



DENISE M. FORTENBERRY
130th Judicial District Judge

**POLICIES AND PROCEDURES FOR CIVIL, FAMILY AND
CHILD PROTECTIVE SERVICES HEARINGS**
(effective September 1, 2023)

The following policies and procedures apply to the 130th Judicial District Court and will continue in effect until further notice. Please read these procedures in conjunction with other court procedures that may not be included in this document.

1. General Procedures and Protocols

All cases are subject to the procedures listed in this section.

- 1.1 Party Conference Required.** *Prior to all settings, including Temporary Orders*, attorneys and pro-se litigants must confirm in writing with the Court Coordinator that they have met with the opposing party before requesting a hearing date. The confirmation shall contain the date(s) in which the parties conferred. If the parties did not confer, the confirmation of pre-hearing conference must provide the attempted meeting information (i.e. date, time, and method) and the reason it did not occur. A sample form can be found on the Court's website.
- 1.2 Reasonable Response Time.** In all situations in which a response is necessary from another attorney/party (i.e. pre-hearing certificate of conference, etc.), the reasonable effort shall be pursuant to T.R.C.P. 191.2 and movant shall accord the other side a reasonable response time before filing their motion and setting a hearing. The Court's definition of reasonable response time means that the movant has reached out to resolve the issue and has given the opposing party a minimum of two (2) full business days to respond before filing their motion.
- 1.3 Mediation Requirement.** **Formal mediation is required before final trials.** Exceptions may be made in certain cases after motion and hearing. If a party is being denied possession of the party's child, the Court may waive the mediation requirement on Temporary Orders. Parties seeking an exception to mediation on final trial, including financial waivers, should file a written request seeking a *Final Trial without Mediation*. This motion shall be heard by the court prior to the pre-trial date. The Court is willing to refer cases to Fort Bend Dispute Resolution Center for cases that require a sliding scale fee schedule. Failure to mediate prior to trial, *without good cause*, may result in a reset or dismissal of the case.

- 1.4 Motions for Summary Judgment and Contested Motions.** A courtesy notebook for the court is helpful for larger motions referencing extensive case law and/or statutes. *Please submit a notebook to the Court Coordinator by noon the day before the hearing* that includes the applicable motion, responses, replies, statutes and/or case law referenced with the referenced portions highlighted. If submitting a notebook to the Court, an identical copy must be provided to opposing counsel.
- 1.5 Agreed Motions.** The Court will consider agreed motions without the need for a hearing. The party can request the Clerk’s office to bring the file with the motion to the Judge’s office. All Agreed Orders must be signed by *all parties* for the Court to consider it ‘agreed.’
- 1.6 Motions to Withdraw.** A motion to withdraw may be granted without a hearing under the following circumstances:
- A. The motion is accompanied with an order signed by the client consenting to the withdrawal or a certificate of another lawyer attesting that the lawyer has been retained to represent the client in the case; or
 - B. The motion includes a notice to the client of their right to object to the withdrawal within ten (10) days of the date that the letter was mailed; the withdrawing attorney certifies that the motion, letter, and submission date were sent to the client’s last known address by certified and regular mail; and no objection is filed.
- 1.7 Dismissal For Want of Prosecution.** A case may be dismissed for want of prosecution for any of the following reasons:
- A. Cases on file for more than one hundred twenty (120) days with no answer filed;
 - B. Failure of Petitioner to request a setting or take other appropriate action after notice from the Court that the case has been pending without action for more than sixty (60) days; or
 - C. Failure of counsel to appear for pretrial, docket conference, or other preliminary hearing, especially where there has been a previous failure to appear or where no amendment has been timely filed to meet expectations previously sustained; or
 - D. Failure of party to make an announcement of “ready” when a case is called for trial or hearing of any preliminary matters; or
 - E. For any other reason that indicates to the court that the case is not moving forward.
 - F. If you do not want your case dismissed, you must do one of the following **BEFORE** the dismissal setting:
 - i. Dispose of your case; or
 - ii. Set your case for final trial. You can obtain trial dates by contacting Becky Corenfield at 130thDistrictCourt@co.matagorda.tx.us.

- 1.8 **Interpreters.** If an interpreter will be used, please advise the Court Coordinator to ensure the docket has enough room for the length of your hearing.
- 1.9 **Status Questions.** Any inquires regarding whether or not an order has been signed must be handled through the District Clerk’s Office. Please contact the District Clerk at (979) 244-7621 or dclerk@co.matagorda.tx.us.

2. Discovery Dispute Hearings

All cases are subject to the procedures listed in this section.

PLEASE NOTE: It is imperative that counsel make every effort possible to resolve any and all discovery issues without Court intervention. If there has not been a conference between the parties, the Court will closely examine the efforts made by both counsel to effectuate one.

- 2.1 **Procedures.** Disputes regarding discovery will obtain a setting **ONLY AFTER** the following procedures have been performed:
- A. The party seeking Court intervention must file a letter not to exceed three pages (12 point font) explaining the nature of the dispute and include the date, time, and place of prior out-of-court discovery or scheduling discussion(s) and the name of all counsel/parties participating in the discussion(s).
 - B. The Movant must email the “130th District Court Discovery Template.xls” (in xls form) which will show information about each discovery item in dispute.
 - C. This letter and template must be both e-mailed to all non-movants and the court coordinator at 130thDistrictCourt@co.matagorda.tx.us.
 - D. The Court will schedule a ten minute telephone conference with all parties after receiving the letter and template.
 - E. The responding/non-movant party will have an opportunity to e-mail a two page (12 point font) response, along with their updates to the Movant’s “130th District Court Discovery Template.xls,” detailing whether the objections will be removed or if the requested item is within the care, custody, and control of the non-movant. This information should be added into the spreadsheet under “Non-Movant.”
 - F. The Non-Movant responses must be e-mailed to the other parties in the case and the court coordinator at 130thDistrictCourt@co.matagorda.tx.us no later than forty eight (48) hours before the telephone conference.

3. Hearings by Submission

All cases are subject to the procedures listed in this section.

- 3.1 Notice.** The party setting the hearing by submission shall give notice to all parties for a date not less than ten (10) days from the filing and notice (or longer if statute requires).
- A. Responses to the motion shall be filed at least three (3) days before the submission ruling date.
 - B. Amendments, exhibits, or responses filed within twenty-four (24) hours of the submission date are not deemed timely filed.
 - C. Movant shall include the proposed order with the motion.
 - D. No one should appear in person. *If the Court desires a hearing, the parties will receive notice of hearing from the Court Coordinator.*
- 3.2 Submission List.** The following should be set via submission. This list is not an exhaustive one, please contact the Court Coordinator if you are unsure whether your hearing should be handled by submission.
- A. *Non-evidentiary Motions.*
 - B. *Entry of Orders.* Make sure that all documents required for final entry are e-filed before the submission date set. If the entry is contested, attorneys or parties may file a motion to enter and will receive a submission docket date. The moving party is required to provide notice of the submission date to the other party. It is the responsibility of parties or their attorneys to verify with the District Clerk, within seven business days after filing the proposed order, that the order has been signed by the Court.
 - C. *Dismissal docket.* This will not be an oral hearing so appearances are not allowed. Motions to retain will be considered so long as they are filed no later than three business days prior to the dismissal date.
 - D. *Motions for Adoption Evaluation.*
 - E. *Motions for Alternative or Substituted Service* (if properly accompanied by an affidavit that includes at least three attempts).
 - F. *Motions for Appointment of AAL, Amicus Attorney, or Custody Evaluation.*
 - G. *Motions to Confer with a Child.*
 - H. *Motions for Continuance.*
 - I. *Motions for Drug Screening.*
 - J. *Motions for Genetic Testing.*
 - K. *Motions for Nunc Pro Tunc.*
 - L. *Motions for Referral to Mediation.*

- M. *Agreed QDRO* (if after plenary power has expired, parties shall submit an agreed motion to enter).
- N. *Motions to Reinstate* (verified).
- O. *Motions for Summary Judgment* (requires 21 day notice).
- P. *Motions to Transfer* (sua sponte of the Court after proper service and no answer or controverting affidavit on file).
- Q. *Motions for Withdrawal/Substitution of Counsel*.
- R. *Motions to Waive Appointment of Attorney Ad Litem* (sua sponte of the Court with supporting affidavit or statute).
- S. *Civil No Answer Default*. An attorney or party may submit sworn testimony and all evidence necessary to obtain a default judgment by submission.
- T. *Agreed Prove-Up via Affidavit*. Parties can submit affidavit of sworn testimony for agreed orders by submission. Parties must submit the following documents:
 - i. Waiver/Agreed Divorce - No Children.
 - a. *Waiver of Citation/Answer/MSA on file*;
 - b. Prove-up/Testimony Affidavit;
 - c. Divorce Decree (with all parties' signatures);
 - d. BVS 165 (Information on SAPCR). This form must be hand delivered, emailed or mailed to the District Clerk. Do no e-file.
 - ii. Waiver/Agreed Divorce - With Children/SAPCRs.
 - a. Waiver of Citation/Answer/MSA on file;
 - b. Prove-up/Testimony Affidavit;
 - c. Divorce Decree/Agreed Order (with all parties' signatures);
 - d. BVS 165 (Information on SAPCR). This form must be hand delivered, emailed or mailed to the District Clerk. Do no e-file;
 - e. Employer's Order to Withhold Wages/Income Withholding for Support (if applicable);
 - f. Medical Child Support Order (if applicable).
 - iii. Default Divorces, SAPCRs, Paternity, Custody, Modifications.
 - a. Check file for proof of service return (citation) - must be imaged and be on file ten days;
 - b. Decree/Judgment;

- c. Employer's Order to Withhold Wages/Income Withholding for Support (if applicable);
 - d. Medical Child Support Order (if applicable);
 - e. Non-Military Affidavit (required);
 - f. Certificate of Last Known Address (required);
 - g. BVS 165 (Information on SAPCR- required). This form must not be e-filed and shall be hand delivered, emailed or mailed to the District Clerk;
 - h. Inventory & Appraisement (Divorces only).
- iv. Change of Name for Adults.
- a. Criminal Record run through the Crime Records Division (DPS) in Austin or FBI (must include fingerprints);
 - b. Color copy of valid state picture identification (front and back);
 - c. Prove-up/Testimony Affidavit;
 - d. Fingerprint card on file with Petition;
 - e. Order Granting Change of Name (signed by Petitioner and Attorney, if applicable).
- v. Change of Name for Children.
- a. Both parents must file a Prove-Up/Testimony Affidavit (if both are Petitioners);
 - b. Color copy of valid state picture identification(s) (front and back);
 - c. Color Copy of Original Birth Certificate (if not in English it must be professionally translated);
 - d. Child's Consent to Name Change (only if child is over 10 years old);
 - e. Waiver of Citation/Service (if applicable);
 - f. Order Granting Change of Name (signed by both parents and attorney);
 - g. BVS 165 (SAPCR sections 1 and 3). This form must not be e-filed and shall be hand delivered, emailed or mailed to the District Clerk.
- vi. Adult Adoptions.
- a. Final Order Granting Adult Adoption (signed by all parties);
 - b. Prove-Up/Testimony Affidavit;
 - c. Color Copy of Valid State Picture Identification (front & back);
 - d. Criminal Background needed if name change is requested.

4. Trial Procedures

All cases are subject to the procedures listed in this section.

4.1 **Displaying Exhibits.**

A. **Projector.**

- i. The courtroom is equipped with a projector and screen, all other equipment is the responsibility of the attorney.
- ii. Counsel are responsible for setting up a time with the court's bailiff to familiarize themselves with the court's equipment. The hearing/trial date is not the appropriate time to learn how to use it.
- iii. It is counsel's responsibility to ensure that documents displayed on a projector have been first admitted into evidence and redacted, if necessary, to comply with the Court's rulings.

B. **Large Exhibits.** Exhibits exceeding 8 ½" x 11" in size will be accompanied by an 8 ½" x 11" copy. After completion of trial, the clerk will retain only the 8 ½" x 11" copy and the original exhibit will be returned to the offering party.

C. **Demonstrative Exhibits and Trial Aids.** Demonstrative exhibits and trial aids may be used by all counsel. Counsel shall not mark on or attach any item to an opposing counsel's demonstrative exhibit.

D. **Exhibits Brought to Court on Day of Trial.**

- i. All exhibits shall be PRE-MARKED with the exhibit number, offering party name, cause number and the page number and number of pages (i.e. Page 1 of 20). *All pages* of the exhibit shall include this information.
- ii. Any pre-admitted/agreed to exhibit numbers must still be read into the record at trial (parties should not simply refer to "all pre-admitted exhibits.").

E. **Deposition Testimony.** Before trial begins, any deposition or video that will be presented during the trial will need to be submitted to the court reporter already officially transcribed, or if video excerpts are used, the video excerpts in MP3 format will need to be submitted to the Court Reporter.

4.2 **Proposed Jury Questions/Instructions (or Findings of Fact/Conclusions of Law).** The pleading should be named "[Name of Party]'s Proposed Jury Questions and Instructions" or "[Name of Party]'s Proposed Findings of Fact and Conclusions of Law" in Microsoft Word or WordPerfect format and emailed to the Court Coordinator at 130thDistrictCourt@co.matagorda.tx.us by the date of the Formal Pre-trial Conference. The pleading should be in 12-pt font, free of any topographical emphasis (i.e. bolding, all caps, underlining, italics, etc), free of case cites or footnotes, and labeled with the case style and

submitting party's name. This document should be exactly as it would be presented to a jury without signature blocks for the Judge for granting, denying or modifying any requests.

- 4.3 Courtesy Copies for Court Reporter and Clerk.** To be delivered at Pretrial Conference:
- A. Exhibit List
 - B. Witness List
 - C. Vocabulary List (If one is filed). This is required in medical malpractice cases. If medical terminology will be used, this will be required in CPS cases, as well.
- 4.4 Motions for New Trial.** Motions for new trial will be decided on the pleadings and will only be set for hearing if argument is requested by the Court. The court will set a hearing if:
- A. The motion shows that an evidentiary hearing is required pursuant to TRCP 324(b)(1) or other law;
 - B. The verified motion and sworn affidavits are in proper form and timely filed;
 - C. The motion alleges specific facts that, if true, would entitle the movant to a new trial; and
 - D. A hearing is timely requested.

5. Family Law Cases.

Additional procedures applicable to all family law cases (including CPS)

- 5.1 Standing TRO.** The 130th Judicial District Court has adopted a Standing Temporary Restraining Order because parties and child(ren) should be protected and property preserved while the lawsuit is pending before the Court.
- 5.2 Parenting Classes.** Parties to a *custody dispute* shall complete an eight (8) hour co-parenting class prior to trial. The Court may order a twelve (12) or sixteen (16) hour parenting class. Go to www.onlineparentingprograms.com to register.
- 5.3 Hearings.** To set a hearing, please email the Court Coordinator, Becky Corenfield. You will be provided with the Court's available dates and attorneys should work with the other side to get an agreed date. Please e-file a notice of hearing with the date provided filled in and email the Court Coordinator a copy of your file stamped notice. The Court Coordinator does not officially add the case to the Court's calendar until a completed notice of hearing is received. Please also copy opposing counsel/party when emailing the Court Coordinator.
- 5.4 Pre-Trial Conference.** These hearings are typically scheduled the week prior to the trial date. The purpose of this hearing is to update the Court, provide copies of required items and hear any outstanding pre-trial motions. A completed Pre-Trial Checklist (joint or filed separately) on file the Thursday before the hearing, indicating to the Court that there are no outstanding pre-trial motions to be heard will excuse all parties' attendance at the Pre-Trial hearing.

- 5.5 Requested Relief.** At a temporary order hearing and final trial, each side should provide the Court a copy of their Summarized Requested Relief at the beginning of the hearing or trial.
- 5.6 Time Limits.** At Temporary Order Hearings, each party is limited to twenty (20) minutes and the witnesses are limited to the party plus one witness per side. Exceptions can be made upon motion of a party showing good cause.
- 5.7 Child Interviews.** If Texas Family Code section 153.009 requires the Court to interview the child, the interview will be conducted the day of trial, after the child is released from school. Please arrange for the child to be brought to the courthouse by an adult who is not a party to the case. Contact the Court Coordinator two (2) weeks before your court date to ensure that the interview is properly scheduled on the Court’s calendar.

6. Child Protective Services Cases

Additional procedures specific to Child Protection Services cases.

- 6.1 Family Plans of Service Amendments.** Any and all amendments to Family Plans of Service after they have become an order of this Court, shall become effective after they have been presented to the Court and incorporated specifically into a court order which may be submitted via submission hearing guidelines. Any recommendations by providers covered under “follow any and all recommendations of the provider” not filed and noticed according to these rules shall not be used against the parent(s) if incomplete at a final trial.
- 6.2 Pre-Adversary Informal Conference Required.** *Prior to all Adversary and Show Cause Hearings*, attorneys and pro-se litigants must participate in an informal conference. Attorneys and pro-se litigants shall file a *Certificate of Conference* before the hearing begins. The certificate shall contain the date in which the parties conferred. If the conference did not occur, the certificate must provide the attempted meeting information (i.e. date, time, and method) and the reason it did not occur. A sample form can be found on the Court’s website.
- 6.3 Pre-Hearing Conference Required.** Prior to all contested settings, attorneys and pro-se litigants shall provide a *Certificate of Conference* to the Court Coordinator that they have met with the opposing party(ies) before setting the hearing. The certificate shall contain the date in which the parties conferred. If the meeting did not occur, the certificate must provide the attempted meeting information (i.e. date, time, and method) and the reason it did not occur. A sample form can be found on the Court’s website.
- 6.4 Additional Hearings.** All motions shall be held on the hearing dates that are already set for that case. An attorney wanting to set a motion must file a motion with notice of hearing date in accordance with TCRP 21 and provide the Court Coordinator with a copy of the notice of hearing at 130thDistrictCourt@co.matagorda.tx.us. Exceptions can be granted for emergency motions which should be set on regular CPS dates, if possible.

- 6.5 Mediation Requirement. Formal mediation is required before final trials.** Exceptions may be made in certain cases after motion and hearing to show good cause.
- A. **Attendance.** Attendees shall arrive on time, participate in good faith, and remain present until they are released by the mediator.
 - B. **Appointed Mediators.** Only Court approved mediators shall be used by the parties for mediation. A motion may be filed and set for hearing for the appointment of a specific mediator who has already agreed to the CPS mediation payment rate.
 - C. **Second Mediation.** If a party requests to attend a second mediation for the same issues and at the same stage of the case, a motion shall be filed and set for hearing to show good cause as to why the second mediation is necessary.
- 6.6 Time Limits and Allocation.** Adversary Hearings shall be limited to two (2) hours. Miscellaneous hearings shall have a time limit of one (1) hour. This time limit can be increased based on a showing of good cause. All time shall be divided equally amongst the parties present at the hearing.
- 6.7 Bench Warrants and Inmate Requests.** The attorney representing an incarcerated party is responsible for coordinating their client's presence for court hearings.
- A. **Matagorda County Jail.** For parties incarcerated in the Matagorda County Jail, the attorney shall notify the Belle Cortinas, Indigent Defense Coordinator at IDCoordinator@co.matagorda.tx.us at least three (3) business days before the hearing, that their client is incarcerated in the jail and needs to be transported for the hearing.
 - B. **Out-of-County Jails and Texas Department of Corrections.** Parties incarcerated out-of-county or Texas Department of Corrections requires a Bench Warrant Request to be requested a minimum of two (2) weeks before the trial.
- 6.8 Interpreters.** If an attorney represents a party that requires an interpreter for a hearing, trial, or mediation, that attorney is responsible for notifying the County Attorney. The notice shall be in writing and sent a minimum of five (5) business days. The certified translator shall be selected from the Texas Judicial Branch Office of Court Administration website.

The Court reserves the right to add, amend, or change any of these protocols and procedures as necessary for the administration of justice.

Signed on: August 31, 2023.

FILED
at 7:20 o'clock A - M.

SEP - 1 2023

JANICE L. HAWTHORNE
Clerk of District Court Matagorda Co., Texas
By [Signature] DEPUTY

[Signature]
Denise M. Fortenberry
130th Judicial District Judge