



65th Family District Court
Hon. Yahara Lisa Gutierrez – Judge Presiding
RULES OF PRACTICE

Effective **March 1, 2023**, the following rules of practice will apply to all legal proceedings in the 65th District Court. These policies and procedures do not supplant the El Paso County Local Rules. They are subject to change.

The 65th District Court adheres to the Texas Rules of Professional Conduct, the Texas Lawyer's Creed, and the Texas Code of Judicial Conduct. Violations will result in appropriate sanctions. Personal attacks and side bar remarks will not be tolerated.

65th Judicial District Court Yahara Lisa Gutierrez

Request for Settings: mescobedo@epcounty.com

Exhibits for Proceedings: ylgutierrez@epcounty.com & masanchez@epcounty.com

Telephone: (915)546-2102

Fax: (915)546-8157

The following rules apply to both attorneys and self-represented litigants.

1. GENERAL

- a. Each party shall consult the applicable state law(s), Supreme Court of Texas Emergency Orders and the El Paso County Local Rules for additional specifics and time deadlines.
- b. The court staff does **not** provide legal advice or participate in ex parte communications.
- c. Proceeding requests with the District Court and visiting Judges is preferred by email to Mayte Escobedo, Court Coordinator at mescobedo@epcounty.com.
 - i. DO NOT email the Judge personally. It will NOT expedite your request as ONLY requests through the Court Coordinator email are scheduled.

- d. The 65th is a paperless court. Pleadings and other documents are routed electronically through the El Paso County District Clerk's office.
 - i. Please ensure that you DO NOT enable the field restrictions in your proceeding request forms if you have them in PDF. There is information the Court may need to add.
 - ii. Please submit orders, separately from your Motions as we may need to electronically sign them. Ex. Motion to Withdraw should not have the Order attached in the same document.
- e. **All pleadings and/or documents must be filed with the District Clerk.** Questions regarding documents, files, filings, service, etc. should be directed to the District Clerk's office. Please **DO NOT** include the Court or the Court Coordinator on any e-service requests.
- f. Suits Affecting Parent-Child Relationship with Office of the Attorney General involvement may be referred to Title IV-D Court at the Court's discretion.
- g. Appropriate professional attire is required for all appearances whether in person or on Zoom. Electronic devices should be in silent mode at all times and not referred to during proceedings. No food or gum chewing is allowed in the courtroom or during Zoom proceedings. Attorneys and parties should NOT appear in their car or be driving. During in person proceedings or trials, attorneys may have beverage at counsel table.
 - i. **No photos or videos are allowed, except in adoption cases. Recording or screenshotting of the proceedings is strictly prohibited.**
- h. **ZOOM AND IN-PERSON PROCEEDINGS:** Any hearings under three (3) hours will be heard via Zoom unless there is an objection by a party. Any objection to a Zoom proceeding should be filed, in writing, seven (7) calendar days after receiving notice of the hearing. If there is an objection to the Zoom hearing, then the hearing will be in person. All enforcement proceedings seeking contempt, habeas and writs of attachment and hearings over three (3) hours shall be in person absent permission of the Court. All attorneys and parties are expected to appear at their scheduled time.
 - i. Zoom hearings: It is recommended that you enter the Zoom early so that we can have you in breakout rooms to talk before your case is called. Attorneys should ensure that their clients have proper connectivity and practice Zoom prior to said hearing. If exhibits are more than 25 pages, you must provide a jump drive or binder to the Court one business day prior to the hearing.

- ii. In person Hearings: All participants should appear in person. This includes attorneys, parties and witnesses. DO NOT assume you will be permitted to have a hybrid hearing without permission from the Court or the Court grants Motion to Appear via Zoom. Ensure your subpoenas for witnesses include in-person language.
 - iii. Attorneys are responsible for ensuring that they do not have conflicting settings and resolving them before proceeding. If there are extenuating circumstances, please contact the Court Coordinator or bailiff directly. **In cases of Inclement Weather, please refer to the court’s Inclement Weather Policy in Section 15.**
 - iv. Please make sure all required pleadings filed with the District Clerk’s office at least 24 hours before the date of your proceeding. If necessary, also send a copy to the designated exhibit email.
- i. INTERPRETATION: Familiarize yourself with the interpretation functions. Both Courts will be utilizing simultaneous interpretation. Please advise the Court as soon as the hearing is scheduled if an interpreter is needed. The following links provide detailed instructions on utilizing the interpretation function. Ensure your clients are familiar with the process and if they are in your office for the hearing ensure that you are not in the same room with them.
<https://epcounty.com/information/EPTXZoomGuide.pdf>
<https://epcounty.com/information/EPTXGuiaZoomEspanol.pdf>

2. EMAILS

The subject line of the email must include the cause number, the case name, and the type of setting requested. For example, “*Cause Number 2021DCM0000, Smith v. Jones, Final Hearing Request*”. Failure to include this information may result in delay in addressing your email.

All hearing requests will ONLY be accepted via email and will be addressed as they were received, prioritizing based on exigency determined by the subject line.

3. DOCUMENTS REQUIRING COURT SIGNATURE

All Order submitted MUST contain the Cause number and title of document. For example: *2023DCM1234 Final Decree of Divorce*. Orders labelled as *skm235khng* or *Smith Divorce decree* result in delays in filings.

Orders must contain NO BLANKS. Please ensure that the date of hearing is included as well as the Court reporter or your order may present difficulties in enforcement or modification in the future.

Do not enable fields or DocuSign for proposed Orders. The county software does not allow us to edit it.

4. NOTICES:

The attorneys/participants shall ensure compliance with R. 21 (d): Notice of a court proceeding must include the information necessary for participants, attorneys, witnesses, court reporter, and jurors (the “participants”) to participate in the proceeding.

That information must include, but is not limited to:

- a. The location of the proceeding or instructions for joining electronically,
- b. The “court’s designated contact information,” and
- c. “Instructions for submitting evidence.”

5. SCHEDULING TEMPORARY ORDERS PROCEEDINGS

- a. Requests for contested proceeding dates **must** be made by sending an email to: mescobedo@epcounty.com. All attorneys and self-represented litigants must be copied. The subject line of the email must include the cause number, the case name, and the type of setting requested. For example, “*Cause Number 2021DCM0000, Smith v. Jones, Final Hearing Request*”. The Court Coordinator will reply-all with the court’s availability. **Emails requesting contested proceeding dates must include the total estimated time for the proceeding.**
- b. Notice and proof of notice to the opposing attorney or party shall be pursuant to the Texas Rules of Civil Procedure.
- c. Please talk to opposing counsel prior to your proceeding. We can open a break-out room before your proceeding for the parties to engage in settlement.
- d. Temporary orders will not be bifurcated. If one party requests Temporary orders after the first parties request, they will be heard together. This does not apply to Enforcements, Protective Orders or other Motions hearings unless they involve substantially the same testimony.

- e. The District Court may exercise discretion in scheduling a Final hearing in lieu of de novo after good cause is shown and time considerations and judicial economy are considered.
- f. In any proceeding for temporary orders in which child support or spousal support is an issue, completion and exchange of Financial Information Statements, copy of income tax returns for the last year, and the three most recent payroll stubs shall be exchanged prior to the commencement of the proceeding. Working copies of the Financial Information Statements are advised for the court.
- g. **Temporary restraining orders:** In divorce actions, ex parte temporary restraining orders should use the language included in section 6.501 of the Texas Family Code. If requesting extraordinary relief please clearly label as such in the Temporary restraining order and bold/highlight requests beyond standard maybe as per the Texas Family Practice Manual.
- h. The court WILL STRIKE certain proposed injunctions (such as exclusion of possession, imposition of geographic restriction, excluding of residence, attachment, alcohol or paramour injunctions) if not supported by an affidavit.
 - i. Writ of attachments should be in separate pleadings and documents supported by evidence. They should be utilized in very limited instances.

6. FINAL TRIAL SETTINGS

- a. Requests for trial dates must be made in accordance with paragraphs 2 and 4 above.
- b. Provide proposals and Inventories and Appraisals for ALL contested final proceedings with complex property issues. The Court would request that proposed parenting plans be submitted which includes rights and duties, possession and proposed calculation of child support particularly when deviated from standard. Please ensure that you provide the Court an editable version.
 - i. You may e-file these and/or submit as exhibits.

c. **Scheduling Orders and Pretrial Conferences** are required for jury trials and bench trials with a total time estimate that exceeds **3 hours or half a day**. **They will also be scheduled upon request of counsel or the discretion of Court**. Pretrial conferences will be set no less than 30 days prior to the trial setting. Please ensure that you follow the new discovery rules.

- i. Parties may request a Pretrial Conference with the Court for any length of proceeding or scheduled by the Court at their discretion.
- ii. A nonappearance by attorneys and parties may result in the case being reset and/or dismissed.

7. MEDIATION

- a. Mediation will be ordered for any Final Hearing that is more than 3 hours.
- b. Mediation is required prior to final proceeding in all cases over 3 hours (except protective orders, enforcement/contempt actions or on cases involving family violence). Failure to mediate before trial may result in the case being reset on the Court's discretion.
- c. The Court may waive a mediation requirement in response to motion and upon a showing of good cause. The motion must be heard by the Pretrial Date.
- d. The El Paso County Dispute Resolution Center with licensed attorneys only will mediate cases for parties with proof of limited income at a reduced or nominal fee.
- e. Parties should make a good faith attempt to agree on mediators. If no agreement can be reached, a motion should be filed with the court and the court will choose a mediator from the wheel. *The court may deviate from the wheel for good cause.

8. EXHIBITS – PLEASE READ CAREFULLY

- a. In all cases other than contempt proceedings and cases under a Scheduling Order, exhibits **should** be marked and exchanged seven (7) calendar days prior to the hearing and mailed to the District Court at mescobedo@epcounty.com. It is the Court's preference that you exchange exhibits to expedite your proceeding time. Evidentiary rules regarding exclusions or admission will apply. Those exhibits **MUST** be emailed to the Court before the conclusion of the proceeding or upon discretion of the Judge.
- b. Parties shall attempt in good faith to obtain an agreement regarding exhibit admissibility before the proceeding or trial.

c. If child support or spousal support is contested BOTH parties shall bring copy of last tax return with attached schedules and W2s/1099s and three most recent pay stubs.

d. **Court Copies:**

i. Exhibits for all proceedings **must** be delivered to the District court via email to: ylgutierrez@epcounty & masanchez@epcounty.com or if voluminous on a USB Flash Drive or a binder. **Do not email exhibits to the Court Coordinator.**

ii. Exhibit emails **must** include a subject line of the exhibit email must include the cause number, party designation/name, and proceeding date. For example, "*Cause No. 2020DCM0000, Respondent Jones, January 1, 2021.*" All attorneys and self-represented litigants must be copied.

iii. **AUDIO/VIDEO**: Please ensure that they can be opened. Audio and video files may also be on a USB Flash Drive.

iv. Flash Drives **must be received** by 12 the business day before the proceeding. Flash Drives must be clearly labeled with the cause number, party name and proceeding date.

v. Flash Drives may be delivered in person or mailed to:

65th District Court
Attn: Mayte Escobedo
500 E. San Antonio Ave., Ste. 1105
El Paso, TX 79901

Please be mindful of the deadline when delivering by mail.

vi. **All exhibits must be accompanied by an Exhibit List.** Exhibit Lists may be e-filed with the District Clerk's office, but the exhibits should NOT be filed.

vii. The only formats accepted are PDF for documents, JPG and PNG for images, and MP4 for audio and videos.

viii. Each exhibit **must** be saved or attached as a separate file and the file name **must** include the exhibit number AND a brief description of the exhibit. For example, "*Petitioner Exhibit 5 - Bank Statements*"

- e. The party tendering the exhibits is responsible for ensuring that files are saved correctly. Documents and photos should be as clear as possible and scanned upright (not sideways or upside down).
- f. The party tendering the exhibits is responsible for ensuring that witnesses have copies of the exhibits for use during Zoom proceedings. The Court Reporter will NOT forward or otherwise circulate exhibits to anyone other than the court. The “share screen” feature may be used during Zoom proceedings. The party tendering the exhibits is responsible for screen sharing and technology associated.
- g. For property divisions involving marital estates with numerous assets or debts, include with the exhibits an editable file (e.g., MS Excel) containing the party’s proposed property division.
- h. Failure to comply with these procedures may result in exhibit exclusion.

9. CONTINUANCES

- a. A request for continuance requires a motion and a proceeding (even if it is unopposed or agreed).

10. DISCOVERY DISPUTES

- a. The Court will require that the *Certificate of Conference* summarizes efforts made to communicate with opposing counsel or self-represented party regarding the discovery dispute. A lack of substantial efforts to communicate (e.g., leaving a single voicemail) may affect the outcome of the proceeding.
- b. Motion to Quash Deposition: If the motion is based on the unavailability of the lawyer or witness, the party filing the motion to quash must provide at least **3** alternative dates within the body of the motion for the taking of the deposition.

11. AMICUS/AD LITEM APPOINTMENTS

- a. To be eligible for Court Appointments in the 65th, an *Application for Court Appointments* should be completed and submitted. Appointments are made based on the facts and/or conduct of the parties and as required by law.
- b. The parties may agree to an Amicus/Ad litem Attorney, but judicial approval is required. In the absence of agreement, the court will select an Amicus/Ad Litem from the wheel. *The court may deviate from the wheel for good cause.

c. The Court may appoint an amicus on own motion.

12. DE NOVO

a. Parties must comply with Texas Family Code § 201.015 regarding specificity or the Court may entertain a motion to dismiss by opposing counsel or on its own motion.

13. SUBSTITUTE SERVICE

Party must include Motion for Substitute Service and affidavits along with proposed orders. Diligent efforts to locate must be made and it is critical that Petitioner establish personal knowledge as to WHY service was attempted at a specific address and/or how they know Respondent resides there. Post/Publication should be a last resort as other creative methods are more likely to lead to notice.

DO NOT FORGET to request an ad litem when children are involved on sub service and prepare Petitioner to bear that cost.

14. PARENTING CLASSES

a. Parents and/or conservators in all contested cases involving children are required to complete a 4-hour parenting class. The certificates of completion must be filed with the District Clerk's office before the case is finalized.

b. The Court recognizes and approves the following **in person** courses (in no particular order): Children First, Center Against Sexual and Family Violence — (915) 562-0077; <https://casfv.org/prevention-education/children-first-class>

c. The Court recognizes and approves the following **online** courses (in no particular order):

Putting Kids First

<https://puttingkidsfirst.org>

Texas Cooperative Parenting

<https://txparent.com>

Parent Class Online

<https://www.parentclassonline.com>

Co-Parenting into the Future

<https://coparentingintothefuture.com>

Family Affairs

<http://familyaffairs.org>

Kids First

<https://kidsfirsttoday.com>

Parenting Choice

<https://www.parentingchoice.com>

15. INCLEMENT WEATHER POLICY

- a. The 65th District Court will follow the announcement of El Paso County School Districts.
- b. If El Paso school County Districts closes due to inclement weather, the 65th District Court will also close unless all parties and attorneys are available.
- c. **Court Closure:** All cases set on a day that the court is closed due to inclement weather will automatically be reset priority setting.
- d. **Delayed Start:** If the El Paso Districts are on a “delayed start,” the 65th will delay start as well. Please contact the Court Coordinator to confirm the time of your proceeding. Due to anticipated time constraints, the time allowed for each proceeding may be limited. If an attorney or party is unable to appear at the updated start time, a reset may be requested.