

## **Policies and Procedures for the 245<sup>th</sup> Family District Court**

### **1. Docket**

#### **1.1. Docket Structure:**

	<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
<b>a.m.</b>	Preferential	Preferential	Submission docket  CPS adversary and permanency hearings (general docket call at 8:30 a.m.)	Cooper: Temporary Restraining Orders  DRO Enforcements  Longino: Preferential	Preferential  Submission DWOP and Dismissal Docket – 1 <sup>st</sup> & 3 <sup>rd</sup> of month
<b>p.m.</b>	Preferential	Preferential	Preferential	Preferential	Pretrials – 2 <sup>nd</sup> & 4 <sup>th</sup> of month  Preferential

- 1.2. **Online Docketing** - The Court uses online scheduling for the docketing of all settings. The scheduling system can be reached through the Court's [Justex website](https://245thdistrictcourt.as.me) or directly at <https://245thdistrictcourt.as.me>.

1.2.1. **THE SCHEDULING PARTY IS RESPONSIBLE FOR NOTICING OTHER PARTY/PARTIES.**

1.2.2. Cancel setting online if hearing no longer needed and notice other parties.

1.2.3. Department of Family and Protective Services (CPS) – odd cause number for case (or number for lowest cause number if companion cases) to be scheduled to Judge Cooper, even to be scheduled to Judge Longino.

- 1.3. **General Dockets** – Docket call for Domestic Relations Office enforcement and Temporary Restraining Order settings will take place at 8:30 a.m. on Thursdays, pretrials shall occur 2<sup>nd</sup> and 4<sup>th</sup> Fridays at 1:30 p.m, and Department of Family and Protective Services non-trial matters shall be heard Wednesday mornings beginning at 8:30 a.m.

#### **1.4. Electronic Appearances and Hearings**

1.4.1. Available by agreement using [Zoom](#) video conferencing.

1.4.2. Local rules and family code requirements for filings and pre-exchange of materials/exhibits still apply.

1.4.3. Parties responsible for the logistics of their remote appearance, technical difficulties that are not timely resolved may result in a hearing being passed or, if the inability to participate is due to lack familiarity with Zoom, considered a failure to appear.

1.4.4. **SCHEDULING PARTY IS RESPONSIBLE FOR INCLUDING ZOOM CONFERENCE DETAILS IN NOTICE OF HEARING TO OTHER PARTIES.**

#### **1.5. Dismissal Dockets**

1.5.1. Dismissals for want of prosecution (“DWOP”) are set on the court’s submission docket. No oral hearings will be held, only filed requests to retain or have other action taken will be considered.

1.5.2. No Appearance by Respondent

- 1.5.2.1. Notice will be sent of this submission dismissal setting ~90 days after the filing of the suit if the respondent has not appeared.
- 1.5.2.2. An appearance or return of service must be on file to be removed from the dismissal docket.
- 1.5.3. Respondent Appeared
  - 1.5.3.1. Notice will be sent where a case has been pending ~6 months and there has been no scheduling order filed/trial set.
  - 1.5.3.2. A trial and pretrial setting should be reserved online and a proposed scheduling order filed to be removed from dismissal docket.
- 1.6. **Ministerial Acts**
  - 1.6.1. Affidavits must satisfy requirements of Texas Family Code § 156.006(b-1) before a hearing will be approved.
  - 1.6.2. Mandatory transfers – schedule for “Signing Box” on scheduling system after proper passage of time with no controverting affidavit filed makes transfer mandatory pursuant to Texas Family Code § 155.204.
  - 1.6.3. Nonsuits – schedule for “Signing Box” on scheduling system to have order signed.
- 1.7. **Submission Docket**
  - 1.7.1. A matter set for consideration by submission means the setting shall be considered and ruled upon by the court WITHOUT AN ORAL HEARING.
  - 1.7.2. The following contested motions must be set for hearing by submission (see exceptions 1.7.3, below):
    - 1.7.2.1. Compel discovery/deposition, or for protection (discovery disputes)
    - 1.7.2.2. Reinstate
    - 1.7.2.3. Substituted service
    - 1.7.2.4. For contested entry of an order
    - 1.7.2.5. For judgment nunc pro tunc
    - 1.7.2.6. To consolidate
    - 1.7.2.7. For genetic testing
    - 1.7.2.8. For appointment of attorney ad litem, amicus attorney, or for custody evaluation
    - 1.7.2.9. For adoption evaluation
    - 1.7.2.10. For summary judgment (traditional or no evidence)
    - 1.7.2.11. For continuance {see 1.7.3}
    - 1.7.2.12. For drug testing {see 1.7.3}
    - 1.7.2.13. For withdrawal of counsel {see 1.7.3}
    - 1.7.2.14. To confer with child ≥12-years-old {see 1.7.3}
    - 1.7.2.15. For deposit of costs (private appointment) or interim fees (freestanding of temporary orders) {see 1.7.3}
    - 1.7.2.16. For entry of an order or dismissal (entry date assigned by court)
  - 1.7.3. A motion for continuance (1.7.2.11), for drug testing (1.7.2.12), withdrawal (1.7.2.13), to confer (1.7.2.14), and for deposit of costs/interim

- fees (1.7.2.15) may be presented in an oral hearing along with related relief.
- 1.7.4. Certificate of service for notice of a hearing by submission must be filed  $\geq 10$  days from the submission date; nothing in these policies shall act to compress any deadlines under the Texas Family Code or Rules of Civil Procedure (e.g., the notice required for summary judgment is still 21 days).
  - 1.7.5. Responses must be filed  $\geq 3$  days prior to the date of submission (except as otherwise mandated by the Texas Rules of Civil Procedure).
  - 1.7.6. Attach supporting evidence to the motion or response as exhibits.
  - 1.7.7. Request leave of court by submission to obtain an oral hearing on any of the above unless an exception in 1.7.3 applies.
- 1.8. **Entries**
- 1.8.1. Temporary/Interim Orders - no entry date will be assigned.
  - 1.8.2. Final Orders
    - 1.8.2.1. The case will be set for entry or dismissal on the submission dismissal docket  $\sim 60$  days from the date of the court's rendition, prove-up, etc.
    - 1.8.2.2. Filing an order with all signatures and other required documents, and that order being signed by the court, will prevent dismissal.
    - 1.8.2.3. Agreed motion to retain stating good cause must be set by submission by deadline for consideration.
    - 1.8.2.4. All required documents needed for the court to sign need to be on file prior to the entry or dismissal date.
    - 1.8.2.5. Prove-up (if needed) must have occurred on or prior to entry date.
  - 1.8.3. Contested Entry
    - 1.8.3.1. File a motion to enter/sign and set it for submission on or before the entry date while adhering to requirements of Section 1.7, above.
    - 1.8.3.2. Motion should contain proposed order signed by proponent seeking entry. Response should address issues in body of response and attach responding party's proposed order signed by that party.
- 1.9. **Protective Orders**
- 1.9.1. Pursuant to the *Order Amending Direct Filing Order District Judges, Harris County, Texas* (the "family Direct Filing Order 11/2009") signed by the Hon. Doug Warne, Acting Administrative Judge of the Family Trial Division on November 10, 2009, "all domestic violence cases" shall be filed and docketed in the 280<sup>th</sup> District Court of Harris County, Texas.
  - 1.9.2. "Domestic violence case" is as defined by Tex. Gov't Code§ 24.112(j)(1).
  - 1.9.3. Should the facts of any request for temporary orders and application for protective order significantly overlap, the 245<sup>th</sup> is amenable to exchange of benches with the 280<sup>th</sup> so that those matters can be heard concurrently on the same date by whichever court has prior availability. If this is desired, counsel should contact the coordinators for both courts so the courts can confer whether an exchange of benches will occur.

**1.10. Standby Docket**

- 1.10.1. The Court has a “standby docket.”
- 1.10.2. Register for the “group class” at the end of any month to receive notifications of openings in the docket throughout that month.
- 1.10.3. DO NOT APPEAR on the standby docket date as it is not an actual setting.
- 1.10.4. Parties should only register for the standby docket if both are amenable to proceeding with <3 days’ notice, since most openings that come available are with less than 3 days’ notice.
- 1.10.5. The reply to the Court seeking to reserve an opening needs to copy all counsel or self-represented litigants to the e-mail and state all parties are in agreement to be set for hearing on that date and time.
- 1.10.6. The Court will confirm to the first response received the rescheduling of their hearing to the new date. Do not assume the Court has reset your case to the new earlier date absent e-mail confirmation.

**2. Late Calls**

- 2.1. Except in an emergency, counsel and litigants should e-mail [245late@justex.net](mailto:245late@justex.net) to make their late announcement, with a copy to opposing counsel/litigant.
- 2.2. Appearing Late Without Excuse – tardiness (absent good excuse) will be assessed against that side’s time for the hearing.

**3. Mediation**

- 3.1. Temporary Orders – required where custody or possession and access is at issue, or where the time estimate exceeds 30 minutes.
- 3.2. Final Orders – required in all cases unless waived (e.g., a short approach for a ruling on a limited issue is needed would be a reason to waive mediation).

**4. Temporary Relief**

- 4.1. Standing Order for Extension of Temporary Restraining Orders
  - 4.1.1. The Court has a standing order (located on website) that the filing party may attach to its proposed temporary restraining order prior service on the respondent.
  - 4.1.2. Attachment of the standing order will result in the extension of the temporary restraining order for an additional 14 days without need to file a motion requesting extension.
  - 4.1.3. The standing order needs to be filed and served with citation, and the citation return needs to state it was served with the petition, if it was not attached to the temporary restraining order in the initial filing.
- 4.2. Temporary Injunctions – parties are encouraged to agree to standard mutual injunctions and it is the policy of the court to grant these to maintain the status quo of the parties.
- 4.3. Temporary Restraining Orders
  - 4.3.1. For use in initial filings where respondent has not appeared in suit.
  - 4.3.2. Schedule online and prepopulate date on proposed temporary restraining order, or clerks will add requested date if needed.
  - 4.3.3. This is not a full hearing on temporary orders but for the Court to address injunctions to maintain status quo and requests for emergency relief.
- 4.4. Temporary Orders

- 4.4.1. Schedule after respondent has appeared and mediation (if required) has been scheduled to occur prior to the date being requested.
- 4.4.2. Time limits:
  - 4.4.2.1. Up to 3 hours (evenly allocated between sides) where conservatorship or possession and access is contested.
  - 4.4.2.2. Up to 1.5 hours (evenly allocated between sides) where no child is involved.
- 4.5. Interim fees – include explanation of anticipated costs in request and be prepared to identify source of funds from which to satisfy request. If the request is made outside a divorce, evidence that the fees are needed to protect the safety and welfare of the child must be established in hearing to avoid risk of request being found frivolous.

## 5. **Pretrial**

- 5.1. Schedule to occur 7-15 days prior to trial at the time trial is scheduled.
- 5.2. Pretrial Checklist – no appearance is needed if the filed pretrial checklist indicates an appearance is not needed.
- 5.3. Failure to attend pretrial if not waived by the pretrial checklist may result in the suit being dismissed for want of prosecution.
- 5.4. Adoptions – pretrial required.
- 5.5. CPS Permanency Hearing
  - 5.5.1. The final permanency hearing prior to the trial date shall also serve as a pretrial hearing.
  - 5.5.2. The Department of Family and Protective Services shall bring a case supervisor or program director to the last permanency hearing to state what relief CPS is requesting.
- 5.6. Special Immigrant Juvenile Status (SIJS) – pretrial required.

## 6. **Final Trial**

- 6.1. Must occur within one year of the initiation of the suit absent good cause shown.
- 6.2. Scheduled final trials cannot be rescheduled or canceled using the scheduling portal. Once a trial is scheduled and docketed, the *only* means for rescheduling is to request a continuance.
- 6.3. Proposed property divisions shall be submitted in an electronic file format (.xls, .xlsx, .ods, etc.) where division of property is contested and the marital estate  $\geq$ \$100,000 in value.
- 6.4. Parties shall include an exhibit summarizing requested affirmative relief; this is not required if the only requests are responsive (deny other's requests and award fees).
- 6.5. Time Estimates
  - 6.5.1. Final Trial – parties will be held to the setting length scheduled absent good cause to award additional time; good cause will not include failure of one or both parties to manage time during trial.
  - 6.5.2. Trials Exceeding One Day
    - 6.5.2.1. Leave of court is required prior to scheduling a trial that will take more than one day.

- 6.5.2.2. Request for leave should be presented via a status conference to the court or by written submission stating the parties' respective time estimates and details supporting contention.
  - 6.5.2.3. Days subsequent to the first will be released if leave of court is not secured prior to scheduling.
- 6.6. A four-hour co-parenting course certificate must be on file for each party prior to trial if custody is contested. The following is a non-exhaustive listing of some options:
  - 6.6.1. <http://familyaffairs.org/>
  - 6.6.2. <http://www.parentclassonline.com>
  - 6.6.3. <https://www.parentingchoice.com/>
  - 6.6.4. <http://positiveparentingthroughdivorce.com/>
  - 6.6.5. <https://puttingkidsfirst.org/>
  - 6.6.6. <http://www.txparent.com>
  - 6.6.7. <https://texas.onlineparentingprograms.com/> (also offers 12-hour online)
- 6.7. In high conflict cases, a more intensive co-parenting program may be ordered.
- 7. Defaults**
  - 7.1. Required documents:
    - 7.1.1. No answer
      - 7.1.1.1. Certificate of last known address
      - 7.1.1.2. Nonmilitary affidavit/declaration must be present.
    - 7.1.2. Divorce where marital estate >\$50,000, a sworn inventory and proposed division.
  - 7.2. If respondent is not a native English speaker and signed a waiver or agreed order, testimony must establish that respondent is sufficiently proficient in English to understand contents of waiver and order or establish respondent was provided a certified translation of documents signed.
- 8. Prove-Up of Agreements and Agreed Orders**
  - 8.1. By Affidavit or Unsworn Declaration
    - 8.1.1. Agreed settlement agreements and orders containing all signatures, or one signature provided nonsigning party executed general waiver foregoing notice and participation, can be proven up by affidavit or unsworn declaration.
    - 8.1.2. Attach affidavit/declaration to the proposed order as an exhibit.
    - 8.1.3. Include in affidavit/declaration same information solicited during a prove-up with witness in the courtroom.
    - 8.1.4. Does not need to be set on the submission docket.
  - 8.2. In Person (Oral) Prove-Up
    - 8.2.1. Scheduled online through the court's website.
    - 8.2.2. Appear at 8:00 a.m. to check-in with the clerks in central office next to elevators or via Zoom, if appearing electronically.
- 9. Records**
  - 9.1. Hearing exhibits
    - 9.1.1. Tender one USB flash drive for court's and reporter's record exhibits. Label files with the following naming convention: "Exhibit # - descriptor," with the exhibit number having a lead "0" for exhibits 1-9 (01,

02, 03, etc.), followed by a space, a dash, and another space, which will then be followed by a brief descriptor of the exhibit (e.g., photo of child, 2018 tax return, etc.).

9.1.2. Do not e-file exhibits, it does not make them part of the record except for a summary judgment motion.

9.1.3. If needed for a Zoom hearing, and insufficient time exists to mail a flash drive to the Court, you may send a link (<https://send.firefox.com>, Dropbox, OneDrive, Box, pCloud, etc.) for a zip file or the folder containing your exhibits for the court and court reporter to download.

9.2. File formats - files shall be tendered in PDF format and, for audio and video files, in a file format playable by VLC Player.

9.3. Proposed property division – include on USB flash drive with exhibits in editable file format (.xls, .ods, etc.).

## **10. Appointments**

10.1. Agreements –agreements on individual to be appointed where litigants are paying appointee will typically be approved.

10.2. Wheel - wheels used for all appointments with deviation for good cause only.

10.3. Wheel categories – see application on court’s website.

10.4. Applications to be included on a wheel – send application (located on court’s website) to Melissa Love at [Melissa\\_Love@justex.net](mailto:Melissa_Love@justex.net).

10.5. Payment Vouchers

10.5.1. Submitted within 90 days of hearing or billing activity through Voucher Information Processing System (“VIPS”) system.

10.5.2. Only ONE voucher for in court appearances may be submitted under lowest companion cause. Submit out-of-court time under respective cause.

## **11. Courtroom Conduct**

11.1. No children unless for an approved and scheduled in-chambers conference, as required by a writ of attachment, or as required in certain CPS Services cases.

11.2. Silence cell phones.

11.3. Appropriate attire required.

11.4. No food or chewing gum.

11.5. Beverages are allowed in containers with lids.

## **12. Birth and Adoption of Child by Lead Counsel**

12.1. The birth or adoption of a child by lead counsel shall create the presumption that that attorney shall receive no less than a 90-day trial continuance upon request.