-years old, the OAG initiated a SAPCR. Father had filed an acknowledgement of paternity but did not answer the OAG's petition. At a default final hearing, Mother testified that she wanted to change the Child's surname from Father's to her own, Father had assaulted her two years earlier, and she wanted sole managing conservatorship but agreed to allowing Father to have supervised visitation until the Child was three, after which, she would agree to a standard possession order. Mother further testified that Father had not provided financial support for 15 months other than covering the Child with health insurance. Mother agreed with the OAG's calculations regarding Father's income. The court granted Mother's requested relief, including an obligation for Father to pay retroactive support. Father appealed.

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

**Opinion:** Father argued the pleadings failed to support the order granting the name change for the Child. Mother offered no evidence to support the good-cause requirement to change a Child's name, and the trial court made no such finding. The only

evidence regarding a name change was that Mother wanted to change the Child's name because Mother and Father were not married, and Father had not participated in parenting decisions or supporting the Child. Accordingly, the name change was reversed and rendered as denied.

Father next argued the evidence was insufficient to support the order for retroactive support. When considering whether to order retroactive support, the court must consider whether: (1) the mother of the child had made any previous attempts to notify the obligor of his paternity or probable paternity; (2) the obligor had knowledge of his paternity or probable paternity; (3) the order of retroactive child support will impose an undue financial hardship on the obligor or the obligor's family; and (4) the obligor has provided actual support or other necessaries before the filing of the action.

On appeal, the OAG conceded the evidence was insufficient and requested a remand for further proceedings. While there was some evidence that could have supported a retroactive support order, there was no evidence as to whether the order would place an undue hardship on Father. Because there was some evidence to support the order, the appellate court remanded the issue for further proceedings.

Finally, Father challenged the finding of family violence. Mother testified that Father pushed her twice: once while the Child was in her arms, and a second time in front of police officers during an exchange of the Child. Father had been arrested and charged, but Mother had no knowledge of the disposition of that criminal proceeding. After that, Mother moved away and did not obtain a protective order. She asked that her location not be disclosed to Father and that the parents be ordered to communicate through AppClose. Father argued the evidence was insufficient because there was no evidence Mother sustained injuries. But the definition of family violence does not require an actual injury. Moreover, Father did not dispute Mother's version of events. Thus, the appellate court affirmed the family-violence finding and related rulings.

---

**Evidence Did Not Support Amount of Child Support Ordered.**

30. *Lorkovic v. Lorkovic*, No. 04-24-00798-CV, 2026 WL 1161460 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (04-29-2026).

**Facts:** The parties were married with one Child. Their Child was six-years old when they cross-petitioned for divorce. Temporary orders required Father to pay $650 monthly in child support to Mother. Father testified that he received most of his income through Social Security, and he occasionally supplemented his income through work as an independent contractor. Mother testified she was the provider and paid bills with social security income and income from side jobs. The written final decree maintained the same child support obligation and stated that the order was in accordance with guidelines. Father moved for a new trial in part because the court had not ruled on child support. The court stated that it had anticipated the parties would properly calculate child support, and if the parties disagreed, the court would be informed. No order granting a new trial was signed, so it was overruled by operation of law. Father appealed. Mother filed a pro se appellee's brief that was struck for failing to comply with the Rules. Although she was afforded the opportunity to refile, she did not do so.

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

**Opinion:** Father first challenged certain permanent injunctions that were included in the decree because Mother had not pleaded for injunctive relief. The parties invoked the trial court's jurisdiction over custody and control of their minor child. Father did not argue the injunctions were overbroad or were not supported by the evidence. The court made findings that the injunctions were in the best interest of the Child. Considering the court's equitable powers to limit a parent's rights and duties in the child's best interest, Father did not establish reversible error with respect to the injunctions.

Father additionally complained that the trial court orally granted a new trial but failed to sign a written order. Any order granting a new trial must be written and signed. An oral pronouncement is not a substitution for a written order.

Father testified that his social security income was comprised of two sums, one being attributable to the Child. He testified to working occasionally to supplement that income, but he did not specify the amount of that supplemental income. Mother also did not specify any amount beyond that which Father received from social security. Mother did not allege Father was intentionally unemployed or underemployed. There was no basis for assuming Father made more than that which he received via Social Security. Applying the guidelines to that amount would result in a child support obligation not greater than about $432. Although the decree stated that the court applied the guidelines, the evidence did not support that statement. Moreover, there were no findings to support a variance from the guidelines. Accordingly, Father's child-support obligation was reversed and remanded for further proceedings.

---

**Evidence of Child's Multiple Diagnoses Leading to Eating Disorders, Suicidal Ideations, and Inability to Set and Obtain Goals Supported Award of Adult Child Support.**

31. *Nunez v. Nichols*, No. 03-24-00263-CV, 2026 WL 1171408 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** The parties' divorced when the Child was eight-years old. The Child is now an adult and lives with Mother, who is a registered nurse. Mother was diagnosed with multiple sclerosis, receives disability, and only works part-time. On Mother's motion, after a hearing, the court signed an order providing for adult child support for the Child and ordered Father to pay Mother

monthly support and pay retroactive support pursuant a payment plan. The court additionally awarded Mother an attorney's fee judgment. Father appealed.

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

**Opinion:** Father asserted that although the Child needed some supervision, she did not need "substantial care and personal supervision because of a mental or physical disability." He argued the Child was capable of self-support, getting a job, and going to college. The Child had not been in school since the age of 14. She had a restricted driver's license and had only driven in parking lots and on a country road. She once flew alone to visit a boyfriend and later took a train alone to visit him. The Child did not take medications as directed and did not have academic interests or goals. She once attempted suicide, and a psychiatrist believed it was an attention-seeking effort. The Child limited herself to 500 calories a day and was not drinking water. Father hired an expert who believed the Child was more capable than she thought. That expert believed a job would improve the Child's self-esteem. Mother asserted Father's focus was narrow and did not see the Child's need for care and supervision. Under pressure, Father's expert agreed the Child could not just go out and get a job, but he believed that the Texas Workforce Commission could assist the Child.

The Child was diagnosed with migraines at age six and had her first epileptic seizure at age twelve. She had an eating disorder since the age of twelve. She was hospitalized in a psychiatric hospital more than once. She was diagnosed with Postural Orthostatic Tachycardia Syndrome (POTS). The Child was on 14 different medications, had been diagnosed with several conditions, and suffered from seizures and PTSD. The Child testified at the final hearing, after which the court stated that it did not think having the Child testify was in her best interest. "[T]hat was sort of distressing to watch."

Reviewing the adult disabled child support order under the abuse of discretion standard, the appellate court concluded that sufficient evidence supported the judgment.

Father also challenged the amount of the support and the judgment for retroactive support. He did not challenge the calculation of his net resources or the amounts due. Rather, he asserted the support was not necessary. Father asserted that because Mother did not work full time, she did not need assistance caring for the Child. Father also argued that Mother's disability payments were sufficient to cover expenses. Additionally, Father complained that the Child had not taken advantage of programs available to assist her. Father further asserted that making the payments would make it difficult for him to take care of his own reasonable needs and those of his family, including a minor child.

The award did not exceed statutory guidelines, and there was no evidence the court failed to consider applicable considerations. There was no evidence that any hardship placed on Father was "undue."

Finally, Father challenged the award of attorney's fees. Father asserted that Mother's attorney's invoices were so heavily redacted that it was impossible to ascertain what work was done. The redactions prevented Father from being able to challenge whether the charges were reasonable. Mother argued that her attorney's offer to make unredacted copies available mooted Father's complaint. But the burden to prove reasonableness was Mother's. Because Mother presented more than a scintilla of evidence to support an attorney's fee award, the appellate court declined to render a take nothing judgment and, instead, remanded the issue to the trial court for further proceedings.

## SAPCR: MODIFICATION

**Mother's Denial of Father's Access to Children Insufficient Reason to Issue Temporary Order Changing the Person with the Exclusive Right to Designate the Children's Primary Residence.**

32. *In re McClean*, No. 11-26-00075-CV, 2026 WL 899121 (Tex. App.—Eastland 2026, orig. proceeding) (mem. op.) (04-02-2026).

**Facts:** The parties' divorce decree gave Mother the exclusive right to designate the Children's primary residence. Father initiated a modification suit and asked for temporary orders. After an evidentiary hearing, the trial court orally rendered temporary orders that effectively granted Father the exclusive right to designate the Children's primary residence. Mother sought mandamus relief.

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

**Opinion:** A court may not render a temporary order that changes the designation of the party with exclusive right to designate a child's primary residence unless the order is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development. The significant-impairment standard is a high burden on the movant and requires evidence of bad acts or omissions committed against the child.

Here, the trial court's only stated reason for changing the designation of the parent who would have the exclusive right to designate the primary residence of the children was because Mother "denied [Father] access" to the children after the trial court had warned her not to, and that if she did, the trial court "would be upset." This rationale was insufficient to support the temporary order.

**Father Failed to Produce Evidence of His Income at the Time of the Prior Order to Establish the Existence of a Material and Substantial Change.**

33. *In re O.A.*, No. 05-25-00480-CV, 2026 WL 1040798 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-16-2026).
**Facts:** A divorce decree ordered Father to pay monthly child support to Mother. About four years later, Mother filed a petition to modify his child-support obligation. The case was transferred by agreement based on the Child's residence. After a temporary orders hearing, the court denied Father's petition because no material and substantial change had occurred. Father appealed pro se.

**Holding: Affirmed.**

**Opinion:** Father argued he had presented uncontroverted evidence of a substantial and sustained reduction in his income and the birth of two additional children whom he fully supported. Although Husband testified about his recent income, he offered no evidence of his income at the time the decree was rendered. Moreover, Father's testimony indicated his income was stable over the last few years, contradicting his claim of a material and substantial change. The appellate court could not conclude the trial court abused its discretion.

---

**Mother's Neglect of the Children Supported Appointment of Grandparents as Managing Conservators and Mother as Possessory Conservator with "Harsh" Restrictions on Her Access.**

34. *In re L.W.*, No. 12-25-00119-CV, 2026 WL 1098651 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (04-22-2026).

**Facts:** The two Children were young teenagers. Mother and Father had divorced and married other people, and Mother was the Children's sole managing conservator. After a second divorce, in which Mother's ex-husband was awarded custody of their child, Mother suffered from depression that led to her unemployment. Mother's home became the "nucleus of unseemly activities," including Mother's teenage boyfriends, runaways, alcohol, drugs, sex, criminal activities, and the discharge of firearms.

One day, maternal Grandmother picked up the Children from school, and the Children announced they could not live with Mother anymore and needed to live with maternal Grandparents. Grandmother agreed. Grandparents filed a modification suit, seeking managing conservatorship based on Mother's neglect. After an evidentiary trial, the court granted Grandparents' requested relief and restricted Mother's access to the Children. Mother appealed pro se. Father did not appeal. Grandparents did not file a responsive brief.

**Holding: Affirmed.**

**Opinion:** Mother challenged the factual sufficiency of the evidence to support the judgment. Noting that custody determinations are intensely fact driven, the appellate court detailed the extensive evidence regarding the unsafe conditions of Mother's home. At the time of the prior order, Mother was doing well and was in school to obtain a bachelor's degree. At the time of this proceeding, she was suffering from depression and was not adequately caring for the Children. Thus, there was a material and substantial change to support modification. Additionally, because Mother had engaged in a history or pattern of neglect, the presumption regarding her appointment as a managing conservator was rebutted. Further, in applying the *Holley* factors, the evidence supported appointing Grandparents as managing conservators.

Mother additionally argued the trial court abused its discretion in placing such "harsh restrictions" (the trial court's words) on her access to the Children. Again, noting the fact-intensive nature of custody proceedings, the court held that the trial court did not err in finding the restrictions were necessary to protect the best interests of the Children.

Further, Mother argued the order violated her First Amendment right to direct the religious and educational upbringing of the Children. This issue was waived because Mother did not raise it in the trial court.

Although Mother argued the court erred in limiting her time, it gave her the one-hour she requested, Mother did not object to the time allotted, and she made no offer of proof regarding alleged additional evidence she would have presented. Also, although Mother argued the trial court was biased against her, it allowed her to appear at final trial via telephone despite prior discussions regarding her in-person appearance. The court took great care over the course of the proceedings to ensure Mother understood what was happening throughout trial and noting the potential issue of Mother not being able to see the evidence presented.

---

**Due to Parents' Ongoing Conflicts, No Abuse of Discretion for Trial Court to Specifically Identify Counselor to Treat the Children.**

35. *In re C.G.H.*, No. 07-25-00255-CV, 2026 WL 1108576 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (04-23-2026).

**Facts:** Father filed a petition to modify the child-related provisions of the parties' divorce decree, asking for the exclusive right to determine their twin Children's residence and make educational decisions. Mother counter petitioned. At the time, the Children were attending private school. After a bench trial, the court signed a final order that included provisions requiring the Children to attend public school and requiring Mother and the Children to attend counseling sessions. Mother appealed pro se.

**Holding: Affirmed.**

**Opinion:** Mother first challenged the order requiring public school, prohibiting homeschool and private school. At trial, Father expressed concerns that the Children's current private school was not accredited by the State of Texas and the teachers lacked certifications. Father did not believe the Children were progressing as they should have been. An assessment indicated they were about a year-and-a-half behind academically. Father also testified the school was not forthcoming with him, which he believed was because he was not a member of the church affiliated with the school. The trial court also heard supportive testimony from Mother and the school's principal. The court had sufficient information upon which to exercise its discretion.

Mother next argued the educational order violated her First and Fourteenth Amendment rights. She waived this complaint by failing to raise it in the trial court.

Mother also challenged the counseling provisions. She asserted there was no evidence counseling was necessary and that the order was unconstitutional. The court heard evidence Mother was engaging in manipulative behavior that was not conducive to coparenting, included making unfounded allegations about inappropriate behavior by Father. The trial court could have reasonably determined that professional help would improve Mother's ability to coparent, thereby protecting the welfare of the Children and furthering their best interest. Contrary to Mother's assertion, the Family Code does not require expert testimony to support an order for a party to participate in therapy. Additionally, she failed to raise any constitutional complaint at trial, waiving it for appeal.

Finally, Mother challenged the order for the Children to attend counseling with a specific provider. Mother's counterpetition asked that the Children seek counseling with costs to be split between the parties. She did not request a specific provider. Given the parents' ongoing conflicts, the trial court could have reasonably concluded it was in the Children's best interest to select an appropriate counselor.

---

**Father's Affidavit Requirement for Changing Person with Right to Designate Primary Residence in Less than One Year Not Relieved Merely Because the One-Year Anniversary Passed Soon After Filing.**

36. *In re G.M.*, No. 02-26-00116-CV, 2026 WL 1190493 (Tex. App.—Fort Worth 2026, orig. proceeding) (mem. op.) (04-30-2026).

**Facts:** After a final trial in a modification proceeding, the court orally rendered that Mother had the exclusive right to designate the Child's primary residence. However, no written order was signed for a little over two months. About a year after the oral rendition, Mother purchased a house about an hour way from where she lived previously and enrolled the Child in a local school. The parents had been exercising a week-on-week-off possession schedule, and Mother's move resulted in Father having to spend four hours a day driving the Child to and from school during his weeks of possession. Father filed a petition to modify, asking for the exclusive right to determine the Child's primary residence. At a hearing that was more than a year after the prior oral rendition but less than a year after the prior written order, the court found Father's supporting affidavit was insufficient. Mother argued that in the face of an inadequate affidavit, the proceedings should not continue. The court held that because a year had passed since the oral rendition, Father did not need a supporting affidavit. The court found a material and substantial change in circumstances and ordered Mother to do all the driving to and from school during Father's weeks of possession. Mother sought mandamus relief.

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

**Opinion:** Father's petition to modify was filed about a week shy of one year after the oral rendition. So, whether the court applied the "render" date or "signed" date, the petition was filed in less than one year since the prior order. The trial court treated the hearing date as if it were the date on which the suit seeking to modify was filed. Noting a conflict of authority, the court opted to apply the plain language of the statute and hold that a suitable affidavit was required. Thus, the trial court abused its discretion in finding the affidavit requirement did not apply to Father.

The court held Father's affidavit was insufficient. Thus, under the plain language of the statute, Father was not entitled to a hearing. Father argued the issue was moot because the purpose of the affidavit is to assist the court in determining whether a hearing is necessary. By proceeding with an evidentiary hearing despite an objection, it would unilaterally eviscerate the statute.

---

**Mother's Tentative Desire for a Better Relationship Between Father and the Child Did Not Satisfy Father's Burden to Establish a Material and Substantial Change.**

37. *Khandria v. Al-Muslim*, No. 14-25-00253-CV, 2026 WL 1180117 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** The parents moved to the U.S. with their Child and filed for divorce. However, before a decree was entered, Father left the country, and Mother was granted a default decree. The divorce was granted on insupportability and cruelty grounds. The parties were appointed joint managing conservators, and Mother was given the exclusive right to designate the nine-year-old

Child's primary residence. Father was ordered to pay child support and was not awarded any specified periods of access to the Child. Father did not appeal.

More than three years later, he petitioned to modify and sought specified periods of possession and a reduction of his child-support obligation. Father attended the final bench trial via Zoom because he was still outside the country. After hearing testimony from both parents, the court denied Father's petition to modify. Father appealed.

**Holding: Affirmed.**

**Opinion:** On appeal, Father asserted the trial court should have granted his petition to modify because the decree was facially unenforceable and legally defective. The decree gave Mother "unchecked authority to withhold possession or access." However, Father would have had to raise that argument through a timely direct appeal, which he did not do.

Father bore the burden of establishing a material and substantial change in circumstances since the final decree. Father asserted that at the time of the decree. Mother blocked his access to the Child, but in the modification, she testified that she would like Father and the Child to have a healthy relationship. The appellate court was unaware of any case with a similar fact pattern. Regardless, Father argument glossed over other important considerations. Mother testified the Child lost trust in Father, and Mother would want Father to attend reunification therapy. Father responded to this request with a mixed attitude, initially testifying there was no need for therapy. Even when he agreed to one or two sessions, he said he would not follow the therapist's recommendations. The evidence supported a finding Mother still had reservations even if she desired a healthy relationship. This evidence likewise supported a finding that the Mother's change in attitude was cautious—not material and substantial—and that a modification would not have been in the Child's best interest.

Father also challenged the denial of his requested child-support modification. To support his claim of a material and substantial change, he pointed to Mother's testimony about the cost of raising the Child increasing. Father did not explain how that supported his request for a reduction of his obligation. Mother did not ask for an increase in child support, she did not appeal the denial, and Father lacked standing to raise an appellate claim on Mother's behalf. Although Father complained of his financial situation, adequate evidence showed Father had significant resources that he used for personal living expenses.

Father also filed a supplemental pro se brief. Because Father was not entitled to hybrid representation, the pro se brief was not considered.

---

**Modifications Struck Because Trial Court Explicitly Found No Material and Substantial Change; Court Could Not Allow Father to Claim Children as Dependents in a Future Year to Cure Mother's Improper Claim of Them as Dependents in a Past Year.**

38. *Dillon v. Bamford*, No. 03-25-00457-CV, 2026 WL 1171912 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** The parties were married for about 7 years and had three Children. The agreed divorce decree appointed the parents joint managing conservators and gave Mother the exclusive right to designate the Children's primary residence. Father was given the sole right to claim the Children as dependents for income-tax purposes in odd-numbered years. Mother had the same right in even-numbered years. A few years later, Father filed a motion to modify asking for the exclusive right to designate the primary residence and to be given the final decision on medical care and education when the parties could not agree. Additionally, Father asserted Mother claimed the Children as dependents for two odd-numbered years.

At the final hearing on conservatorship issues, evidence showed the parents had difficulty coparenting and were aggressive with each other at times. Mother had remarried, resulting in her having new stepchildren. Father generally disapproved of Mother's decisions. The Children were happy with the current schedule and did not want it changed. At both houses, the Children were often left to be self-sufficient, and the guardian ad litem had no issue with that situation. The ad litem believed both parents were pulling their own weight, but they needed to communicate more clearly about appointments and similar issues. The ad litem believed if a tiebreaker was needed due to an impasse, Mother should hold that role.

The court found Father failed to establish a material and substantial change to justify granting Father's requested relief; however, the court modified the decree, finding the modifications were in the best interest of the Children. It gave Mother the exclusive right to consent to psychiatric and psychological treatment, required the Children to continue attending therapy unless the parents agreed otherwise, limited the number of extracurricular activities, and required the parties to read a book on coparenting.

In the enforcement proceeding, Father showed Mother claimed the Children as dependents in 2019 and 2021. While 2019 was more straight-forward, the other involved COVID relief. Mother acknowledged claiming the Children in 2019 but denied claiming the Children in 2021. She did not believe she had received any monies to which she was not entitled. Father said he was denied benefits in 2021 because Mother had received them.

The court found Mother improperly claimed the Children as dependents in 2019. However, rather than awarding Father a money judgment for the money he should have received, the court accepted Mother's proposed remedy of allowing Father to claim the Children as dependents for 2026. The court denied relief regarding the 2021 claim. It opined that the 2021 issues were due to decisions made by the IRS, outside the scope of the decree, and not within the court's power to enforce. Father appealed.

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

**Opinion:** Father asserted the trial court abused its discretion in finding no material and substantial change but nevertheless modifying the order. He also argued the evidence was insufficient to support the modifications.

Although Father presented evidence of conflicts between the parties, there was no evidence the conflicts differed from those that existed at the time of divorce. Father failed to meet his burden to establish a material and substantial change.

Father asserted Mother judicially admitted to a material and substantial change by filing a counterpetition. However, Mother did not argue for modification at the final trial. She asked the court to keep the orders as they were. Father did not object to Mother's change of position at trial and, thus, waived it for appellate review.

Because there was no material and substantial change in circumstances, the court erred in modifying the decree. Moreover, there was no evidence to support the changes made by the court. Although the ad litem testified that the Children should remain in therapy, there was no evidence to explain this recommendation. Similarly, although the ad litem testified that Mother should have the exclusive right to make psychiatric and psychological decisions, there was no evidence explaining why this designation would be in the best interest of the Children.

Finally, the trial court erred in changing the property division in the divorce decree by allowing Father to claim the Children as dependents in 2026 rather than awarding him a money judgment for the 2019 benefits he should have received that year.

## SAPCR:
## ENFORCEMENT OF CHILD SUPPORT

**Capias Order Void Because Father Had Filed a Notice of Removal to Federal Court that Had Not Yet been Addressed by the Federal Court.**

39. *In re Lawson*, No. 03-25-00670-CV, 2026 WL 1097097 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (04-23-2026).

**Facts:** Two days before an enforcement hearing, Father filed a notice of removal to federal court. Father did not appear at the enforcement hearing, so Mother requested a capias, which was granted. Father filed a petition for writ of habeas corpus in the appellate court. The appellate court stayed the proceedings until after the federal district court remanded the case back to the state trial court.

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

**Opinion:** Federal removal is governed by Section 1446 of the Judiciary Act, which provides in relevant part that, after filing notice of removal, the removing defendant "shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded." The requirement that a state court "proceed no further" has long been held to be a jurisdictional limitation. Mandamus is proper when a court issues an order beyond its jurisdiction because an order lacking jurisdiction is void. Similarly, here, the trial court lacked jurisdiction to issue the capias order, making it void.

---

**Because Order Terminating Child Support Obligation Was Reversed by Appellate Court, Order Was a Nullity, and Father Again Owed Child Support Until Further Orders; Because Father Did Not Pay, Mother was Entitled to an Arrearages Judgment.**

40. *In re L.S.B.*, No. 05-25-00773-CV, 2026 WL 1183007 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** The parties had one Child. Their final divorce decree appointed Mother as the Child's sole managing conservator, appointed Father as a possessory conservator, and ordered Father to pay above guideline child support (25% of Father's net resources). About four years later, Father moved to reduce his child-support obligation and terminate his medical coverage for the Child because the Child lived in Colombia. Mother's attorney argued Father's obligation should increase because Father was making more money than at the time of divorce.

The trial court signed a modification order, largely granting Father's requested relief, including a return of overpaid child support via an offset to Father's future obligation. However, the appellate court reversed this ruling due to insufficient evidence and a determination that the trial court incorrectly calculated Father's net resources.

On remand, the parties stipulated to the admission of several exhibits. Mother and Father each testified. Father again asked for a reduction in his child support obligation. Mother asked the court to find no material and substantial change existed or, alternatively, base Father's child support obligation on his current income. The trial court denied Father's requested relief, found him in arrearages for nearly $64k and ordered him to pay that amount within 24 months. Father appealed.

**Holding: Affirmed.**

**Opinion:** Father argued the trial court erred in rendering an arrearages judgment because Mother had not pleaded for that relief, and the issue was not tried by consent. Mother responded that Father asked the court to calculate a negative arrearages judgment to his benefit and find he had paid a surplus of child support. Mother argued this opened the door for the court to find a positive arrearage to Mother's benefit, and the parties tried the issue by consent.

The record did not establish Father complained about the lack of pleading seeking arrearages. Thus, Father waived his lack-of-pleading issue. Moreover, the issue was tried by consent. Evidence was presented regarding the issue without objection. Mother's requested relief specifically requested an arrearages judgment. The OAG's payment record was admitted by agreement, as was Mother's calculation of arrearages. Father made no objection concerning arrearages on the ground of a lack of supported pleadings. In her closing argument, Mother asked for an arrearages finding without objection.

Father next argued the trial court erred in finding arrearages for payments terminated by the prior modification order. When the appellate court reversed the prior order, it became a nullity. Father could not rely on a reversed order to assert a benefit to himself. By the time of the remanded trial, 56 child support payments would have been payable but for the reversed order. The trial court did not err in finding Father owed arrearages for unpaid support during that period.

## SAPCR:
## REMOVAL OF CHILD / TERMINATION OF PARENTAL RIGHTS

**Harmless Error to Overrule Hearsay Objection to Outcry Statement Before Hearing Outcry Statement Because the Evidence as a Whole Supported Admissibility.**

41. ***In re R.L.C.***, __ S.W.3d __, No. 04-25-00684-CV, 2026 WL 926609 (Tex. App.—San Antonio 2026, no pet. h.) (04-01-2026).

**Facts:** Father and the two Children were homeless when Father was arrested. Father agreed to release the Children to a trusted caregiver. The caregiver thought the Children exhibited evidence of sexual abuse. Then, one Child made an outcry while showering, and the caregiver reported that outcry to law enforcement. During a forensic interview, the Child made a more detailed outcry. The case was tried to the bench before an associate judge, who recommended termination. Father sought de novo review, and the transcript from the associate judge hearing was admitted without objection. The district judge signed an order terminating Father's parental rights, and Father appealed.

**Holding: Affirmed.**

**Opinion:** Father asserted the trial court erred in admitting the outcry statements over Father's hearsay objections. In a SAPCR, there is an exception to the hearsay rule for "outcry" statements of a child under 12 years of age that describe abuse against the child if, in a hearing outside the presence of the jury, the court finds that the statement is reliable and either (1) the child is available to testify, or (2) the court determines admission of the statement in lieu of live testimony is necessary to protect the welfare of the child. Father argued the trial court ruled on his objection on the argument of counsel and did not base the ruling on evidence.

The language of the exception provides that admissibility must be determined outside the presence of the jury but does not address the circumstance of the judge as factfinder. Here, the court immediately overruled Father's objections and did not defer its decision until after hearing the statements. "Perhaps a more cautious approach would have been to, for example, conditionally admit the outcry statements before competent evidence supporting admission [] had been heard." However, even if the ruling was premature, it was not harmful because the evidence supported the statements' admissibility.

The independent forensic interviewer testified that she had conducted thousands of interviews, and this was one of the most extreme she had heard. The Child understood the difference between fact and fiction. In addition to sexual touching by Father, the Child also discussed inappropriate videos and pictures Father had showed her. The time, content, and circumstances of the Child's statement showed sufficient indica of reliability. Similarly, the caregiver described the Child's explanation of inappropriate "cleaning" by Father. Additionally, portions of the caregiver's story were directly corroborated by physical evidence.

Father also asserted there was no evidence the Child was available to testify. At trial, TDFPS argued the Child was available because Father did not subpoena the Child and neither side offered the Child as a witness. Argument of counsel is not evidence. On appeal, TDFPS conceded there was no evidence regarding the Child's availability, but a presumption of the witness's availability should apply. The appellate court rejected TDFPS's argument. The court must presume the legislature purposefully chose the words to include in a statute. However, when the child is not available to testify, the outcry testimony may be used if the court determines it is necessary to protect the welfare of the child. Under the facts of this case, the trial court could have reasonably concluded that forcing the Child to testify would re-traumatize her.

---

**Creation of Service Plan with Actionable Steps and Recommendations for Where to Obtain Services Constituted Reasonable Efforts to Return Children to Parents.**

42. ***In re T.R.***, __ S.W.3d __, No. 01-25-00924-CV, 2026 WL 958570 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (04-09-2026).

**Facts:** After removal of the Children, the court timely held an adversarial hearing and rendered temporary orders appointing TDFPS as temporary managing conservators. A service plan was issued without the parents' signatures. Nearly a year later, the court timely conducted a permanency hearing and found Mother complied with the plan and Father had not. A little more than a year after the first adversarial hearing, a second permanency hearing was conducted with the same result. A few months later, after another hearing, the court found Mother had partially complied and Father still had not.

At the final trial, the court heard from multiple witnesses. Sexual allegations had been raised against Father, but neither parent seemed to take the allegations seriously. Mother did not believe the allegations. Both parents had a history of drug use, including heroin and methamphetamines. Father claimed to have been sober for six months and stated that he had not completed services because he did not have a phone. Mother's recent tests had all come back negative. The Children had reported that they enjoyed visits with Mother but did not want to return to her. They did not want to suffer abuse or go hungry. The court interviewed one of the Children in chambers, but no record was made.

The court signed a final order terminating both parents parental rights based on endangerment grounds. Both parents appealed.

**Holding: Affirmed.**

**Opinion:** Both parents argued the court failed to commence trial on the merits within one year as required by statute. The court had signed an order extending the automatic dismissal date by 180 days, and the parties did not challenge that order. However, they argued that the first purported day of trial was a sham designed to circumvent the automatic dismissal date. Other appellate courts have heard and rejected similar arguments. Here, the parties circulated exhibits, appeared, and made announcements. Witnesses were sworn, and one witness was called for direct testimony. These actions were sufficient evidence of trial commencement.

Both parents raised challenges to the sufficiency of the evidence to support termination and argued TDFPS failed to make reasonable efforts to return the Children or find a continuing danger pursuant to the new Subsection 161.001(f). Reviewing the evidence as a whole, it supported both the endangerment and best interest findings.

The court noted that the "reasonable efforts" language of the new Subsection F was substantially similar to the language of Subsection N which has been reviewed by caselaw. Courts presume the legislature enacts statutes with full knowledge of the existing condition of the law and with reference to it. Cases reviewing Subsection N have found that the statute requires "reasonable efforts, not ideal efforts." Here, TDFPS created a plan to address the parenting issues, made referrals for service, and discussed safe placement options with the parents. Each item provided a concrete action for Father to take, and with the exception of employment, he was provided a resource to address each need. Father complained that the plan was defective because he had not signed it. However, his signature was not necessary, and Father was aware of the plan.

Like "reasonable efforts," the phrase "continuing danger" exists elsewhere in the Family Code, specifically with regard to the court's duties at permanency hearings. Here, Mother continued to be in contact with Father despite the sexual assault allegations, Mother showed a lack of protection for the Children, there were concerns about sobriety due to Mother lying about dying her hair before a drug test and failure to take tests, concerns about Mother's ability to meet the Children's medical needs and Mother's lack of housing, Father failing to complete services, and Father's incarceration. Additionally, termination was supported on endangerment grounds.

Father further argued he was afforded ineffective assistance of counsel because counsel did not object to one of the Children's hearsay statements, serve a subpoena on the Children's therapist, solicit rebuttal testimony from Father, or file a motion for new trial. When reviewing an ineffective-assistance-of-counsel claim in parental-rights-termination proceedings, the courts apply the *Strickland test*. The complaining party must show: (1) "counsel's performance was deficient" and (2) "counsel's errors were so serious as to deprive the [party] of a fair trial, a trial whose result is reliable." The court also indulges a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.

The record was silent regarding counsel's reasons for not objecting to the Child's statements. Moreover, the Child's therapist testified without objection regarding the same statements. Further, the statements would have been permissible hearsay under the "outcry" statute. Father complained about the Child not being called to testify, but his counsel may have determined that it would have been better strategy to question the veracity of the statements through the therapist's notes rather than putting a child on the witness stand. Father asserted his counsel rendered ineffective assistance by failing to subpoena the therapist and instead relying on the therapist's notes. A decision not to call a witness is not usually sufficient to prove a claim of ineffective assistance of counsel. The notes indicated the therapist's belief that the Children had difficulty telling the truth. The counsel could have reasonably determined the notes were sufficient and further records could have been prejudicial. Moreover, Father did not show how he was harmed by this decision.

With respect to Father's claim of failure to solicit rebuttal testimony regarding the abuse allegations, there was nothing to suggest any positive result would have been served with such testimony. Further, the criminal case was still pending, and his counsel could have determined it was in Father's interest to remain silent.

Finally, whether a counsel's decision not to file a motion for new trial was unreasonable depends on whether such a motion had merit. Father failed to carry his burden to show a reasonable probability that he would have avoided termination but for his counsel's failure to file a motion for new trial.

Mother argued the trial court erred in appointing TDFPS as the Children's permanent managing conservator. However, because her rights were terminated, she lacked standing to raise that complaint on appeal.

In Father's final argument, he challenged the constitutionality of the termination proceeding. He argued that strict scrutiny should have applied to the application of termination statutes in his case. Father did not make this argument in the trial court and did not preserve it for appellate review. On appeal, Father pointed to the 2025 Constitutional amendment regarding a parent's constitutional right to make decisions about their child's upbringing. Presuming Father preserved this complaint, the court determined existing provisions adequately protected Father's constitutional rights.

**Foster Parents Failed to Present Credible Evidence of Abuse to Support Application for Protective Order.**

43. *In re N.A.G.A.*, No. 05-24-00891-CV, 2026 WL 1083065 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (04-21-2026).

**Facts:** The Child immigrated to the U.S. with Conservator. TDFPS removed the Child from Conservator's care, and he was later indicted on child endangerment charges. The Child was placed with Foster Parents at the age of four-years old. TDFPS initiated a termination suit. Notwithstanding the allegations, TDFPS, Conservator, and the parents agreed to a Rule 11 agreement naming Conservator as the permanent managing conservator of the Child. Foster Parents learned of the Rule 11 agreement after the court had signed a final order in conformity with the agreement. Foster Parents did not intervene before the final order was signed but filed a petition for writ of mandamus that was dismissed for want of jurisdiction. Foster Parents filed a motion for new trial and set a hearing on their motion. The trial court determined Foster Parents lacked standing and refused to consider the motion but allowed the presentation of an offer of proof. The trial court issued a writ of attachment to return the Child to Conservator, but "[a]s of June 4, 2024, the Writ of Attachment had not been executed."

Foster Parents then sought a protective order alleging family violence, child trafficking, and abuse against Conservator. After hearing evidence from Foster Parents (Conservator did not appear), the trial court denied the protective order, and Foster Parents' motion for reconsideration was overruled by operation of law.

**Holding: Affirmed.**

**Opinion:** Foster Parents appealed the trial court's findings that there was no evidence of trafficking, abuse, or that the Child and Conservator were members of the same family and resided in the same household at any time. The protective order statute at the time required findings that family violence had occurred and was likely to occur in the future.

Foster Parents challenged the court's finding that "no evidence was provided to the court reflecting a finding by any court that the child [] had been the victim of trafficking." They asserted that the DHHS determination that the Child was subjected to a severe form of trafficking and the USCIS's approval of a T-1 visa contradicted that finding. DHHS and USCIS are not courts. Foster Parents presented no evidence of a court making a trafficking finding. Thus, the finding was supported by the evidence.

Foster Parents argued that extensive evidence contradicted the finding that "there was no credible evidence of abuse to the child []." Foster Mother had testified about the Child's behaviors and asserted it was evidence of abuse, such as the Child becoming dysregulated upon hearing loud noises. She also testified regarding an alleged outcry involving Conservator hitting the Child with a belt. The trial court finding indicated the trial court found Foster Mother's testimony to not be credible. The appellate court cannot substitute its opinion for that of the trial court. Moreover, Foster Mother's testimony conflicted with the Rule 11 agreement, the SAPCR order, and testimony of TDFPS employees during the prove-up hearing for the Rule 11 agreement.

Finally, Foster Parents challenged the finding regarding the Child and Conservator residing together. Foster Parents correctly noted that uncontroverted evidence showed the two lived together. However, that erroneous finding probably did not cause the rendition of an improper judgment because Foster Parents did not meet their burden of presenting credible evidence of physical harm or abuse to the Child.

---

**Dating Violence Protective Order Appropriate to Protect Mother from Father's Girlfriend.**

44. *K.C. v. D.R.*, No. 02-25-00234-CV, 2026 WL 1190661 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (04-30-2026).

**Facts:** Mother obtained a protective order against the Child's Father's Girlfriend based on an altercation during the exchange of the Child. Girlfriend appeared pro se at trial. After the order was rendered, Girlfriend filed a motion for new trial and filed nearly 600 pages of post-trial motions and other documents. The court conducted hearings on the timely-filed motions and orally denied the motions. Because no written order was signed, the post-judgment motions were overruled by operation of law. Girlfriend appealed.

**Holding: Affirmed.**

**Opinion:** Girlfriend's appellate brief cited existing law for incorrect legal conclusions, cited law that did not exist, and misrepresented the outcome of other opinions. Girlfriend cited one of the nonexistent cases in the trial court, and despite being told of its nonexistence, continued to rely upon it in her appellate brief. Thus, many of her issues failed for inadequate briefing. Other issues were overruled because Girlfriend failed to preserve her complaints for appellate review.

Girlfriend asserted that the court misapplied the Family Code by finding "dating violence" when the only commonality between the two women was two separate relationships with Father. The two women had never dated each other or lived together. However, Girlfriend ignored the plain language of the relevant statute that defines dating violence committed against the victim or applicant "because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage …." Girlfriend argued that the incident was not "because of" her relationship with Father, but the evidence did not support that argument.

**Because Father's Motion to Recuse was His Third Motion to Recuse, the Trial Court was Permitted to Conduct Final Trial Without Obtaining a Recusal Ruling from the Regional Presiding Judge.**

45. *In re C.E.S.*, No. 01-24-00271-CV, 2026 WL 942425 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (04-07-2026).

**Facts:** During the modification litigation, Father, pro se, filed two recusal motions. The trial judge declined to recuse herself, and the regional presiding judge denied the motions. Several months later, the judge voluntarily recused herself despite no pending motion. The case was transferred twice after that. As the case neared its trial date, Father filed another motion to recuse. That judge declined to recuse herself. On the first day of trial, an incident occurred between Father and the bailiff, resulting in Father being jailed on charges of assaulting a public servant. Portions of this incident were on the record, while other portions occurred in the hallway outside the courtroom. On the record, Father brought up his recusal motion, but the court explained the tertiary recusal statute allowed the case to carry on. Father asserted that his motion to recuse offended the bailiff who retaliated with a posse of bailiffs in a show of force.

The court modified the prior custody order by changing the conservatorship from joint managing conservatorship to Mother being named sole managing conservator, and Father's periods of visitation were ordered to be supervised. Father moved for a new trial. Father explained that while awaiting his appearance before the magistrate judge for the assault, he was bench warranted back to the family court for trial. During the final trial, he was handcuffed, making it difficult for him to present evidence effectively. He argued this treatment was unfair. After the motion for new trial was denied, Father appealed. Mother did not file a brief, making it difficult for the appellate court to present her side of the story in its opinion.

**Holding: Affirmed.**

**Opinion:** Father first argued that his pending recusal motion obligated the trial court to stand down until the regional presiding judge ruled on the motion. Generally, if a recusal motion is filed, the court must take no further action until that motion has been decided. However, if a "tertiary recusal motion"—a third or subsequent motion for recusal by the same party in a case—has been filed, the court may move forward with final disposition regardless.

Father did not deny filing prior recusal motions but asserted the exception did not apply because it was the first time he sought to recuse that particular judge. However, Supreme Court caselaw has held that the exception applies to the third motion filed by the same party against any judge.

Father's third motion to recuse was denied by the regional presiding judge about a week after trial. Father argued that order incorrectly found his motion failed to comply with Rule 18a. The order stated that Father's motion "complains *mainly* of the judge's rulings and actions in the case", but Rule 18a requires the motion "must not be based *solely* on the judge's rulings in the case." Even if that statement were incorrect, Father did not establish an abuse of discretion.

Father next argued that he received inadequate notice of trial. The record did not support Father's assertion. Father had sufficient notice.

Finally, Father asserted the trial was unfair due to the bailiff incident and its fallout. The appellate court construed Father's appellate complaint as a challenge to the denial of Father's motion for new trial. The trial court had the responsibility of balancing a variety of factors in deciding (1) whether to move forward with the trial as planned, and (2) whether to toss out the result and order the case tried a second time. To begin with, the trial court had to consider the need for a prompt ruling and some measure of closure. With each passing day, the Child would grow older, and neither parent could ever recoup that lost time. The disputed events likewise moved further and further into the past, making it more and more difficult to ascertain the historical facts. Further, the court would have known from experience the human toll that family disputes can take on everyone involved. Additionally, despite Father's assertion of limitations, he presented a cogent case. He testified, called witnesses, did a "very respectable job" of examining and cross-examining witnesses. He provided opening and closing arguments. Father apologized to the court for his behavior, and the court accepted the apology. The trial court acted within its discretion in denying the motion for new trial.

---

**Awards for Attorney's Fees Reversed Because Without Billing Statements, No Evidence Showed Who Performed What Work When.**

46. *Glasgow v. Glasgow*, No. 08-24-00356-CV, 2026 WL 968693 (Tex. App.—El Paso 2026, no pet. h.) (mem. op.) (04-09-2026).

**Facts:** After Husband and Wife divorced, Wife's Boyfriend sued Husband, Wife's father, and Boyfriend's ex-girlfriend alleging false statements were made about him during Husband and Wife's divorce. Wife joined the suit alleging breach of agreement, invasion of privacy, IIED, and participatory liability in a civil conspiracy against the same three defendants. Wife later amended her petition to add claims against her sister. Husband sent a letter to Wife demanding she withdraw her claims for being groundless and barred by release and res judicata. Wife responded by adding additional claims against Husband.

Husband moved for traditional and no-evidence summary judgment to dismiss Wife's claims. The court granted summary judgment for some of the claims and awarded Husband attorney's fees. Husband served Wife with discovery regarding the remaining claims. Husband filed a motion to compel and sought attorney's fees. Wife did not appear at the hearing, and the

court issued a compel order and awarded Husband fees as a discovery sanction. The court warned Wife that further discovery abuses would lead to further sanctions, including the possible dismissal of her claims. Wife continued to not respond to discovery, and Husband moved for sanctions against Wife and her counsel. Wife claimed her noncompliance was accidental.

After an evidentiary hearing, the court dismissed with prejudice Wife's claims and awarded Husband another judgment for attorney's fees. The court held that Wife and her attorneys would be jointly and severally liable for a sanctions judgment for the failure to comply with discovery orders. The court additionally awarded Husband conditional appellate attorney's fees. Wife appealed.

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

**Opinion:** Wife argued the evidence was insufficient to support the awards for attorney's fees. Husband's attorney testified about his background, his hourly rate and that of his associates and paralegals, the types of work done, and the total amount billed. However, no billing records were presented, and no evidence was offered showing the particular services performed, when, by whom, or how much time was spent working on each service.

With respect to the appellate fees, no evidence was presented as to why the suggested award amounts were reasonable or necessary. There was no evidence about the work that would be performed in an appeal, how long that work would take, or what a reasonable hourly rate would be. Because the evidence was insufficient to support the awards of attorney's fees, the issue was remanded to the trial court for further determination.

Wife additionally challenged the death penalty sanction of dismissing her claims. However, Wife failed to adequately brief the issue, and the appellate court declined to address it.

Finally, Wife argued that the court erred in holding her attorney's jointly and severally liable for the attorney's fees. However, because the evidence supporting the fee awards was insufficient, the court determined it need not address this complaint.

---

**Parties' Agreement to Impose Pre-Filing Bond Requirement on Father Did Not Give Court Authority to Impose the Bond Requirement Without a Vexatious Litigant Finding or Evidence to Support Such a Finding.**

47. *Lerner v. Schott*, No. 01-24-00342-CV, 2026 WL 958567 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (04-09-2026).

**Facts:** After the parties divorced, they continued to litigate modification of custody which tended to be resolved via agreements. The parties were not represented in the appeal, and not all the prior orders and pleadings were made part of the appellate record. In the current litigation, among other pleadings, Mother moved to declare Father a vexatious litigant. At a final hearing, the parties read an agreement into the record, which required Father to post a $25k bond before filing any new pleading. The court adopted the agreement, signed a final order, and dismissed all outstanding motions. Father appealed.

**Holding: Affirmed as Modified.**

**Opinion:** Father first challenged the trial court's lifting of the geographic restriction on the Child's residence. However, he agreed to that decision. Father also challenged the dismissal of his motions for change of venue and for contempt for alleged perjury. However, he agreed to the dismissal as part of the parties' overall agreement. Father also raised claims of judicial bias and docket mismanagement and complained about the failure to file findings of facts and conclusions of law. However, all those arguments were meritless. Father did not preserve his complaints and did not request findings.

Father finally argued that the trial court erred in requiring him to post bond before making new filings. The Texas Civil Practices and Remedies Code enables a court to impose restrictions on a litigant, including a requirement that the litigant post bond before filing new suits. However, this restriction is allowed *after* a finding that a party is a vexatious litigant. Here, no such finding was made. The Code provides the necessary facts that must be established before a vexatious finding may be made, but evidence of these facts was not presented. Therefore, the appellate court modified the final order to remove the bond requirement. Father agreed to the bond in exchange for the withdrawal of Mother's vexatious-litigant motion. However, that agreement could not expand the court's statutory authority.

---