JULY 2026
CASELAW UPDATE

(Cases from June 1–30, 2026)

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DIVORCE:
PROCEDURE AND JURISDICTION

Pro Se Wife Did Not Receive Imputed Notice of Final Trial Through Notice to Her Prior Attorney Because the Attorney's Motion for Withdrawal Did Not Comply with Texas Rule of Civil Procedure 10.

1. *In re Marriage of Bracken*, No. 07-25-00142-CV, 2026 WL 1675194 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (06-09-2026).

Facts: When the divorce proceedings were initiated, Wife was represented by counsel. However, that counsel withdrew, leaving Wife unrepresented. Wife temporarily obtained a second attorney, but she was unrepresented again by the time of trial. Wife did not appear at trial, and Husband obtained a default divorce decree. Wife filed a motion for new trial, but it was overruled by operation of law. Wife had also filed a notice of restricted appeal.

Holding: Reversed and Remanded.

Opinion: Husband asserted that Wife's appeal should have been construed as a direct appeal, rather than a restricted appeal. Wife filed her notice of appeal after trial but before a judgment was signed. Because the notice of appeal was filed prematurely, it was deemed filed on the same date but after the judgment was signed. Wife's appeal was thus treated as a direct appeal from a post-answer default judgment. Wife was required to establish the three-factor *Craddock* standard; however, if she did not receive notice of trial, she would not be required to establish the remaining two factors.

Among many other complaints, Wife asserted the trial court erred by finding she received proper notice of trial. Husband asserted that Wife received notice because she was represented by counsel at the time the final hearing was set, and that counsel received notice. However, Wife's attorney did not comply with the requirements of Rule 10 because the motion for withdrawal did not reflect that it was served on Wife by both certified and first-class mail. Adequate notice is not a mere formality. By failing to comply with the requirements of Rule 10 and its provisions designed to ensure clients are notified when their attorney withdraws, Wife's former attorney deprived her of valuable due process rights. The motion did not indicate Wife was served by any method, let alone the methods specified in Rule 21a. Subsequent service by email would be noncompliant, and no presumption of service arose. Wife did not receive notice of the final trial setting and was entitled to a new trial under *Craddock*.

DIVORCE:
INFORMAL MARRIAGE

Evidence Supported Finding of Common Law Marriage.

2. *In re V.R.Z.*, No. 05-23-01204-CV, 2026 WL 1809834 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-23-2026).

Facts: Husband and Wife sued each other for divorce, and they disputed whether they had informally married. The final decree of divorce included a finding of the date of marriage. Wife appealed.

Holding: Affirmed.

Opinion: Wife contested the finding of an informal marriage. Husband's brother remembered Husband giving Wife a ring, and the parties thereafter holding themselves out as husband and wife. Husband's brother recalled Wife using Husband's last name when talking to a car salesperson and referring to herself as Husband's wife "everywhere" while on a vacation. Husband's two sisters offered similar testimony. Wife acknowledged referring to the parties as married on tax returns and to filing a divorce petition. She blamed the divorce petition on her attorney. She denied making a Facebook post referring to Husband as her husband. She stated the relationship had always just been a boyfriend/girlfriend relationship. Wife's friend testified that Wife referred to Husband as a "boyfriend." The trial court did not abuse its discretion in finding the parties informally married.

Wife further argued that the finding of an informal marriage violated her First Amendment right of religious freedom because she did not consent to marriage. Wife testified that as a Mexican Catholic she had no concept of entering a marriage without a ceremony. Wife failed to adequately brief this issue by failing to include record citations in support of her argument.

DIVORCE:
PROPERTY DIVISION

Distributions During Marriage from Separate-Proper LLC were Community Property, and the Court Erred in Characterizing the Funds as Husband's Separate Property, Which Led to Other Errors Regarding Reimbursement Claims.

3. ***In re Marriage of Brookshire***, __ S.W.3d __, No. 12-24-00322-CV, 2026 WL 1593277 (Tex. App.—Tyler 2026, no pet. h.) (06-03-2026).

Facts: Husband was the COO of Brookshires, and his father was the CEO. The parties were married about 10 years and had 3 children. Husband had sued the company for wrongful termination; however, that suit was not yet resolved by the time of the divorce trial. After nearly two years of litigation, the court signed a final decree of divorce. Wife appealed.

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

Opinion:

Procedural Issues

Husband, relying on authority concerning video depositions, asserted the appellate record was incomplete because although videos and audio recordings were admitted into evidence, only limited portions were played during the trial. The evidence was not of depositions but included videos from police body cameras, a "nanny camera," and a cell phone, and there was one recorded phone call. The media was admitted without objection or limiting instruction. Thus, the full media exhibits were exhibits like any other non-deposition exhibit that could have been considered by the trial court and were properly before the appellate court for review. Therefore, the appellate court denied Husband's request to (1) apply a partial record presumption; (2) overrule Wife's issues on this ground; and (3) dismiss Wife's appeal.

Wife first complained of the trial court's failure to issue complete findings despite her timely filing of a request for findings and a notice of past due findings. The court issued a 10-page document containing findings. After receiving that document, Wife filed a request for additional or amended findings, but the court did not issue anything additional. The purpose of findings is to ensure an appellant is not harmed by a need to guess at a trial court's rationale. Here, in post-judgment hearings, the court clarified certain rulings and its rationale on the record. Wife was not required to guess and was not harmed by the lack of additional or amended findings.

SAPCR Issues

Wife additionally challenged the trial court's award of a 50/50 week-on-week-off possession schedule for the parents and asserted the court abused its discretion in deviating from the Family Code's standard possession schedule. The amicus attorney recommended a 50/50 schedule. At the commencement of trial, Wife surprised Husband, the trial court, and the amicus attorney by announcing a desire to be appointed as the Children's sole managing conservator. However, the parents had been coparenting civilly until Wife learned of a new romantic relationship between Father and another woman. Wife then began restricting Husband's access to the Children. Though, at some point, Wife appeared to have entered a romantic relationship with Husband's recently divorced best friend. She denied the relationship, but the best friend had accompanied Wife and the Children on some overnight trips. On one occasion, Wife agreed via text to allow Husband to take the Children on a trip and then reported the Children as kidnapped, leading to police approaching Husband in the airport. After some chaotic events, the trip was cancelled, but the police closed the case. Wife later testified she did not realize her actions could cause the Children concern about police approaching their Father at the airport. Wife raised allegations against Husband of sexual assault, but Husband denied the allegations. Other witness testimony called into question the veracity of Wife's claims. Wife never reported any assault claims to law enforcement.

Given the history of the case and the level of angst between the parties, the trial court did not abuse its discretion in determining that a 50/50 schedule would minimize the strife between the parents and would serve the Children's best interest.

Property Issues

Wife challenged a reimbursement claim paid to Husband's separate-property estate from the proceeds of the sale of an LLC Husband formed before marriage. He transferred separate-property stock to his separate-property LLC, at which point, the stock lost its separate-property character. The separate-property LLC later sold the stock during the marriage, converted it to cash and deposited the cash in the party's community-property LLC. This transaction was not a liquidation of Husband's separate-property LLC. Wife correctly asserted the distribution of the stock sale proceeds was community property subject to division. Because the sum (almost $1 million) concerned a substantial asset, the characterization of the proceeds as Husband's separate property was not a harmless error.

Applying essentially the same analysis, the court of appeals sustained Wife's challenge to the trial court's separate-property characterization of an investment account Husband created from stock distributions during marriage. This characterization error involved a $1.2 million asset and was also not harmless.

Wife further argued the trial court erred in awarding Husband 100% of the expected recover from his employment suit when all the parties agreed the suit included a substantial community property claim. Damages for lost wages and diminished earning capacity are community property. The suit related to a wrongful termination claim after Husband suffered an injury. The trial court abused its discretion in finding Wife's interest in the claim was zero, so the judgment was reversed for a redetermination of the just and right division of the community estate.

Next, Wife argued the trial court erred in denying her waste claim. During trial, Husband pursued a wiretapping and invasion of privacy claim against Wife. He paid Dallas attorneys about $340,000 in this effort. The trial court agreed the fees were unreasonable and would support a waste claim. Husband testified he only used separate-property funds on this claim; however, Husband offered no evidence to support this assertion. Moreover, to the extent Husband used funds identified above as incorrectly characterized as Husband's separate property, this too was error. Wife established a presumption of waste, and Husband failed to rebut that presumption.

Wife additionally argued the court erred in denying the community estate a reimbursement claim for capital gains taxes paid on the sale of Husband's separate-property stock. Separate-property capital gains—or the increase in value of separate property—remains separate property despite market fluctuations. The community estate paid over $200,000 in taxes when

Husband sold his separate-property stock. The community estate was entitled to a dollar-for-dollar reimbursement for this expense.

Wife finally challenged the trial court refusal to recognize a promissory note she issued to her father for his loan of funds to pay attorney's fees. The trial court ordered each party to be responsible for his or her own fees. Both parties' fees were significant. The trial court did not abuse its discretion in choosing not to make either party responsible for the other's fees.

Sole Proprietorship Owned Before Marriage Remained Husband's Separate Property Despite Being Incorporated as an LLC During Marriage.

4. *Bowles v. Bowles*, No. 04-24-00875-CV, 2026 WL 1580540 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (06-03-2026).

Facts: Shortly before his first divorce was finalized, Husband and Wife purported to marry. The final decree from the first divorce awarded Husband a business as his sole and separate property. The business manufactured and sold all-natural flea, tick, and mosquito repellant for dogs and cats.

In the current divorce proceeding, the court determined that the parties marriage became valid when the first divorce was finalized. The parties disputed ownership of the business—now an LLC—that was worth nearly $3 million. Wife worked in the business for the entirety of the marriage. After a final bench trial, the court confirmed the LLC as Husband's separate property and ordered Husband to pay to Wife an equalization payment and judgments for waste and reimbursement. Other assets were divided. Wife appealed.

Holding: Affirmed.

Opinion: In his appellee's brief, Husband asserted the trial court lacked subject-matter jurisdiction to sign a divorce decree because neither party met the Family Code's residency requirements. In his divorce petition, Husband asserted he had been a domiciliary of Texas for the preceding six months and of the county for the preceding 90 days. While these requirements are "akin to jurisdictional," they are not actually jurisdictional. Thus, any alleged failure to satisfy them did not deprive the trial court of subject-matter jurisdiction.

Wife first argued the court erred in characterizing the LLC as Husband's separate property. Wife asserted that Husband failed to rebut the community property presumption because the only evidence of the LLC's separate character was Husband's testimony. However, Husband's testimony was corroborated by the final divorce decree from his prior marriage awarding him the "business" as his sole and separate property. Husband and Wife operated the company for more than a decade. During marriage, Husband incorporated the business, changing it from a sole proprietorship to an LLC. The formation documents for the LLC were admitted. The LLC's bank statements listed the account holder as Husband d/b/a the business. Husband's testimony was supported by sufficient corroborating documentary evidence.

Wife argued that because the business was incorporated during marriage it mutated into community property. However, unlike the caselaw on which Wife relied, Husband did not use community assets to create the LLC. He did not take possession of company assets and rent them back to the LLC.

Wife additionally argued that the case could not involve a mutation because a sole proprietorship does not have a separate legal existence distinct from the owner of the business. Wife asserted the LLC was the same as the sole proprietorship because the business had expanded and had obtained FDA approval for its product, but the trial court was entitled to disbelieve Wife's version of events. Overall, in reviewing the evidence presented at trial, the trial court did not abuse its discretion in determining the LLC was Husband's separate property.

The appellate court abated the appeal based on Wife's complaint about a lack of findings. In an amended brief, Wife complained about the trial court's alleged failure to make additional findings regarding values of certain assets, liabilities, and reimbursement claims. Wife did not identify any missing values for which disputed evidence was presented. Lacking that information, Wife did not present anything for appellate review.

Wife complained about the trial court allowing Husband to file an amended pleading just over 7 days before trial. Wife showed no evidence of surprise or prejudice, and Husband's pleading did not add a new cause of action. Until the last amended pleading, he had not asserted the ownership of any separate property; however, the trial court is tasked with determining the size and nature of the parties' marital estate, which includes determining characterization issues.

In a cross issue, Husband asked the appellate court to find no valid marriage ever existed because he had not divorced his first wife when Husband and Wife married. Husband did not file a notice of cross appeal and could not request favorable relief from the appellate court.

Wife Overcame Gift Presumption with Respect to a Deed to Husband of Her Separate Property Executed While Refinancing.

5. *Short v. Short*, No. 04-25-00450-CV, 2026 WL 1580544 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (06-03-2026).

Facts: Before marriage, Wife purchased Property-A. During marriage, the couple purchased Property-B together. Wife then refinanced Property-A in order to pay off the Property-B debt. Wife signed a deed granting a half interest in Property-A to Husband, so he could be put on the new mortgage and be jointly responsible for the debt. When the parties divorced, the trial court found Property-A was entirely Wife's separate property. Husband appealed.

Holding: Affirmed.

Opinion: Wife testified that she never intended to grant Husband any right to the property. Husband argued Wife should not have been allowed to introduce parol evidence (her testimony) regarding her intent. However, the relatively recent Supreme Court case—*In re J.Y.O.*, 709 S.W.3d 485 (Tex. 2024)—explicitly allows parol evidence in this circumstance. Unless the deed includes a separate-property recital, parol evidence is permissible.

Because of the deed, Husband benefited from the gift presumption, but Wife had the opportunity to overcome that presumption. Whether the trial court erred in its determination that Wife rebutted the presumption was reviewed under the abuse-of-discretion standard. Husband had pressured Wife into the refinancing. She initially refused but eventually "just got beat down" and agreed to refinance. Husband was angry when Wife said no, and she was concerned because he had made threats of suicide. Wife introduced text messages supporting her version of events. The trial court did not abuse its discretion in believing Wife over Husband.

Husband's Evidence Regarding Purchase of Properties During Marriage Sufficient to Rebut Community Property Presumption.

6. *Varasteh-Tafti v. Varasteh-Tafti*, No. 05-24-00992-CV, 2026 WL 1613268 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-04-2026).

Facts: The parties were married for less than two years before Husband filed for divorce. Wife filed an answer but no counter petition, and she represented herself at trial and on appeal. The decree awarded each party the assets under his or her control and awarded each party a home in Wylie, Texas. Wife appealed.

Holding: Affirmed.

Opinion: Wife contended that Husband failed to rebut the community property presumption with respect to certain real properties bought and sold by Husband during marriage. Husband testified that he did not earn much money during the marriage but had saved quite a bit from working before the marriage. His real estate agent testified about the property sales. Moreover, Wife's legal theory as to her claim to the properties was flawed. Wife asserted that because she paid property taxes, management fees, and water bills, she was entitled to an ownership interest. However, characterization is determined at the time the right to own or claim the property arises.

Wife additionally argued the property division was not just and right because the house awarded to her was not marital property but was owned by her mother's trust. Wife failed to offer any evidence of value for the community estate, so she could not complain on appeal that the trial court lacked valuation evidence. Further, without valuation information, she could not show the division was so unjust, unfair, or disproportionate as to constitute an abuse of discretion. Moreover, given the short duration of the marriage, there was little community property to divide.

Finally, Wife argued the court erred in failing to consider any claims for reimbursement. However, Wife had no affirmative pleadings on file, and the issue was not tried by consent.

Because Proceeds of Sale of Homestead were Kept in Court's Registry for Nearly Six Months, Court Required to Enter an Order Tolling the Homestead Exemption Until Six Months After the Proceeds Would Eventually be Distributed to the Parties.

7. *In re Atherton*, No. 09-26-00222-CV, 2026 WL 1701033 (Tex. App.—Beaumont 2026, orig. proceeding) (mem. op.) (06-11-2026).

Facts: The marital residence was sold pending divorce, and the proceeds were placed in the court's registry. Wife contracted to purchase a home for approximately half the amount in the registry. The constitutional exemption for the parties' homestead proceeds was close to its expiration date. A hearing was held on Wife's request to release funds from the registry two weeks before the exemption expiration, which would occur two days after the scheduled closing for Wife's new home.

The largest creditor of the community estate intervened based on a guaranty on a loan by Husband. The creditor objected to Wife receiving funds because Wife was temporarily living in Mexico while developing a resort and renting an apartment while Husband had exclusive use of the marital residence. Wife testified that the marital residence was the only residence the parties owned. Husband and the creditor argued the trial court could equitably toll the exemption until Wife received funds. Husband asserted that because of the tolling, there was no urgency. The creditor noted the tolling was not automatic and had to be requested but releasing the funds prematurely would impact the court's ability to render a just and right division. Wife sought mandamus relief because she had not received a ruling.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Wife complained of the trial court refused to rule on her motion to disburse funds or to equitably toll the homestead exemption once the proceeds were delivered to her. The marital residence was sold through a temporary order and no equitable division had yet been rendered. The timing of Wife's motion put the trial court in an "unenviable position of determining on a short period whether or how to preserve the exemption." However, there was no serious challenge to the nature of the funds.

The trial court abused its discretion by failing to rule on the motion and in failing to order that the proceeds from the sale of the homestead retain the homestead exemption while the funds were in the registry of the trial court and are exempt from claims of creditors for six months after the funds in the registry were delivered to Husband and Wife.

Mumbai Property Could Not be Included in Property Division Because Gift Deed Showed It had been Gifted to Wife's Mother Before Divorce Filed.

8. *In re Marriage of Rane and Marreddy*, No. 05-24-00569-CV, 2026 WL 1739496 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-16-2026).

Facts: The parties were married for nearly 15 years before cross petitioning for divorce. After a final bench trial, as part of the just and right division, the court ordered the sale of a Mumbai property and awarded each party 50% of the net proceeds of that sale. Wife appealed.

Holding: Reversed and Remanded.

Opinion: The parties disputed whether the Mumbai property was separate property, community property, or even part of the community estate. The documentary evidence showed the purchase of the Mumbai property was made during marriage with community funds. However, before divorce, the property was transferred to Wife's mother. Wife argued the property was not part of the community estate because it had been gifted to her Mother. Husband argued the property could not have been gifted at that time, per Indian law, because the allegedly gifted apartment had not been built yet. The developer testified the parties had no interest in the property because it had been gifted to Wife's mother. Husband argued the developer was a relative of Wife and was lying about the transfer. The gift deed was admitted without objection.

Whether Wife gifted community property to her mother without Husband's permission and whether Husband's signature was forged on the deed was not pursued by Husband in the trial court, and the issues were not expressly litigated. With respect to Husband's claim regarding Indian law, he did not present any legal authority to support that claim.

The evidence clearly showed the Mumbai property was not part of the marital estate at the time of divorce, and the trial court erred by including it in the division of the marital estate. Because the inclusion of the Mumbai property materially affected the just and right division of the community estate, the entire division was remanded for further proceedings.

Despite Lack of Evidence to Support Valuation of Money Judgment, No Reversible Error Because Husband Failed to Argue the Error Affected the Just and Right Division of the Community Estate.

9. *Athey v. Athey*, No. 04-24-00601-CV, 2026 WL 1813226 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (06-24-2026).

Facts: After a two-year marriage, Husband initiated a divorce that lasted seven years. Just before trial, Husband filed a 5th motion for continuance based on his inability to attend due to a spinal surgery. On the day of trial, Husband appeared via Zoom, and his attorney announced not ready. The court denied the continuance and conducted trial.

Wife testified about separate-property family heirlooms that she kept in a safety deposit box. The heirlooms were not insured because they were unused and Wife believed they were safe. After the parties separated, Wife accessed the safety deposit box and found all her jewelry was missing. Records showed Husband accessed the box without Wife shortly before the discovered disappearance. Husband denied taking any jewelry and asserted he had no idea what she was talking about. The trial court awarded Wife a $25,000 money judgment for the missing jewelry. Husband appealed.

Holding: Affirmed.

Opinion: Although Husband asserted he was denied his constitutional right to due process by the court's failure to grant him a continuance, Husband did not present that issue to the trial court and waived it for appeal.

Husband next challenged the sufficiency of the evidence to support the money judgment. Wife testified that she was missing either 14 or 24 karat gold or 925 sterling silver, but she did not provide the amounts of those metals contained in the collection. She further testified about various gemstones, including topaz, amethyst, peridot, diamonds, and rubies but offered no evidence of the quality or carat of the stones. At no point did Wife present an actual or estimated value. However, to show reversible error, Husband was required to show that the division of the community estate was manifestly unjust and unfair. Husband did not brief that argument, and the appellate court declined to make it for him.

Finally, Husband asserted the trial court erred in failing to issue findings of fact and conclusions of law. Husband was not prevented from raising the issues he chose to raise and did not show how the lack of findings harmed him. "Although we do not condone the trial court's failure to enter its findings of fact and conclusions of law, we nevertheless find this error harmless."

Evidence Supported Money Judgment in Divorce Decree to Account for Father's Damage to a Vehicle.

10. *Paris v. Paris*, No. 02-25-00235-CV, 2026 WL 1838884 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (06-25-2026).

Facts: After a final trial in the parties' divorce proceeding, the court appointed Mother as the Children's sole managing conservator, named Father a possessory conservator, and divided the community estate, which included a money judgment against Father for damages to a vehicle and an award for Mother's attorney's fees. During the proceedings, a protective order had been rendered, and the divorce decree explicitly stated that the decree did not supersede the protective order. Father's access to the Children was made contingent on the expiration of that protective order and on Father's completion of a batterer's intervention and prevention program. The decree gave Father a step-up possession schedule conditioned on reunification therapy and drug and alcohol testing. Father appealed pro se.

Holding: Affirmed.

Opinion: The court noted Father's arguments were inadequately brief but nevertheless reached the merits of his complaints to the extent possible.

Father challenged the sufficiency of the evidence to support the family-violence finding against him, the finding of alcohol and substance abuse, and the possession schedule. Father argued there was no evidence he abused the Children. However, there was evidence he abused Mother, which caused the Children to suffer psychological harm. Additionally, although there were no drug-test results in evidence, Mother testified Father had an alcohol problem, had been arrested for public intoxication, had smoked marijuana and consumed alcohol in Mother's presence, and got violent when he drank alcohol. The trial court did not abuse its discretion in making these findings and orders.

Father additionally challenged the attorney's fee award. However, Mother's attorney offered sufficient testimonial and documentary evidence to support the award.

Father next argued the court erred in awarding Mother the money judgment for his damages to a vehicle. Mother offered evidence of a repair invoice, and she further testified that invoice did not cover the full extent of the damage and reduced value due to Father's actions. The trial court did not abuse its discretion in relying on Mother's estimate of the full amount of damages to the vehicle.

No Presumption of Gift Arose when Both Parties' Names Included on Deed Before Marriage; Trial Court Could Equitably Partition Property 100% to Husband, Given that Wife Made No Financial Contribution to the Property's Purchase.

11. *In re Marriage of Garcia*, No. 07-25-00335-CV, 2026 WL 1871578 (Tex. App.—Amarillo 2026, no pet. h.) (mem. op.) (06-29-2026).

Facts: The parties divorced but reconciled. Two months after the divorce, Husband purchased a house, but the deed listed both Husband and Wife as grantees. A bit over a year later, the parties remarried and opened a joint bank account to be used for living expenses. Husband made an initial $250,000 deposit into the account and continued depositing roughly $7000 monthly from various sources, including social security payments. Wife deposited some of her paychecks into the account. Wife used funds from the account to pay a monthly mortgage on a house that had been confirmed as her separate property in the parties' first divorce.

A few months before separating again, the parties divvied the joint account with Husband taking the vast majority for himself, leaving Wife less than $1000. In Husband's amended petition for divorce, he sought partition of the new house purchased after the first divorce. Wife asked that the house and joint account be divided 50/50. In a final decree, the court awarded Husband the amount he had withdrawn from the joint account and a 100% interest in the new house. Wife appealed.

Holding: Affirmed.

Opinion: Wife's complaint regarding the division of the joint account failed to consider the other assets and liabilities that were part of the trial court's just and right division. Additionally, Husband had contributed a significant amount of his retirement savings to open the joint account. Further, Husband was 10 years older than Wife, retired from the work force, and being treated for cancer. Considering all the evidence, the division was not so unjust and unfair as to constitute an abuse of discretion.

Wife next asserted the court erroneously divested her of her one-half separate property interest in the house purchased before the parties remarried. Although a trial court may not divest a party of her separate property by a divorce decree, the court may consider a partition action concurrently with a divorce proceeding. When a party seeks partition, the court shall determine the share or interest of each of the joint owners or claimants in the real estate sought to be divided, and all questions of law or equity affecting the title to such land which may arise. A trial court's partition of property is governed by rules of equity.

Where a deed names more than one grantee and the interest of each grantee is not stated, a rebuttable presumption arises that each of the grantees is vested with title to an equal undivided interest in the property. This presumption can be rebutted by showing the grantees did not furnish consideration in equal shares.

Here, Wife made no financial contribution to the purchase of the house. On appeal, Wife also asserted that Husband gifted half the house to her by including her on the deed. However, because the purchase was made before marriage, Wife was not

Husband's spouse at the time, and no gift presumption arose. Moreover, Husband testified it was not a gift. The appellate court deferred to the trial court's factual resolutions and credibility determinations.

DIVORCE:
ENFORCEMENT OF PROPERTY DIVISION

Provisions of Decree were Unintelligible, Making Them Unenforceable.

12. *In re Marriage of Paredes*, No. 05-25-00313-CV, 2026 WL 1613269 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-04-2026).

Facts: Almost 15 years after the parties divorced, Husband filed a petition to enforce the decree and for breach of contract. Husband asserted Wife was required to pay him proceeds associated with the sale of the real property awarded to her in the decree, and she failed to do so. Wife answered pro se and, among other arguments, she pleaded the decree was too ambiguous and unclear to be enforced. Although Wife did not appear at the bench trial, the judgment recited that she appeared pro se. The court awarded Husband his requested relief plus attorney's fees. Wife filed a motion to set aside the default judgment. The court heard and denied Wife's motion. She appealed.

Holding: Reversed and Remanded.

Opinion: Among other complaints, Wife asserted the divorce decree was too unclear to be enforceable. The decree was not an agreed decree, but it included a finding that the parties had reached an agreement, and the decree purports to approve it, include it by reference, and order the parties to comply with it. However, the agreement was not attached to the decree.

Paragraph W-1 included a provision that if Wife ever sold the real property, she would owe Husband 12 months' worth of proceeds. Wife sent an email explaining this formula that would take the net proceeds and divide it by the number of years she owned the property.

The appellate court "conclude[d] that [Wife] actually understate[d] the defect in paragraph W-1 of the decree—it is not merely ambiguous but unintelligible. An ambiguous document is uncertain of meaning or susceptible to multiple reasonable interpretations. But the proceeds provision in paragraph W-1 is not susceptible to any reasonable interpretation. '[T]welve months['] worth of the proceeds received from the sale of the property' is an unintelligible concept akin to 'a gallon of the proceeds' or 'a yard of the proceeds.'" (citations omitted).

The court rejected Husband's contention that the parties' private interpretation of an unintelligible judgment could cure its infirmity. Because the proceeds provision was unintelligible and unenforceable, the court erred in denying Wife's motion for new trial.

Property Awarded to Wife in Final Decree of Divorce Subject to Execution for Arbitration Award Against Husband in Tort Litigation that was Confirmed Before Divorce Granted Despite the Confirmation Judgment Being Interlocutory.

13. ***Loyo v. Stephen***, __ S.W.3d __, No. 14-25-00823-CV, 2026 WL 1689335 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (06-11-2026).

Facts: During marriage, Husband and Wife purchased a vacant lot. About seven years later, Plaintiff sued Husband, Wife, and Husband's companies for, among other things, breach of fiduciary duty. Husband successfully compelled arbitration in that suit. Two years after Plaintiff's suit was filed, Husband filed for divorce. An arbitrator signed an award holding Husband and an affiliated company jointly and severally liable to Plaintiff and additionally granted Plaintiff's request for an accounting of two other businesses. The trial court in the tort litigation confirmed the arbitration award and ordered the accounting; however, that order was interlocutory because of the accounting and one other pending claim. Nearly a year later, the divorce court signed an agreed final decree of divorce awarding the vacant lot to Wife as her sole and separate property. The tort suit was resolved another six months later.

About 18 months after the conclusion of the tort suit, Plaintiff sued Husband, Wife, Wife's parents, and two companies affiliated with Husband. Initially, Plaintiff asserted the vacant lot had been fraudulently transferred to Wife but later dismissed that claim and asserted the lot was subject to execution. The trial court rendered judgment in favor of Plaintiff and allowed various motions for new trial to be overruled by operation of law. Husband appealed, and Wife adopted all Husband's briefing.

Holding: Affirmed.

Opinion: The appellate court noted that although the trial court's final judgment concerned the execution of judgment on the vacant lot, which was owned solely by Wife after the divorce, Husband had standing to challenge the judgment not only because he was jointly and severally liable with Wife for attorneys' fees awarded by the trial court, but also because the divorce decree required him to defend, indemnify, and hold Wife harmless from any debt, obligation, liability, act, or omission of Husband not described in the divorce decree. That provision applied to Plaintiff's judgment against Husband for breach of fiduciary duty.

Husband argued the Family Code's statute regarding Rules of Marital Property Liability (3.202) did not apply to Plaintiff's judgment against Husband because that judgment did not include any finding of tortious liability or refer to or attach any document finding that Husband was liable to Plaintiff in tort. However, the statute simply states, "[a]ll community property is subject to tortious liability of either spouse incurred during marriage." It requires no explicit finding. The Rules of Civil Procedure provide that findings are not included in judgments. Because the case was tried to an arbitrator, the court was not required to make findings pursuant to a Rule 296 request.

Husband further argued that tort liability is incurred when a final judgment is rendered, not when the tort is committed. However, this argument ignored that the trial court confirmed the arbitration award while the parties were married. Under the TAA, applicable here, an order confirming an arbitration award is treated as a judgment. Husband argued that because the confirmation order was interlocutory, it could not be executed upon, and thus, no liability had yet been incurred. This argument was inconsistent with Texas law, including that of res judicata. The confirmation award would have triggered res judicata even though additional steps were required before the order could have been enforced.

Accordingly, the trial court did not err in ruling in Plaintiff's favor.

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

14. *Nadar v. Nadar*, No. 05-25-00197-CV, 2026 WL 1699001 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (on reh'g) (06-11-2026).

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

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

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

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

Holding: Affirmed.

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

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

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

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

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

It was undisputed that Wife failed to comply with the decree’s requirement that she vacate the home for seven years by the time of trial. Wife argued that it was inequitable for Husband to receive the money judgment from her while also having the benefit of the reduced principal on his mortgage. However, Husband testified that the $195k was for moneys spent “discounting any monies that may have decreased the amount of debt.” The court considered this testimony with equitable factors relating to Husband’s costs associated with Wife’s failure to vacate and deliver the marital residence. The trial court did not abuse its discretion in awarding Husband the money judgment.

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

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

SAPCR:
PROCEDURE AND JURISDICTION

Texas Lacked UCCJEA Jurisdiction Because Mother Offered No Evidence to Support Finding that Uganda Law Violated Fundamental Human Rights; Mother Offered No Evidence to Support Her Assertion Father’s Monthly Income Exceeded $9200; and Father Waived His Special Appearance by Making a General Appearance.

15. ***Mugisha v. McLeod***, __ S.W.3d __, No. 03-25-00311-CV, 2026 WL 1510930 (Tex. App.—Austin 2026, no pet. h.) (05-29-2026).

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

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

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

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

Opinion: Father challenged the Texas court’s exercise of personal jurisdiction over him. Father’s special appearance did not indicate it was limited to any particular claim, so the appellate court construed the special appearance as challenging the entire SAPCR proceeding. A special appearance is waived through participation in trial. The order resulting from the hearing in which Father appeared remotely denied Father’s plea to the jurisdiction, motion to decline jurisdiction, and motion to stay. It did not reference Father’s special appearance. The record did not indicate Father’s special appearance was to be heard that day. No arguments regarding Father’s special appearance were presented. Father waived his special appearance, and the Texas court properly exercised personal jurisdiction over Father.

Father further argued the evidence was insufficient to support the trial court’s determination of his net resources. Mother testified that Father had been working for Microsoft for the last three years as a senior product manager. She offered evidence of a Glassdoor salary estimate for that possession and acknowledged that she did not know his salary. She knew that he would not accept less than what he was making when the parties met in Washington state. She asked for maximum guideline child support. The Glassdoor estimate was based on an employee working in the U.S., not on a remote employee working outside the country. Mother offered no evidence of what Father earned when the parties met. Father did not work continuously at Microsoft during the parties’ relationship. Without legally sufficient evidence to show Father’s current net resources, the trial court was required to presume Father earned minimum wage. The appellate court reversed and remanded the issue of Father's net resources to the trial court for further proceedings.

Father additionally asserted Texas lacked jurisdiction under the UCCJEA to make conservatorship and possession orders. In its temporary orders, the trial court stated it was exercising emergency UCCJEA jurisdiction based on concerns about the effect of returning the Children to Uganda. The trial court further determined it had authority to render final orders pursuant to the Hague Convention. However, the Texas court failed to comply with the UCCJEA's requirement to confer with the Uganda court. Mother offered no evidence that Father mistreated the Children. Nothing in the record supported the trial court's findings, which ranged from specific crimes committed at the couple's home to general issues with Uganda, such as the prevalence of malaria. Instead, the trial court seemed to have relied on arguments and evidence from previous hearings. While court can take judicial notice of the existence of prior records, it cannot take judicial notice of the *truth* of the factual statements and allegations contained in those records. The trial court could not rely on prior testimony unless the transcript of that prior hearing was properly authenticated and entered into evidence. No testimony from prior hearings was authenticated or offered at the final hearing. The trial court additionally could not sua sponte rely on Uganda child custody laws without following the process outlined in Texas Rule of Evidence 203, which requires notice to the parties giving the parties an opportunity to respond. Therefore, the trial court improperly found it had authority to render a final order because no evidence supported a finding that Uganda laws violated fundamental principles of human rights. The trial court lacked UCCJEA jurisdiction, and its final conservatorship and possession orders were void.

Father was Able to Pay Costs Because Evidence Showed He had a Monthly Surplus of Income.

16. *In re E.C.O.*, No. 05-25-01603-CV, 2026 WL 1575106 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-02-2026).

Facts: Father filed a statement of inability to afford costs. Mother contested the statement. After an evidentiary hearing, the trial court sustained the contest and found Father was not indigent and ordered him to pay all costs.

Father filed a motion for review, and the appellate court agreed with Father that the findings were inadequate. After an abatement, the trial court issued detailed findings. Father challenged those findings.

Holding: Affirmed.

Opinion: Father testified that his fixed expenses exceeded his reliable income, and his liquid assets were approximately $60. He claimed not to be able to borrow funds or post meaningful security. He acknowledged earning $180k a year but claimed, with his expenses, he could not afford the cost of transcripts.

Father did not offer any documentation of his expenses and admitted to having a monthly surplus. The trial court found that Father's monthly surplus was $1765. Further, "[a]lthough [Father's] statements at the hearing were not under oath, the oath requirement was waived because the circumstances indicated that he was tendering evidence on the record based on personal knowledge regarding his ability to pay costs, and there was no objection to his testimony." Father complained that he submitted additional evidence after the appellate court abated the matter for the issuance of findings. But, Father was only entitled to one hearing, the court was not required to give Father further opportunities to present evidence. Father finally complained that the trial court did not consider whether he could pay in installments, but Father did not ask the trial court to consider that relief.

Father's Statement of Indigency Successfully Contested with Evidence His Statement was Materially False when Made.

17. *Perricone v. Perricone*, No. 11-25-00213-CV, 2026 WL 1593647 (Tex. App.—Eastland 2026, no pet. h.) (mem. op.) (06-04-2026).

Facts: Father filed a suit against 24 people for "interference with Possessory Interest in Children and Related Claims" with a statement of inability to pay costs. Subsequently, Father amended his petition to join another 30 people. One of the defendants—an attorney—filed a challenge to Father's statement of inability to pay costs. The court conducted a hearing, sustained the attorney's challenge, and denied Father's statement. Father appealed that ruling.

Holding: Affirmed.

Opinion: In a footnote, the court listed the 13 other appellate filings pursued by Father since 2021. The parties divorced in 2020 and were appointed joint managing conservators of their four children. In 2024, Mother filed a modification suit, seeking sole managing conservatorship. "Since that time, there has been an onslaught of filings (mostly by [Father]) …."

In the attorney's contest to the statement of indigency, he noted Father had not been paying child support, had not attached proof of public benefits he received, received more in "disability" than Father disclosed, and owned a Tesla worth at least $4000. After a hearing, the court held Father offered no relevant or credible evidence in support of his claim of indigence, Father failed to offer corroborating evidence, Father's statement contained numerous material misrepresentations, and Father's expenses were significantly less and his income was more than he claimed.

The standard for determining indigency is whether the record shows that the declarant would be unable to pay all or any portion of the costs, or provide adequate security, if he truly desired and made a good-faith effort to do so. When evaluating a contested claim of indigency, the trial court may consider certain types of financial and other information, including the nature, source(s), and amount of the declarant's: (1) current income; (2) real and personal property holdings; (3) other assets; (4) debts; and (5) monthly expenses.

Contrary to Father's assertions, the attorney, as a party joined by Father, had standing to challenge the statement. The challenge was not frivolous and was made with a supporting statement under penalty of perjury. Further, the evidence at the hearing supported the finding that Father failed to conclusively establish he was unable to afford the required costs.

Dismissal of Petition for Bill of Review Pursuant to Texas Rule of Civil Procedure 91a Inappropriate Because the Rule Does Not Apply to Family Law Suits.

18. *Bey v. Pond*, No. 14-25-01075-CV, 2026 WL 1691388 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (06-11-2026).

Facts: Mother and Father had one Child. An original SAPCR order was signed, and then, agreed judgments later modified that order. Notwithstanding the subsequent orders, Father filed a petition for bill of review to set aside the original SAPCR order. Father additionally served the OAG with a subpoena duces tecum, and the OAG responded with a motion to quash. Mother filed a motion to dismiss pursuant to Texas Rule of Civil Procedure 91a. The trial court granted Mother's and the OAG's motions, and Father appealed.

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

Opinion: Rule 91a does not apply to cases brought under the Family Code, so the trial court erred in granting Mother's motion to dismiss. The trial court did not reach the merits of any of Father's issues, so the case was remanded.

The OAG acknowledged Rule 91a was inapplicable but argued the dismissal was appropriate because Father failed to present a meritorious claim or defense. However, Father was prevented from presenting any claim or defense by the trial court's immediate dismissal pursuant to Rule 91a.

The trial court did not abuse its discretion in quashing the subpoena for various errors and valid objections.

Alleged Grandparents Failed to Introduce Any Evidence Showing Their Familial Relationship to Alleged Father and, Thus, Failed to Support Their Claim of Standing to Intervene in the Modification.

19. *In re A.T.*, No. 05-25-00118-CV, 2026 WL 1716614 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-12-2026).

Facts: TDFPS initiated a suit for the protection of the Child and was appointed managing conservator. Mother was appointed a possessory conservator, and the Child's paternity was not established. Alleged Grandparents and Foster Mother intervened in a modification suit, all seeking conservatorship of the Child. Alleged Grandparents asserted they were the paternal grandparents through their son, who they contended was the Child's father. Foster Mother moved to strike the Alleged Grandparents' intervention for lack of standing and disputed Grandparents' son's parentage of the Child. The trial court granted Foster Mother's motion, and a jury trial commenced without Alleged Grandparents. A final order appointed Foster Mother as permanent managing conservator. Although a hearing was conducted on Alleged Grandparents' motion for new trial, that motion was overruled by operation of law. Alleged Grandparents appealed.

Holding: Affirmed.

Opinion: Alleged Grandparents asserted the trial court erred in dismissing their petition in intervention and argued they had standing pursuant to the grandparent provisions of the Texas Family Code (102.004 and 153.432). With respect to Section 102.004(b), Alleged Grandparents argued they were not required to prove "substantial past contact with the child" because they were grandparents. They did not plead any standing theory independent of their alleged status as grandparents.

A birth certificate with Alleged Grandparents son's name was attached to a pleading, and the son had provided written consent in support of the intervention, but nothing established a familial relationship between the son and Alleged Grandparents. Pleadings are not evidence. Because Alleged Grandparents failed to create a fact issue that they were grandparents within the statutory standing categories on which they relied, the trial court did not abuse its discretion in dismissing their intervention.

Father Waived Personal Jurisdiction by Signing a Waiver of Service and Making a General Appearance in Front of an Associate Judge, Giving Court Authority to Impose Child Support Obligation for the First Time.

20. *In re X.H.Q.*, No. 05-25-00729-CV, 2026 WL 1749922 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-17-2026).

Facts: An Arizona trial court signed a consent divorce decree, in which the parties had agreed to no child support. Afterwards, Father moved to Texas. The OAG filed a suit to review child support and to register the foreign order under UIFSA. Father signed a waiver of service entering his appearance for all purposes. Father then challenged subject-matter jurisdiction and personal jurisdiction, argued he needed a continuance to find a lawyer, served discovery request, and asked to be allowed to set aside the waiver of service. Father claimed he "did not knowingly and voluntarily waive his rights under the law." An associate judge signed an order confirming registration of the Arizona decree, finding it valid and enforceable. The AJ calculated Father's net resources and ordered Father to pay child support and medical support. In a de novo review hearing, Father asked the district judge to consider his special appearance. Opposing counsel argued Father was a Texas residence, executed a waiver, and made a general appearance. The court denied the special appearance, and Father declined to participate further. He then appealed pro se.

Holding: Affirmed.

Opinion: Although Father asserted that the trial court exceeded its authority under UIFSA by creating a support obligation where none previously existed, his argument was not supported by the statute.

Father additionally asserted that someone at the OAG's office told him he needed to sign forms before obtaining his file. He claimed he did not understand the import of the waiver of service. A party who signs a document is presumed to know its contents and accept its terms. Nothing suggested Father was prevented from reading the waiver before he signed it. Even if the waiver was invalid, Father submitted to the trial court's jurisdiction when making a general appearance in front of the AJ.

TDFPS—as Managing Conservator—Could Consent to Grandmother's Standing to Intervene in SAPCR.

21. *In re Thapa*, No. 03-26-00406-CV, 2026 WL 1810693 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (06-24-2026).

Facts: TDFPS initiated a suit for the protection of the Children. The trial court rendered an agreed order terminating the parents' parental rights and appointing TDFPS as the Children's managing conservator. In conjunction with this order, the parties, including the Children's ad litem attorney and their guardian ad litem filed a Rule 11 Agreement in which they agreed not to contest maternal Grandmother's standing to file an intervention or modification if she did so within 90 days of the termination order. Within the 90 days, Grandmother filed a combined petition in intervention in the existing SAPCR and petition in intervention for the adoption of the Children. She asserted standing based on the grandparent-intervention statute because TDFPS had consented to the intervention. TDFPS filed a consent to filing and motion for orders as part of a "path to permanency" with Grandmother.

Subsequently, the trial court sua sponte questioned Grandmother's standing and gave Grandmother time to brief the issue. The court orally "denied" Grandmother's standing and struck her petitions; however, no written order was signed. Grandmother sought mandamus relief.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: The merits of Grandmother's claims were not before the appellate court. It only addressed whether she had standing as a nonparent. Family Code Subsection 102.004(a)(2) provides such original-suit standing to a grandparent, who "may file an original suit requesting managing conservatorship if there is satisfactory proof to the court that … both parents, the surviving parent, or the managing conservator or custodian either filed the petition or consented to the suit." TDFPS had consented to the suit. The trial court abused its discretion by striking Grandmother's petition, and she was entitled to mandamus relief.

SAPCR: PARENTAGE

Father Not Entitled to Genetic Testing to Show He was Not the Child's Father Because Father was Aware of Facts that Should Have Made Him Question His Paternity for Well Over Two Years.

22. *In re N.A.T.*, No. 05-25-00786-CV, 2026 WL 1716616 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-12-2026).

Facts: The parties married about 25 years ago. After an eight-year marriage, they divorced with two minor Children. Although the court issued an order during the divorce for genetic testing to determine Father's paternity of the younger Child, Father did not complete the testing and did not appear at the final trial. Mother obtained a default decree that appointed her a sole managing conservator and required Father to pay child support.

Just before the younger Child turned 18, Mother sought to modify child support because that Child indisputably required substantial care and personal supervision due to a mental or physical disability. Mother sought an increase in child support and for the obligation to continue after the younger Child's 18th birthday. Father, pro se, filed various documents including a request to lower his child support obligation, to challenge his paternity of the Child, and to terminate the parent-child relationship.

At a hearing, evidence showed that Father knew Mother had cheated on him and lied about the date of conception of the Child. Father claimed he was unaware of the genetic testing order granted during the divorce proceedings. He stated an at-home test was inconclusive. The court denied Father's requested relief and granted Mother's. Father appealed pro se.

Holding: Affirmed.

Opinion: Father challenged the refusal of his request for genetic testing. A petition to terminate the parent–child relationship based on mistaken paternity must be filed no later than the second anniversary of the date on which the petitioner becomes aware of the facts indicating the petitioner is not the child's genetic father. Father became aware of facts indicating he was not the father well over two years before this current suit. The trial court did not err in denying Father's request for genetic testing.

Father additionally argued he was denied due process because he was not allowed to present his petition for termination at the final trial on Mother's motion for modification. Father failed to preserve this issue for appeal. Regardless, the trial court had already conducted a hearing and ruled on the termination issue, and the court's refusal to allow further evidence on that issue at a subsequent hearing did not amount to a denial of due process.

Finally, Father asserted the trial court was biased against him. Father failed to preserve that issue. Additionally, Father's complaints of judicial rulings against him did not constitute a valid basis for a bias claim. The court did not exhibit bias towards Father.

SAPCR:
POSSESSION

Stair-Step Possession Schedule Appropriate Because Father's Drug Use Negatively Affected His Ability to Care for the Child.

23. *Hanson v. Nugent*, No. 03-24-00528-CV, 2026 WL 1752032 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (06-18-2026).

Facts: After the couple broke up, Mother discovered she was pregnant. She did not want to reconcile with Father because she wanted a sober household for her Child. Father refused to stop using drugs and showed up under the influence of marijuana at the Child's birth and subsequent doctor's visits. Mother initiated a suit to adjudicate Father's parentage and establish conservatorship and possession orders. After a final trial, the court awarded Mother sole managing conservatorship and Father possessory conservatorship. The court awarded Father a four-tiered stair step possession schedule that required clean drug tests to progress from one step to the next. The first tier gave him supervised possession for a few hours on the 1st, 3rd, and 5th Saturdays and Sundays, and the fourth tier was a standard possession schedule. Any failed drug test would return Father to the first tier. Father appealed pro se.

Holding: Affirmed.

Opinion: Amont other complaints, Father challenged the sufficiency of the evidence to support the order and asserted the court improperly based its decisions on Father's marijuana use alone. However, there was evidence that Mother asked Father not to come to the hospital while under the influence, and he ignored that request. Father missed many doctor's visits during the Child's first year, and when he did appear, he smelled of marijuana to the point people other than Mother noticed. He was so "altered" that he did not hear people calling his name. Father arrived at the hospital during an emergency visit and slept on the couch until he went home. Father's drug use interfered with his ability to be alert and care for the Child. Father grew marijuana and mushrooms at home and purchased steroids from a friend instead of getting a prescription. His test results for THC showed a level that could not have been reached by following his alleged prescription. Father tested positive for drugs during the litigation.

SAPCR:
CHILD SUPPORT

Appeal Remanded for Trial Court to Issue Statutorily Required Child-Support Findings Before Appeal Could Proceed.

24. *Gutierrez v. Gutierrez*, No. 04-25-00260-CV, 2026 WL 1813228 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (06-24-2026).

Facts: After a final trial in a divorce, the court signed a decree that included a provision requiring Father to pay monthly child support. Father appealed several issues, including the child support obligation.

Holding: Abated and Remanded.

Opinion: Father argued the court erred in deviating from guideline support. Although the decree acknowledged that it deviated from guideline support, it did not include the findings required by the Family Code regarding each party's net resources and the percentage applied to those resources. The decree did include findings regarding why the court found deviation was appropriate including a finding that Father was underemployed.

"The purposes of the factfinding requirement [of section 154.130] are to assist the obligor in challenging the trial court's order and to enable the appellate court to conduct a meaningful review." An omission of findings is harmful if an appellant "must guess the reason or reasons the trial court ruled against him." Here, Father asserted at trial what he believed the guideline support should have been. Mother stated a greater amount would comply with guidelines. The trial court rendered an order for an amount even greater than what Mother requested. It was unclear how the trial court reached its conclusion, and without findings, Father was required to guess at the trial court's reasoning. Accordingly, the appeal was abated and remanded to the trial court to issue child-support findings before the appellate court could consider Father's remaining appellate complaints.

Evidence Supported Order for Above Guideline Support for Adult Child with Severe Autism.

25. ***Field v. Pinsker***, __ S.W.3d __, No. 03-24-00426-CV, 2026 WL 1842569 (Tex. App.—Austin 2026, no pet. h.) (06-26-2026).

Facts: The parties divorced when their Child was about four years old. Just before the Child turned 18 years old, Mother filed a suit to modify, seeking adult child support based on the Child's severe autism and related issues, including violent and anti-social behaviors. Mother was concerned about the Child's behavior leading to injuries or criminal charges. Mother wished to hire someone to care for the Child while Mother worked. Father believed he and his wife could care for the Child; however, Father had not had overnight possession of the Child in years because of a new baby at Father's home. Mother generally spoke well of Father's behavior since the parties' divorce and was appreciative of the Child having four parents because both Mother and Father had remarried. As the Child began reaching adulthood, Mother began seeing signs that Father no longer had the Child's best interest at heart. The parties testified about difficulties in caring for the Child and in obtaining proper therapy from wiling providers.

Mother created a budget and calculated the Child's monthly present needs totaled a little over $7000, but she anticipated an increase to a bit over $11,000 because of a necessary school change. Mother proposed an allocation of costs that required her to pay almost 60% of the total costs based on the parties' respective net resources. Father agreed to pay for therapy and 50% of medical expenses, but he disputed the cost of childcare because he believed he could care of the Child. Father additionally argued he should not be required to pay periodic child support. After hearing evidence, the court ordered Father to pay child support that exceeded the statutory guidelines. Father appealed.

Holding: Affirmed.

Opinion: Father challenged the sufficiency of the evidence to support the court's calculation of his net resources and of the cost of the Child's childcare. The trial court found that Father's net monthly resources exceeded the statutory guidelines and ordered Father to pay guideline support plus 40% of the proven needs that exceeded the guideline amount. The record included substantive evidence of the Child's needs, including household expenses, the Child's portion of food and groceries, clothing, transportation, miscellaneous expenses, summer childcare, and school-time childcare. To the extent there was conflicting evidence, it was the trial judge's job as factfinder to resolve the conflicts. Contrary to Father's assertion, Mother's evidence was not "wholly speculative" because it was based on historical costs. Additionally, contrary to Father's assertion, the trial court accounted for the fact Mother earned more money than Father.

Father next argued the evidence was insufficient to support above guideline support for an *adult* Child, citing the statute authorizing adult child support. While that statute provided for factors to be "specially considered" for adult disabled child support, those factors were not exclusive. The trial court issued findings to support the award of above-guideline support, and the evidence supported the trial court's findings.

SAPCR:
MODIFICATION

Court Could Not Add Requirements Regarding Drug Testing and Parenting Classes as Precondition to Father's Ability to Seek Modification Pursuant to the Family Code.

26. *In re Marriage of Henson*, No. 12-25-00246-CV, 2026 WL 1597538 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (06-03-2026).

Facts: After a final bench trial in a divorce proceeding, the court found that variance from the standard possession order was necessary due to Father's history of drug use and domestic violence against Mother and the Child. The court ordered Father have no contact with the Child and further ordered that to modify that "no contact" order, Father was required to satisfy certain prerequisites: (1) complete a battering intervention program; (2) complete a parenting class; and (3) abstain from drug use for 6 months. Father appealed.

Holding: Reversed in Part; Affirmed as Modified in Part.

Opinion: Father asserted the trial court abused its discretion by adding extra-statutory requirements before he could seek to modify the child-related provisions of the divorce decree. Father used methamphetamine three days before the first day of trial and five days before the next hearing. He had been using drugs for the last seven or eight years. He denied abusing Mother and their Child. Mother testified about the abuse and offered a recording of him hitting her while looking for his gun. Overall, the evidence regarding the violence was extensive. The Child did not want contact with Father and feared Father.

Regardless, nothing in the Family Code statutes regarding grounds for modification permits a court to add extra requirements such as drug tests, parenting classes, and battering intervention/prevention classes as a prerequisite to modification.

"[N]o court has the authority, under the guise of interpreting a statute, to engraft extra-statutory requirements not found in a statute's text." Thus, the appellate court deleted the extra requirements and affirmed the judgment as modified.

Father additionally argued the court erred in setting his child support obligation above the guidelines. Mother and Father offered conflicting evidence regarding Father's earning potential. They agreed Father worked as a diesel mechanic, and Father acknowledged he previously earned $32 an hour. Father failed to offer any tax returns and offered inconsistent testimony about his claim that his pay rate was lower at the time of trial. The court was free to take Mother's evidence as being more credible than Father's.

Father's Modification Dismissed Because He Did Not Respond to Mother's MSJ Asserting No Evidence of a Material and Substantial Change.

27. *In re S.W.R.*, No. 05-24-01237-CV, 2026 WL 1802806 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (06-22-2026).

Facts: A final divorce decree included provisions for the parties' Children. About two-and-a-half years later, Father filed a petition to modify. Mother responded with a motion for summary judgment, asserting Father failed to establish a material and substantial change in circumstances since the divorce. After the court granted Mother's motions and dismissed Father's claims, Father appealed.

Holding: Affirmed.

Opinion: Father asserted the court erred in granting summary judgment because the trial court did not consider whether the child support provisions substantially complied with the Family Code. Father asserted that in dismissing his claims without that analysis, it granted Mother more relief than what was sought in her motion for summary judgment.

A court may modify a child support order if it has been three years since the judgment and the order differs from guidelines by either 20% or $100. Father did not seek modification on that ground, and he acknowledged at oral argument that three years had not elapsed at the time of his petition. Wife challenged the sole underlying issue to support Father's request. Father did not respond to her motion. The trial court did not abuse its discretion.

Short Time-Period Between MSA and Suit to Modify Combined with the Lack of Credible Evidence to Support A Material and Substantial Change Supported Finding that Father Filed His Modification Suit Frivolously or with the Design to Harass Mother.

28. *Janaka v. Hutagaol*, No. 01-24-00157-CV, 2026 WL 1870824 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (mem. op.) (06-30-2026).

Facts: An agreed final divorce decree, incorporating the parties' MSA, appointed the parties joint managing conservators, with Father having the exclusive right to designate the Children's primary residence and Mother paying child support. About four months after the decree was signed (six months after the MSA), Father filed a modification suit to limit Mother's periods of possession and increase her child-support obligation. Father claimed Mother had filed a false police report and had hidden her true income. After hearing evidence, the court found no material and substantial change in circumstances supported modification, and Father's modification was frivolously filed or with the design to harass Mother. Father was ordered to pay Mother's attorney's fees. Father appealed.

Holding: Affirmed.

Opinion: Father asserted the following constituted a material and substantial change to support modification of possession: Mother's false CPS report in an attempt to alienate the Children from him; Mother's failure to comply with the possession schedule adversely impacting his relationship with the Children; and Mother's interference with the Children's extracurricular activities adversely impacting the Children's wellbeing.

Mother's CPS report stemmed from the Child running away from Father's home after an argument. Mother claimed the report was made in good faith, despite CPS determining there was no evidence of abuse or neglect. Mother testified she contacted CPS to ensure the Child's safety. The CPS report stated that CPS had no meaningful contact with the Children during the investigation due to objections of Father and his attorney. CPS took no side in the dispute other than noting the Children had divorce-related trauma. Thus, the trial court could have reasonably determined Mother contact CPS out of concern and not in an attempt to alienate the Children from Father.

Father complained that Mother's confusion about her possession schedule led to her arriving to pick up the Children at incorrect times, forcing Father to be "the bad guy" by not allowing the Children to leave with Mother. However, when Mother expressed her confusion to Father, rather than assist, he told her to ask her lawyer. By the time of the modification hearing, Mother said she had a better understanding of the schedule. Additionally, although Father complained about Mother's missed visitation, he acknowledged that she had the flu and probably should not have exercised visitation at that time. The trial court could have reasonably concluded that any noncompliance with the possession schedule did not constitute a material and substantial change.

Father asserted that extracurricular activities for the Children were good for the Children and denied scheduling extra activities during Mother's time to deprive her of time with the Children. He complained that Mother failed to consistently take the Children to their extracurricular activities. Mother agreed the activities were important to the Children's wellbeing but also asserted that spending time with her was good for their wellbeing—which Father did not dispute. The court did not abuse its discretion in finding this situation did not amount to a material and substantial change.

In his second issue, Father challenged the trial court's finding that his suit was frivolously filed. If a trial court "finds that a suit for modification is filed frivolously or is designed to harass a party, the court shall state that finding in the order and assess reasonable and necessary attorney's fees, court costs, and expenses against the offending party." In this context, a suit is filed frivolously if it did not have a reasonable basis in law or fact when filed. A design to harass may be inferred from circumstances suggesting a petition was filed for some improper purpose, rather than out of concern for a child's best interest or due to a material and substantial change in circumstances.

Here, Father filed his suit within six months of the parties' agreement. This brief interval alone does not support a finding of frivolousness or design to harass. "At times, there are changes in circumstances that occur quickly and need to be addressed." But, the material-and-substantial-change requirement is designed to prevent constant re-litigation of suits affecting children. So, when litigation is renewed soon after an agreement, and no credible evidence supports a material and substantial change, these circumstances together may raise an inference the suit was filed frivolously or with a design to harass. The appellate court further noted examples of Father's hostility towards Mother in the hearing transcript. The trial court did not abuse its discretion in finding Father's modification was filed frivolously or with the design to harass Mother.

SAPCR: ENFORCEMENT OF CHILD SUPPORT

Father Denied Due Process in Enforcement Proceeding Because the Motion for Contempt Cited the Wrong Order and was Never Served on Father.

29. *In re A.T.*, No. 04-26-00004-CV, 2026 WL 1580548 (Tex. App.—San Antonio 2026, orig. proceeding) (mem. op.) (06-03-2026).

Facts: After the court signed a final decree of divorce, it signed an order on a motion for new trial and then an amended final decree. A few years later, Mother filed a motion to enforce child support and referenced the initial final decree. There was no certificate of service. While citation was issued, Father was never served. No notice of hearing was requested, served, or filed, and there was no order setting a hearing on Mother's enforcement. During a multiday trial, the record contained no reference to missed payments. The court signed an order terminating Father's parental rights, enforcing unpaid child support, and assessing a penalty of commitment for Father. Father was already incarcerated in a federal facility for another matter and was not jailed in county jail pursuant to the contempt order. Father filed a petition for writ of mandamus or, in the alternative, a petition for writ of habeas corpus.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Because Father was not constrained by virtue of the contempt order, a petition for writ of mandamus was the appropriate vehicle to challenge the order. Because the contempt was for conduct outside a courtroom, it was constructive contempt, and because Father was not afforded an opportunity to purge himself of contempt, the order was for criminal contempt. "Texas courts have consistently held that alleged constructive contemnors are entitled to procedural due process protections before they may be held in contempt." The Family Code's provisions regarding enforcement of child support set out what is required in enforcement motions and notices of hearings.

Mother's motion for enforcement referenced an order that had been set aside rather than the current order, and Mother's motion was never served on Father. No notice of hearing was requested, served, or filed. Father was not ordered to personally appear in response to the request for contempt. Personal service on Father at least 10 days before the hearing did not occur. Father was denied procedural due process at each juncture. Therefore, the portions of the order regarding contempt and commitment were void.

Thirty-Six-Day Delay in Signing Contempt Order After Enforcement Hearing Violated Father's Due Process Rights.

30. *In re Welsh*, No. 02-26-00334-CV, 2026 WL 1595295 (Tex. App.—Fort Worth 2026, orig. proceeding) (mem. op.) (06-03-2026).

Facts: Mother filed a suit to enforce child support. After hearing evidence, the court found Father in contempt, ordered him confined for 60 days, and requested additional "testimony" regarding work release. About 5 weeks later, the court signed an "order of confinement and work release." The order required Father to report to jail every weekend for about three months. Father filed a petition for writ of habeas corpus.

Holding: Writ of Habeas Corpus Granted.

Opinion: A contempt order is void if it is beyond the court's power or violates due process. A trial court has no authority to orally order a person confined for contempt and, thereafter, unduly delay signing a contempt judgment and commitment order. The supreme court has previously concluded that the three-day delay violated due process. The supreme court explained that a court may cause a contemnor to be detained by the sheriff or other officer for a short and reasonable time while the judgment of contempt and the order of commitment are being prepared for the judge's signature. But the supreme court held that the three-day delay was not a "short and reasonable time."

Here, after both parties closed, the court asked for additional "testimony" regarding allowing for Father's work release. Thereafter, the court did not sign an order of contempt and commitment until 36 days later, and that delay violated Father's due process rights.

SAPCR:
REMOVAL OF CHILD / TERMINATION OF PARENTAL RIGHTS

★★★ TEXAS SUPREME COURT ★★★

Trial Court's Denial of Mother's Request for More Time to Complete Services, Along with Denial of Mother's Access to the Children for Seven Months Leading Up to Trial, Led to Improper Verdict that Termination was in the Best Interest of the Children.

31. ***In re H.S.***, __ S.W.3d __, No. 24-0307, 2026 WL 1614494 (Tex. 2026) (06-05-2026).

Facts: Mother had been assaulted as a child and began her relationship with Father when she was 16 and he was 24. The oldest Child was born when Mother was 17, and the next Child was born about a year later. The parties had three Children in all. Father was an abusive, aggressive man and sexually touched Mother in front of the Children despite requests for him to stop. Father exhibited bizarre, extreme self-harm behavior. Mother reported Father's behavior to authorities, which led to the involvement of TDFPS. As part of a service plan, Mother was instructed to keep Father away from the Children, but Mother refused. She was adamant that the couple wished to work on their marriage and stay together. When TDFPS and Mother discussed this topic, the Children informed the TDFPS caseworker, "Yes, God wants families to stay together, God wants everyone to be happy, God wants us all to be happy." While the attorney ad litem acknowledged the parents loved their Children, the court suspended visitation twice. After removal, the Children were struggling in foster care. One Child was removed from school for violence, and two of the Children were placed in a mental-health facility.

Mother requested an extension for more time to complete her plan, asserting she had made progress. She had not completed individual counseling and was instead attending counseling jointly with Father via Zoom. The court ordered TDFPS to provide Mother in-person counseling. Mother alleged TDFPS only had Zoom available, preventing her from complying with the court order. The court denied Mother's request, and a jury trial commenced.

TDFPS presented evidence of Mother's inability to protect the Children, while Mother claimed that through services she had become calmer yet more assertive. The jury found both parents endangered the Children and failed to comply with court orders and that termination was in the Children's best interest. TDFPS was appointed as the Children's managing conservator. The appellate court affirmed the verdict, and both parents sought review from the Texas Supreme Court.

Holding: Reversed and Rendered as to Mother; Affirmed as to Father.

Majority Opinion: (J. Young, C.J. Blacklock, J. Busby, J. Sullivan, J. Hawkins)

By the time of trial, Mother had not seen the Children in seven months, so she could not establish that her progress in her service plan had "borne fruit." The Children were faring poorly in their current placements, making termination not as urgent as it might have been if there had been adoptive parents wishing to proceed with an adoption.

Terminations have strict deadlines; however, a trial court may grant a limited extension if extraordinary circumstances necessitate the child remaining in temporary managing conservatorship of TDFPS and that arrangement is in the best interest of the child. The court must find extraordinary circumstances if the parent has made a good-faith effort to complete services but needs additional time and if the court intends to return the child to the parent on completion of the services. Here, because there was no evidence the trial court intended to return the Child to Mother, the trial court was not required to grant an extension. However, the Supreme Court also noted the constitutional nature of parental-rights termination cases.

Mother initially struggled with the service plan because it challenged her closely held beliefs. However, she had been engaging in services for 23 weeks and believed she was improving. Not all the delays were attributable to Mother. TDFPS had not made in-person counseling available to Mother, despite the court order. She was on a waiting list for in-person counseling. Further, it would have been hard for Mother to demonstrate new skills when she had not been allowed to see the Children for months.

The court should have given Mother additional time, and this error snowballed into the error of finding termination was in the best interest of the Children. There were no allegations Mother directly harmed the Children or failed to care for them. Father's actions were not directed at the Children but at Mother and himself. Mother did not deserve to be blamed and punished for Father's bad actions. Although Mother initially resisted TDFPS's view of Father's actions and the need to protect the Children, but the time of trial, Mother understood that Father's actions posed risks to the Children. At trial, TDFPS pointed to the fact Mother and Father were still a couple. However, as TDPFS acknowledged, legal precedent forecloses forcing a parent to choose between divorcing a spouse or losing her children. Thus, TDFPS never clearly articulated to Mother what she was required to do to maintain the legal parent-child relationship. Further, the court strongly emphasized the Children's struggles with foster care placement.

Because the evidence was insufficient to support a finding that termination was in the Children's best interest, the court rendered in Mother's favor against termination. However, that ruling did not require TDFPS to immediately return the Children to Mother.

With respect to Father, however, the evidence supported termination of his parental rights, and that judgment was affirmed.

Dissenting Opinion: (J. Lehrmann, J. Bland, J. Huddle)

Father repeatedly abused Mother and violently threatened his own life, including an incident of speeding a car towards the parties' home while the Children were inside, stopping just short of crashing into the home; "bash[ing]" his head into a countertop; grabbing a gun and threatening to shoot himself, threatening to shoot himself with a nail gun, and actually attempting to hang himself in the front yard. After TDFPS became involved, Mother was informed not to allow Father to be unsupervised around the Children; however, Mother violated this instruction, leading to the Children's removal. Mother refused to take some drug tests and other tests returned positive results for methamphetamine, amphetamines, and opiates. Mother made derogatory comments to TDFPS in front of one of the Children and blamed TDFPS (in front of the Child) for not allowing the Child to return home.

A jury found TDFPS presented clear and convincing evidence that (1) Mother and Father had engaged in conduct satisfying findings termination was supported on endangerment grounds and based on the parents' failure to comply with court orders, and (2) termination was in the best interest of the Children. The trial court accepted that verdict, and the court of appeals affirmed the judgment.

The majority was correct in noting TDFPS's clear and convincing burden and the constitutional magnitude of the rights at stake. However, the appellate courts are required to extend deference to the factfinder—in this case, the jury.

No one disputed Father's conduct created a dangerous environment for the Children. "The harder question is the degree of responsibility Mother [bore] for allowing her children to remain around Father in that dangerous environment." Mother, as a victim of domestic violence, was not required to act perfectly in terrible circumstances. Still, Mother had an obligation to protect her Children. This was not a case in which the victim of domestic violence attempted to leave continuously and was prevented from doing so. Instead, Mother affirmatively refused to protect the Children from Father even after he admitted to his harmful acts. Mother continued using drugs while the case was pending, impeding her ability to protect the Children. A reasonable juror could have determined that Mother's drug use impaired her ability to protect the Children and thereby endangered them.

"In the end, I disagree with the Court's view of the evidence, not the law." "The jury could have chosen to credit Mother's testimony that she would protect her children. Instead, the jury credited Mother's past conduct and her testimony that she did not intend to keep the children's abusive father away. Properly deferring to the jury's role as factfinder requires us to allow them that choice because it is the jury who is tasked with hearing the evidence and evaluating its credibility. A reasonable juror could have formed a firm conviction that it was in the children's best interests to no longer have a legal relationship with Mother." (citations omitted). The best interest of the Children would have been served by affirming the jury's verdict.

TEXAS SUPREME COURT

The Code of Criminal Procedure Did Not Prohibit Indigent Mother from Choosing Public Defender to Represent Her in Termination Suit, Rather than Counsel Appointed by Trial Court.

32. ***In re S.H.***, __ S.W.3d __, No. 26-0030, 2026 WL 1614377 (Tex. 2026) (orig. proceeding) (06-05-2026).

Facts: Mother was an indigent party facing both criminal prosecutions and a proceeding to terminate her parental rights. The public defender's office had been representing her in the criminal case, and the trial court appointed counsel to represent her in the termination suit. The public defender's office agreed to represent Mother in the termination suit and filed a motion to substitute as counsel. The trial court denied substitution because the court did not believe the office was authorized to provide Mother representation in the termination suit. Mother sought mandamus relief, which the appellate court summarily denied. Mother sought relief from the Texas Supreme Court.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Unlike ordinary civil appeals, parents facing termination of their parental rights are entitled to counsel. A criminal defendant may be entitled to counsel but may otherwise retain any qualified attorney. Here, Mother's chosen counsel happened to be a public defender. The Texas Code of Criminal Procedure authorizes counties to have public defender's offices and provides guidelines for their operations. The guidelines include a prohibition against engaging in the private practice of criminal law, accepting anything for value for services beyond what is statutorily authorized, and accepting an appointment when the office has insufficient resources to provide adequate representation. The Code is silent about providing parallel services like the situation here. The county here opted to expand its services to include family law advocacy.

The trial court was required to appoint counsel in the termination suit upon finding Mother indigent. The court viewed the public defender's substitution request as a usurpation of that function. That conclusion was erroneous. The public defender was not purporting to be Mother's court-appointed counsel but Mother's chosen counsel, who just happened to be offering services at no cost to Mother. This situation was no different from when an indigent parent is represented by a nonprofit organization. If a parent's wealthy relative learned of the suit and chose to hire counsel to represent the indigent parent, the statutes here would not prevent that representation.

☆☆☆ **TEXAS SUPREME COURT** ☆☆☆

UCCJEA's Temporary Emergency Jurisdiction was Not Question of "Subject-Matter Jurisdiction" and was Waived by the Parents' Failure to Raise the Complaint at Trial; Jury Verdict Finding Termination was Supported on Endangerment Grounds Reversed Because No Reasonable Person Could Find Father Endangered His Biological Children.

33. ***In re K.N.***, __ S.W.3d __, No. 24-0881, 2026 WL 1614378 (Tex. 2026) (06-05-2026).

Facts: Mother and Father shared three Children, but Mother had one older Child by a different father. However, Father had been in that oldest Child's life since before she turned one and had always "taken her as [his] daughter." The oldest Child's biological father was not involved in the Child's life or this appeal.

The school nurse contacted TDFPS after seeing bruises on the oldest (9 years old) Child and being told that Mother had beaten the Child with a belt. A year later, TDFPS was contacted again based on further injuries and a report that Mother did not let the oldest Child eat like the other Children. TDFPS continued to receive reports but was not able to get in contact with the family. The oldest Child reported Father forced her to kneel on rice for 10 minutes at a time. After failed attempts at having the parents participate in services, TDFPS initiated a termination suit. After a 5-day jury trial involving 15 witnesses, the jury found termination was supported as to both parents on endangerment and abandonment grounds and that termination of Father's rights were in all the Children's best interest but that termination of Mother's parental rights was only in the best interest of the oldest Child, not the other three. Although Mother's rights were not terminated as to the three younger Children, the court appointed TDFPS as their managing conservator and appointed Mother as a possessory conservator.

Both parents appealed. The appellate court affirmed the judgment on endangerment grounds but did not address the other predicate grounds. Both parents petitioned the Texas Supreme Court for review. Neither challenged the best interest findings but did challenge the evidence to support the predicate grounds.

Holding: Affirmed in Part; Remanded to the Court of Appeals in Part.

Majority Opinion: (J. Hawkins, C.J. Blacklock, J. Devine, J. Busby, J. Young, J. Sullivan) (*in part:* J. Lehrman, J. Bland, J. Huddle)

The parents challenged for the first time in the Texas Supreme Court whether the trial court had jurisdiction under Section 152.204 (providing for temporary emergency jurisdiction under the UCCJEA). Thus, the court first addressed whether that statute implicated subject-matter jurisdiction.

Simply using the word "jurisdiction" in a statute does not necessarily invoke subject-matter jurisdiction. The UCCJEA was designed to prioritize a child's home state of competing jurisdictional claims. The statute does not constrain a court's authority to adjudicate a type of controversy but addresses where the suit should be litigated. The UCCJEA permits the parties to agree as to which state can assume jurisdiction. But subject-matter jurisdiction cannot be conferred by consent or waiver. The UCCJEA allows states to decline to exercise jurisdiction. A final order rendered by a court lacking continuing, exclusive jurisdiction is not void but voidable. Accordingly, the parents waived their UCCJEA complaint by failing to raise it in the trial court.

The jury found four grounds to support termination, but the appellate court affirmed only the endangerment grounds. The Supreme Court, thus, limited its review to endangerment grounds. The court noted that the new constitutional amendment regarding parent's rights was enacted while this appeal was pending. The parties were permitted to submit supplemental briefing to address this change.

After reviewing the evidence heard by the jury, the court affirmed the jury's finding of endangerment grounds to support termination of Mother's parental rights as to the oldest Child. Although the Family Code allows a parent to use corporal punishment, the record supported a determination that the jury's verdict did not improperly disapprove of lawful traditional discipline. Additionally, the evidence supported a finding that Mother should not have been appointed as a managing conservator of the younger three Children.

However, the evidence did not support the jury's determination that termination of Father's parental rights was supported on endangerment grounds. "On this record, we do not agree that Father's alleged non-intervention in Mother's abuse of *her* [oldest] child supports the termination of Father's parental rights as to his *own* children." Father was never named in any reports involving the oldest Child. Father would "take up" for the oldest Child and attempt to mitigate Mother's methods. He occasionally rebuked Mother for going too far. Father did force the oldest Child to kneel on rice, but this did not exceed the bounds of reasonable discipline.

Although there was evidence about Father's criminal conduct, it was insufficient to establish a course of conduct to support termination. Although there was evidence of Father's drug use, drug use alone was insufficient to support termination. There was no evidence Father used drugs while with the Children. There was no evidence Father's drug use harmed the Children. Finally, Father's failure to make significant efforts at reunification could not constitute endangerment. If that evidence could support termination on ground O (failure to follow court orders), that would need to be addressed by the appellate court on remand.

Because termination of Father's parental rights was not supported by the evidence, the lower courts were instructed to reassess the issue of Mother's appointment as possessory conservator.

Concurring Opinion: (C.J. Blacklock)

Mother claimed that her treatment of the oldest Child was necessary to discipline a misbehaving child, and Mother did not intend to abuse or harm the Child. Although a parent should have the right to discipline their Child as she sees fit, the termination of Mother's parental rights should be affirmed.

"It is not enough—not nearly enough—for a judge or jury to conclude, based on their personal opinions about disciplining children, that a parent's methods were excessive. The evolving sensibilities of modern judges and juries about appropriate disciplinary methods must not be permitted to encroach on the fundamental right of Texas parents to discipline their children as they see fit. This fundamental right is not evolving. It was fixed in place in the nineteenth century under societal norms highly deferential to parental authority, and it was recently reaffirmed by a constitutional amendment designed to 'enshrine truths that are deeply rooted in this nation's history and traditions.'"

Although verdicts should be upheld if any reasonable juror could have reached that verdict, reasonable people in today's world have "wildly divergent" opinions on the difference between corporal punishment and abuse. "A better rule" would be that courts must defer to a parent's right to discipline unless no reasonable observer could think that parent's actions fall within the bounds of legitimate discipline.

Dissenting Opinion: (J. Bland, J. Lerhmann, J. Huddle)

Father was present during Mother's abuse of the oldest Child and sometimes took part in Mother's extreme disciplinary methods. Father interfered with TDFPS's attempts to investigate the situation. Witnesses testified about Father's complicity in Mother's abuse. During termination proceedings Mother and Father refused to comply with court orders and fled the state. They did not care for the Children's medical needs. Father refused to participate in his service plan on the theory that his acts in participating would be used against him in the termination suit.

Father led Louisiana police on a 12–15-mile chase at speeds over 130 mph, and after Father wrecked his motorcycle, the police found 4 grams of methamphetamine on Father. Father never provided a negative drug test result during the termination proceedings. He did not see his Children for over a year. Father did not challenge the jury's finding that termination was in the Children's best interest, and the court of appeals affirmed the termination on endangerment grounds.

The majority disregarded evidence of Father's contribution to Mother's abuse and failed to recognize a collective pattern of endangerment the jury reasonably could have credited. The jury received an instruction about the difference between reasonable corporal punishment and abuse, and the jury determined Father's actions were abuse. Evidence of an adult permitting abuse of one child is relevant in determining whether that adult endangered other children in the household. Additionally, setting aside the abuse of the oldest Child, evidence showed Father neglected the other Children.

The majority's declaration that precedent casts doubt on whether post-removal conduct could inform an endangerment determination gravely distorted that precedent. Rather, prior cases have cited evidence of post-removal conduct to support endangerment findings. TDFPS is required to pursue reunification attempts unless "a continuing danger" exists. Thus, it is proper and at times imperative to consider post-removal conduct.

The jury was the sole judge of the credibility of the witnesses and weight to give their testimony. "Unlike [this] Court, the jury was persuaded [that termination was supported by the evidence.]" Further, even taking the majority's view regarding endangerment as correct, the jury heard legally sufficient evidence to support termination on the ground of constructive abandonment.

"As the [majority] observe[d], 'The jury heard live testimony from fifteen witnesses … and spent nearly eight hours deliberating.' We should defer to the jury's credibility determinations because legally sufficient evidence supports its findings as to Father. Failing that, we should examine and decide the merit of the independent bases supporting the trial court's judgment."

TEXAS SUPREME COURT

Recording of Judge Stating Intent to Extend Automatic Dismissal Deadline Accompanied with Setting of Trial Shortly After Dismissal Deadline was Insufficient to Constitute Rendition; in the Absence of a Court Reporter, a Rendition Must be Reduced to Writing to be Effective.

34. ***In re C.S.***, __ S.W.3d __, No. 25-0008, 2026 WL 1903109 (Tex. 2026) (06-09-2026).

Facts: [These facts are found in the dissenting opinion.] In the presence of the Children, Mother got into a physical altercation with her boyfriend's ex-girlfriend. Mother pointed a gun at the ex-girlfriend and threatened to shoot her. TDFPS became involved. Mother's nail drug tests were negative, but hair follicle tests returned a positive result for trace amounts of marijuana. The Children were removed and placed with their paternal grandmother.

A scheduling order in the termination suit provided that all hearings, except jury trials, would be in front of the associate judge. At a pretrial hearing before the bench trial, the parties agreed to an extension of the trial setting to give Mother more time to complete services and additional drug tests and to accommodate Mother's attorney's vacation plans. Due to a shortage of court reporters, the pretrial hearing was electronically recorded and later transcribed. Mother's counsel had not attended because of a dental appointment. The court asked TDFPS to call Mother's attorney to confirm the amount of time needed for trial, which

TDFPS did. Based on the time needed and the impending dismissal date, the court stated it would grant an extension a set a date about a month after the initial dismissal deadline.

The trial court's and court coordinator's handwritten notes reflected the extension and new trial date, but the extension was not noted on the docket sheet. TDFPS did not submit a written extension order, and the court did not sign one before the initial dismissal date.

A week before trial, Mother filed a motion to dismiss on the ground of the automatic dismissal date having passed. At the hearing on that motion, the court discussed the difficulties of finding reporters in rural West Texas and the accompanying struggle with setting things to comply with dismissal deadlines. The court denied Mother's motion and retained the final trial on the court's docket.

After trial, the court found termination was supported on endangerment grounds and that termination would be in the Children's best interest. After it signed an order, Mother appealed.

Holding: Vacated and Dismissed for Lack of Jurisdiction.

Majority Opinion: (J. Young, J. Blacklock, J. Devine, J. Sullivan, J. Hawkins)

The trial court correctly identified the automatic dismissal date. At the pretrial hearing before that date, no reporter was present, so the hearing was recorded and later partially transcribed, resulting in a transcription riddled with omissions due to instances of inaudible or unintelligible statements, an unidentified speaker, and a recording failure. Mother's counsel did not appear. The TDFPS representative left the room to speak to Mother's counsel on the phone. After that, the parties deemed a half day would be needed for trial. The court stated it did not have a half day on the calendar before the dismissal date, "so I thinking I have to grant an extension and we can pick a date … [next month]." After the TDFPS representative conferred again with Mother's counsel by phone, the court stated, "I am grant—I am *going to have to grant* an extension." (emphasis added by Supreme Court). The trial court instructed the TDFPS representative to provide a written order before the dismissal date. TDFPS failed to timely provide a written order. Once that date passed without an order extending the dismissal deadline, the trial court lost jurisdiction.

At the hearing on Mother's motion to dismiss, Mother's attorney noted that her dental procedure left her "under the influence of quite a few medications," and she was not aware an extension was being considered that day. The ad litem did not remember an extension being granted and advised the Children would go back with Mother. The ad litem was comfortable with the outcome based on strides Mother had made since the beginning of the case.

Regardless, even if the court had a reason for extending the dismissal date, it did not timely do so, and the court lost jurisdiction. No order was granted in writing or orally in the presence of a court reporter before the initial dismissal date. The judge's statements at the pretrial hearing did not constitute a present rendition, and no pronouncement was made on the docket sheet. If no court reporter is available, trial courts must reduce any intended renditions to writing. Even if a reporter is available, a written order is preferable. Here, the court planned to sign a written order before the dismissal date, but that did not happen.

Dissenting Opinion: (J. Lehrmann, J. Bland, J. Huddle) (J. Busby in part)

While the Family Code imposes a one-year deadline to commence trial in a termination suit, the dismissal date is not absolute and can be extended for a limited period in extraordinary circumstances. The Texas Supreme Court had previously held that the only jurisdictional requirement in the extension statute is that an order must be granted before the initial dismissal date passes. The requisite extraordinary circumstances and best interest findings are mandatory but not jurisdictional. The court has also held that the statute does not require a formal written order to grant an extension, so long as the extension is rendered timely.

Here, the trial court complied with this precedent. It granted an extension before the deadline in order to accommodate the time needed for trial and to handle the shortage of reporters. The court's notes from the hearing reflect the extension and new trial date. The majority held this was not a rendition but only an intent to render. Although the majority complains that part of the recording of this hearing was "inaudible or unintelligible," this relevant portion was perfectly clear.

The Fort Worth Court of Appeals recently held that the word "will" standing alone does not prohibit a present intent to render if other facts support rendition. Moreover, it would make no sense for the court to set the trial date for a month after the initial dismissal date before granting an extension.

While district judges will typically have an official reporter, that is not necessarily the case for associate judges. Under the Family Code, a reporter is only required in an associate judge's court when presiding over a jury trial or contested final termination hearing. In the absence of a reporter, "the record may be preserved by any means approved by an associate judge." Here, the judge preserved the record with electronic recordings, which the Family Code authorized the judge to do.

Mother argued, and the majority agreed, that the trial court could not orally render an extension without a court reporter. But this is directly contrary to existing precedent. The associate judge timely granted an extension on the record, and the majority erroneously required more. [This is the portion of the dissent with which J. Busby joined.]

The majority did not address Mother's additional complaints that the court lost jurisdiction by failing to make the requisite extraordinary circumstances and best interest findings. As discussed above, these findings are mandatory and not jurisdictional. The trial court erred by failing to make these findings when it extended the dismissal date. However, that error was cured with the subsequent written order containing those findings.

Mother also challenged the legal sufficiency of the evidence to support the finding that termination was in the Children's best interest. Based on a review of the record, the evidence was legally sufficient to support that finding.

Mother's Drug Use, Filthy Home, and Lack of Supplies to Care for Child Supported Termination.

35. ***In re I.G.***, __ S.W.3d __, No. 07-26-00094-CV, 2026 WL 1739518 (Tex. App.—Amarillo 2026, no pet. h.) (06-16-2026).

Facts: TDFPS received a report of child neglect, and upon investigation, the reports were founded. TDFPS initiated a termination suit. Mother could not complete services due to incarceration, and the Child was thriving in foster care. After a trial, Mother's parental rights were terminated on endangerment and drug-related grounds. Mother appealed.

Holding: Affirmed.

Opinion: Mother challenged the sufficiency of the evidence to support all grounds of termination. If the evidence was sufficient to support one ground, the judgment would be upheld. Because rights to a future child could be terminated based on a prior endangerment-based termination, the appellate court reviewed the evidence to support the endangerment grounds.

Mother asserted that because the Child was already placed with paternal grandparents at the time of removal, the conditions of her home should not have factored into whether termination was warranted. Additionally, because she did not have care, control, and possession of the Child at the time of removal, her conduct could not have endangered the Child. "[T]he Texas Supreme Court explained that '[r]emoval is effectuated by a temporary court order that transfers not just the right to physical possession from a parent to [the Department] but an entire bundle of conservatorship rights from one or both parents' to the Department." When the Child was removed, the Child was dirty, smelled like cigarettes, and had unmet medical needs. There were no baby items in Mother's home. Mother was abusing methamphetamine. Contrary to Mother's assertion, evidence showed she and Father lived with the Child in the "offending residence" before TDFPS became involved. Three of the Child's siblings had been placed with paternal and maternal grandparents. After reviewing the entire record, the evidence supported a finding that Mother had endangered the Child or knowingly placed the Child in circumstances that endangered the Child. Additionally, the evidence supported a finding that termination was in the Child's best interest.

TEXAS SUPREME COURT

Appellate Court Required to Consider Mother's Claim of Ineffective Assistance of Counsel Before Dismissing Termination Appeal Based on Late Notice of Appeal.

36. ***In re J.D.H.***, __ S.W.3d __, No. 25-0588, 2026 WL 1765369 (Tex. 2026) (per curiam) (06-19-2026).

Facts: The trial court terminated Mother's parental rights. About a month later, Mother filed a motion for new trial, and more than two months after that, she filed a notice of appeal. Mother was notified that her notice of appeal had been due a week before her motion for new trial was filed and was, thus, untimely. In response to this notice, Mother moved to abate the appeal to determine whether she had been afforded ineffective assistance of counsel. Her trial counsel incorrectly believed that filing a motion for new trial would extend appellate deadlines. TDFPS took no position on this request. The appellate court denied Mother's requested relief and dismissed the appeal. Mother sought review from the Texas Supreme Court.

Holding: Reversed and Remanded to Appellate Court.

Majority Opinion: (Per Curiam)

Given the constitutional nature of a suit to terminate parental rights, and the right of parents in these cases to representation by counsel, the appellate court should have reviewed whether Mother had been afforded adequate assistance of counsel. This did not mean the appellate court was required to accept Mother's notice of appeal as timely—only to address whether the failure to file timely was due to inadequate assistance of counsel. The failure to file a timely notice of appeal does not, in and of itself, establish ineffective assistance of counsel. Additionally, while parents have a constitutional right to parent their children, the protection of the Child remained paramount. The majority compared this case to criminal cases in which a defendant was permitted to pursue an ineffective-assistance-of-counsel claim before seeking an otherwise out-of-time appeal.

Section 161.211 was not at issue because Mother challenged the judgment within six months of its signing. However, that statute places a hard deadline on appeals.

If Mother was afforded ineffective assistance of counsel, she could pursue an out-of-time appeal.

Dissenting Opinion: (J. Sullivan, J. Young, J. Hawkins)

Genuine sympathy for Mother cannot confer appellate jurisdiction where it does not exist. Here, Mother's parental rights were terminated based on endangerment grounds and failure to follow court orders. Mother received new counsel, who, eight days after the deadline to file a notice of appeal, filed a motion for new trial asserting ineffective assistance of counsel. The trial court did not rule on that motion.

Several weeks later, Mother received yet another lawyer, who filed the notice of appeal. A fourth lawyer appeared in the appellate court, asserting Mother's appeal should not be dismissed based on an ineffective-assistance-of-counsel claim. The appellate court explained that an untimely notice of appeal does not invoke jurisdiction, period. Mother's notice of appeal was late under the Family Code and the Rules of Appellate Procedure. The criminal case with which the majority compared this case was procedurally different and could not have aided Mother in creating jurisdiction.

TEXAS SUPREME COURT

Evidence was Legally Insufficient to Support Termination Based on Mother's Failure to Comply with Service Plan.

37. ***In re J.Z.A.***, __ S.W.3d __, No. 25-0787, 2026 WL 1838580 (Tex. 2026) (per curiam) (06-26-2026).

Facts: Mother's parental rights were terminated based on her failure to comply with court orders "a ground that has raised '[the Supreme Court's] judicial antennae' for potential misuse."

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

Opinion: Mother appealed the termination of her parental rights but did not challenge the appointment of TDFPS as the Child's managing conservator.

The service plan set forth TDFPS's concern that Mother might have had unaddressed mental-health needs and stated the goal that she would address those "needs to assure she is able to provide care for [her child] with a stable mental health." The plan then listed ten required actions pertaining to housing, parenting classes, visitation, drug testing, substance-abuse assessments, individual therapy, mental-health assessments, and caseworker meetings. By and large, Mother fulfilled most obligations. But, the parties disputed whether she complied with the mental-health and visitation provisions.

Four months after the court adopted the service plan as an order, Mother was diagnosed with bipolar disorder, but she refused to take her prescribed medication and failed to complete an assessment as required by the order. Regardless, Mother consistently attended the scheduled supervised visits with the Child. Mother sometimes ended the visits early and occasionally raised inappropriate topics or engaged in improper conduct.

The trial court erroneously found that Mother's refusal to take prescribed medications constituted a failure to comply with the service plan. At the time the service plan was adopted as an order, Mother had not been prescribed the medications. Therefore, Mother's choice not to take the medication could not support termination under the failure-to-comply-with-orders' ground. A placeholder phrase like "follow through with all recommendations" does not satisfy the trial court's obligation to review the reasonableness of actions subsequently determined as necessary by a third party. The service plan could have been amended after the medications were prescribed, but it was not. Next, the court deemed Mother's mental-health assessment deficient because Mother did not go to the service provider the court expected her to. However, that service provider was not named in the service plan, and the trial court erred in finding Mother's actions were noncompliant. Finally, the service plan did not explicitly require Mother to remain at visitations for the full two hours, and the trial court erred in finding Mother did not exercise her visitation. To the extent that the court based Mother's inappropriate topics or conduct during visitation as an example of a failure to utilize skills learned in parenting classes, the service plan did not identify any specific skills or knowledge Mother was directed to acquire or learn. There was no evidence of any specific skill Mother failed to utilize.

FAMILY VIOLENCE / PROTECTIVE ORDERS

Police Reports Admissible Under Public Records Exception, Even If Witness Statements in the Reports were Inadmissible Hearsay.

38. *Shaw v. Shaw*, No. 02-25-00376-CV, 2026 WL 1614603 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (06-04-2026).

Facts: Husband and Wife had been married for almost five years before Husband filed for divorce. Wife asserted she had not been served yet, and this was not the first time Husband had filed for divorce. Wife described Husband as being mentally, physically, and emotionally abusive throughout the marriage. Based on fears of what he could do to her or her family, Wife filed an application for a protective order through the district attorney's office. The trial court signed an ex parte order and set the application for hearing.

Wife offered substantial evidence to support the allegations, and Husband denied all the allegations. He accused Wife of financial fraud and argued she was using the application to gain an advantage in the divorce. The trial court granted a Family Code family violence protective order. Upon Husband's request for findings, one of the findings explicitly stated Wife's testimony was credible, and Husband's was not. Husband appealed.

Holding: Affirmed

Opinion: Husband challenged the sufficiency of the evidence to support the order. He argued that in a video offered by Wife in which she purportedly asked him to get rid of a gun, no gun was seen in the video. That fact did not undermine the court's findings. Husband also argued Wife's testimony was not corroborated, but no corroboration was necessary. And, Husband overlooked photographic evidence of Wife's injuries. Husband pointed to a police report reflecting Wife's inability to recall specific details about him choking her, but that had no bearing on the evidence sufficiency analysis. Husband argued that Wife's choice to continue living with him undermined her claims, but that behavior was not necessarily inconsistent with Wife being a victim of family violence.

Husband additionally challenged the admission of two police reports over his hearsay objections. He asserted the public-records exception did not extend to the reports. Although the public-records exception "excludes investigative reports when offered against the defendant in a criminal case," police reports "are commonly admitted in civil cases." Thus, while any witness statements contained within a police report would constitute inadmissible hearsay, the report itself—and the police officer's factual findings contained within the report—may be properly admitted under the public-records exception if a proper foundation is laid. Further, even if the reports contained certain statements constituting inadmissible hearsay, because the case was tried to a bench rather than a jury, the appellate court presumed the judge properly disregarded those inadmissible statements. Accordingly, an error was harmless.

Evidence of Parties' Relationship Before, During, and After Divorce was Relevant to Determining Whether Father's Allegations of Mother's Violence Against Him Supported Granting a Protective Order.

39. *Saulter v. Saulter*, No. 03-25-00373-CV, 2026 WL 1674099 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (06-10-2026).

Facts: Father filed an application for a family-violence protective order to protect him from Mother. Father testified about incidents leading up to the parties' divorce, during the proceedings, and after the divorce was finalized. Twice, Father had fallen asleep with his phone after drinking too much, and Mother retrieved the phone to discover unwelcome messages. The first time, she learned of an affair, and the second time, she learned Father had decided to initiate divorce proceedings despite attempts at reconciliation and counseling. In both instances, Father denied the truth of what Mother discovered. Father asserted Mother assaulted him in both instances and, after he moved out, screamed at him in public, called him names, insulted him in front of the Children, implied he had sexually transmitted diseases, called him trash, and said he was living "a polyamorous lifestyle." During the affair-discovery incident, Father asserted Mother approached him with a knife and threated to slit his throat and cut off his balls. While Father stated he was not fearful of her following through on those threats, he was afraid she would throw the knife at him. According to Father, Mother eventually set down the knife and went to sleep in the Children's room. Mother denied the accusations but did admit to pushing Father away and telling him to leave her alone.

After hearing the evidence, the trial court expressed sympathy for Mother and stated she would have needed "inordinate discipline" not to "respond[]—I'll use the term—forcefully" given Father's behavior. However, while perhaps "well justified, it still [did not] provide a legal excuse." The court signed a protective order.

Mother moved for a new trial asserting, in part, that she had new evidence (an affidavit from Father's father) contradicting Father's testimony that she had threatened him with a knife after learning of the affair. The motion for new trial was overruled by operation of law, and Mother appealed.

Holding: Affirmed.

Opinion: Mother asserted the trial court erred in admitting evidence of her harassing behavior because Father asked for a Family Code protective order rather than one under the Code of Criminal Procedure. She asserted the evidence was not relevant and inadmissible. However, evidence of how the parties interacted before, during, and after the divorce would give context to the relationship and could assist the court in determining whether Mother assaulted Father as he claimed she did. The fact that Father's request for a protective order was based on family violence rather than harassing behavior did not render evidence of conduct by Wife that was short of physical contact irrelevant to whether Father's allegations of physical contact were true. Moreover, Mother did not establish that the inclusion of evidence regarding harassment probably caused the rendition of an improper judgment.

Mother also complained of the failure to grant her a new trial. Although Father testified that he told certain family members that she threatened him with a knife, he did not testify that he told his father about that incident. Thus, contrary to Mother's assertion, the affidavit from Father's father did not contradict Father's testimony. Regardless, there was other evidence supporting the rendition of a family-violence protective order.

MISCELLANEOUS

Court Could Not Find Appellant was Able to Afford Court Costs Notwithstanding Statement of Indigency Without First Conducting an Evidentiary Hearing Pursuant to the Rules.

40. *Noname v. Denbrock*, No. 03-26-00216-CV, 2026 WL 1637708 (Tex. App.—Austin 2026, no pet. h.) (mem. op.) (06-05-2026).

Facts: Appellant filed a statement of inability to pay costs. The trial court sua sponte set a hearing and required Appellant to appear to produce evidence to support her claim. Although the court gave Appellant sufficient notice, she informed the court she would not appear. The court cancelled the hearing and entered an order stating Appellant could pay costs. Appellant appealed that order.

Holding: Abated and Remanded.

Opinion: While the trial court could have proceeded with the hearing without Appellant and then found Appellant failed to meet her burden, the trial court could not have concluded Appellant was able to afford costs without conducting a hearing.

Wife Failed to Establish that Paramore's Suit Against Wife for Public Disclosure of Intimate Photos was Governed by the TCPA or was in Response to Wife's Right To Speech Or Petition.

41. ***Flatt v. Tornow***, __ S.W.3d __, No. 01-24-00901-CV, 2026 WL 1752352 (Tex. App.—Houston [1st Dist.] 2026, no pet. h.) (06-18-2026).

Facts: Paramore sent intimate photos of herself to Husband. During Husband and Wife's divorce, Wife secured a deposition of Paramore. Shortly before the scheduled deposition, Paramore sued Wife for alleged public disclosure of private facts, intrusion on seclusion, and unlawful disclosure of intimate visual material. Paramore alleged Wife violated Paramore's privacy by sharing the intimate photos with several persons. Wife filed a motion to dismiss under the TCPA (Texas Citizens Participation Act). The motion was denied by operation of law, and Wife appealed.

Holding: Affirmed.

Opinion: A legal action is subject to dismissal under the TCPA if it is based on or is in response to the right to petition or the right of free speech. Wife argued the trial court should have found Paramore's suit implicated the TCPA and granted Wife's motion to dismiss.

Wife asserted the TCPA applied to Parmore's entire suit because each claim was based on Wife's right to petition, right of free speech, or both. Wife argued that Paramore's suit was "in response to" Wife's divorce proceeding, and Wife had a right to speak freely about her marriage, including the affair that led to the marriage's dissolution. In the trial court (Paramore did not file a brief in the appellate court), Paramore argued that the disclosure of the photos to third parties was not connected to the divorce.

Wife emphasized the timing of Paramore's suit being filed shortly before the scheduled deposition and the rather significant delay (over a year) between the alleged disclosures and the initiation of the suit. However, similar arguments attempting to use this type of timeline to show what a suit is "in response to" as used in the TCPA have been rejected by Texas appellate courts.

While Paramore's pleading included a screenshot of a text message, it did not indicate to whom the message was sent, and the body of Paramore's pleading did not describe the content of any communication. To establish the TCPA applied to Paramore's suit, Wife bore the burden of describing the communication on which she claimed Paramore's legal action was based. Without a pleading or evidence describing the communication's content, the appellate court could not determine whether the communication was "made in connection with a public concern."

Wife asserted that any disclosure was a matter of public concern because attacks on the institution of marriage are of public concern. The Texas Supreme Court has cautioned against constructing the TCPA to include "matters of purely private concern," such as the allegations of adultery between two private persons (as opposed to public figures) here. Further, to the extent that Wife attempted to argue that her local church would be concerned about the affair, Wife's argument was unavailing. Regardless, Wife did not meet her burden to show that the disclosure was a matter of interest to her local church. Likewise, the court rejected Wife's argument that her social media message warning the community about Paramore was a matter of public concern.