



388th JUDICIAL DISTRICT COURT

UNIFIED FAMILY COURT PRACTICE MANUAL

Hon. Patricia A. Macías, Presiding Judge

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388.1 Mission Statement

To facilitate the resolution of family disputes fairly, efficiently, and with consideration for preserving family relationships.

388.2 Philosophy: Unified Family Court

A unified family court is a comprehensive court with jurisdiction over family-related legal matters. It combines all the essential elements of traditional family court into one entity and contains other resources, such as social services, critical to the resolution of a family's problems. The structure of a unified family court promotes the resolution of family disputes in a fair, comprehensive, and expeditious way. It allows the court to address the family's needs in a child-focused manner. The family's immediate and long-term needs are addressed as it recognizes the unique problems of the individual litigant. Through its insistence on collaboration among court staff, its "team approach," and its outreach to social service providers, a unified family court can provide the highest quality of service to its clients and its community.

388.3 Objectives

- One Judge-One Family, all related family law actions are assigned to one judge;
- Coordination of multiple cases involving the same family by linking or consolidation of cases;
- Minimize potential for inconsistent, duplicative or conflicting orders;
- Coordination of current and future investigative and evaluative efforts;
- Early referral to appropriate services and evaluations;
- Early identification and resolution of procedural difficulties;
- Focus on Therapeutic Jurisprudence and problem-solving.

388.4 Therapeutic Jurisprudence

Therapeutic Jurisprudence is an interdisciplinary approach to law that focuses on the impact of legal rules, processes and institutions on people's emotional lives and psychological well-being. It facilitates the restorative and problem solving powers of the law by taking an holistic approach to a family's healing. Case Management based on therapeutic jurisprudence seeks to promote the resolution of issues underlying the legal problems by motivating the litigants to take responsibility for the resolution of the issues. In the context of a problem solving court, participants can choose whether to engage in this process or choose to continue in more traditional adversarial litigation.

388.5 Differentiated Case Management

Differentiated Case Management (“DCM”) is a case management process which serves to improve disposition time-frames by screening cases for retention or referral by the District Court. The DCM process places cases on a track based on complexity and significant case circumstances. Cases screened as “standard” are referred to the Associate Court while cases considered “high conflict” are retained by the District Court. The differentiation of marriage dissolution, custody disputes, and domestic violence cases allows for more efficient case management, the elimination of unnecessary court appearances, and the resolution of cases within set time standards.

388.6 High Conflict Case Management: Marriage Dissolution, SAPCR, Enforcements, Modifications, and other Family Matters

A high conflict case may include a case with contested custody issues, a history of domestic violence, complex property issues, or any other legal issue which presents a high degree of family instability. The time frame goal from filing to disposition is 6 to 10 months. High conflict cases are retained by the District Court. Upon the discretion of the District Court, a specific issue within a high conflict case may be referred to the Associate Court pursuant to a Specific Order of Referral.

388.7 Standard Case Management: Marriage Dissolution, SAPCR, Enforcements, Modifications, and other Family Matters

A standard case may include an uncontested, limited issue(s) or minimal conflict or any other legal issue which presents a minimal degree of family instability. The time frame goal from filing to disposition is 2-4 months.

388.8 Case Filings

All Domestic Relations cases are initiated by filing a pleading with the District Clerk on the 1st floor, Room 103, by fax filing, or e-filing. The District Clerk randomly assigns a domestic relations case to a family court at the time of filing and assigns it a cause number. All subsequent pleadings filed with the District Clerk should contain the original and cause number and be filed at the 388th District Clerk’s office located on the 9th floor.

388.9 Assignment to Court of Continuing Jurisdiction

If there is a court of continuing jurisdiction, all subsequent Motions or Petitions brought under the Texas Family Code shall be filed in the court of continuing jurisdiction. Subsequent pleadings shall be designated the original cause number.

388.10 Case Screening Instrument

Any new cause of action pleading must be accompanied by an original and copy of the case screening instrument. The case screening instrument must be completed and

signed by the filing attorney or pro se litigant. Failure to comply with completing this instrument may prevent the case from receiving a hearing date from the court.

388.11 Public Access to Court Setting Information

Information may be accessed online at www.epcounty.com, under Quick Links. Click on Records and again on Civil Case Search. The cause number or name of the parties may be entered to view the case status. Parties/attorneys should not call the court to request setting information nor to inquire about signed orders.

388.12 Best Practices

Best practices are utilized in the 388th District Court to ensure that each family's case is handled efficiently, fairly and with regard for the safety and well-being of all participants.

388.13 The 388th District Court utilizes a time-specific docket. Cases are scheduled by hearing type within a differentiated case management philosophy.

388.14 The 388th District Court requires all parties to pre-trial before the temporary orders hearing. This enables the court to focus on contested issues.

388.15 The 388th District Court maintains safety protocols to ensure that victims of domestic violence are safe during their time at the 388th District Court. The court bailiffs personally escort victims to their vehicles at the conclusion of the hearing.

388.16 The 388th District Court requires applicants to appear and give testimony at ex parte hearings for protective orders. This ensures that appropriate victim services are offered and that safety plans are completed at the time the Emergency Order is granted.

388.17 The 388th District Court maintains a central administrative and case management system. This allows for efficient case flow and maximizes staff resources.

388.18 The 388th District Court and Associate Courts judges and staff work together to achieve a common mission: To facilitate the resolution of family disputes fairly, efficiently, and with consideration of preserving family relationships.

388.19 District Court (High Conflict Cases) – Temporary Orders

Pre-Trial Required Before the Temporary Orders Hearing

Parties are required to convene 30 minutes before the scheduled hearing for the purpose of settlement conference. The following documents shall be exchanged:

- A completed Income and Expense Statement including the three most recent pay stubs;
- Proposed parenting schedule and child support requested;
- Health insurance card and provider list.

It is the attorney's responsibility to provide sufficient copies of documents for the

opposing party and the court. A copy center is available on the lower level of the courthouse. (Do not ask court staff to make copies of documents).

388.20 Failure to Appear at Pre-trial Conference

If either party/attorney fail to appear for this proceeding without good cause, the court may impose appropriate sanctions.

388.21 Failure to Appear at Temporary Orders Hearing

If the party requesting the temporary orders fails to appear as scheduled, upon oral motion of the appearing party the temporary relief will be denied and the case will be set for trial on the merits. If the moving party's attorney fails to appear, the attorney may be subject to sanctions. If the opposing party/attorney fails to appear at the designated time, the hearing will not be delayed unless good cause is shown.

388.22 Temporary Restraining Order Hearing

A hearing for Temporary Restraining Orders/Temporary Orders is scheduled for one hour in the District Court. Stipulations are presented first, followed by disputed issues to be decided by the court. Temporary Restraining Orders and Temporary Orders will be entered with an interest in maintaining stability within the family, including financial issues, temporary custody of children, and designation of parenting time.

388.23 Temporary Orders Hearing -Scheduling Order

A Scheduling Order will be issued at the conclusion of the hearing. Attorneys and litigants should be prepared to discuss trial dates, good faith estimate of trial duration, scheduling conflicts, requests for special appointments and all other matters which assist in the organization of the trial schedule.

388.24 Submission of Temporary Orders

Petitioner's attorney shall submit a Proposed Temporary Order at the conclusion of the hearing.

388.25 Mediation/Settlement Conference/Dispute Resolution Required Before Final Hearing

Attorneys/parties are expected to participate in a settlement/mediation conference, develop and exchange proposals to resolve disputed issues. Any mediation/settlement conference ordered by the court *cannot* be canceled or rescheduled without the court's approval.

**388.26 District Court - Trial on the Merits
Pre-trial Conference**

A pre-trial conference is conducted pursuant to the assigned Scheduling Order and Rules of Civil Procedure. Each party is required to be present.

388.27**Continuances**

Absent exigent or unforeseeable circumstances or good cause, continuances will not be granted. Factors to be considered by the court when deciding whether to grant or deny a motion for continuance may include, but not be limited to:

- The effect on children and spouses if the issue is continued;
- Whether a temporary order is in effect that deals with the issue that is the subject of a motion to continue;
- The impact of a continuance on the safety of the parties or any other persons;
- The time standards established for various family court matters;
- The age of the case or motion;
- The status of the trial calendar;
- The number of previous continuances;
- The extent to which the movant had input into the scheduling of the trial date;
- The due diligence of the moving party on promptly making a motion for continuance as soon as practicable;
- Whether the reason for continuance is a short-lived event which would resolve prior to the scheduled court date;
- The existence of a legitimate conflict with another court setting;
- Whether counsel has submitted a vacation certificate at the time of the court setting;
- The period of delay caused if the motion is allowed;
- The position of the opposing party or counsel
- Present or future inconvenience or unavailability of witnesses/parties, or attorneys if the case is continued;
- The status of discovery;
- Any other factor that promotes the fair administration of justice.

388.28**Motion to Continue must be in writing and a hearing requested**

Attorney agreements for continuance will be considered by the court but are not determinative of its granting. Hearings on Motions to Continue may be requested as a telephone conference with the court.

388.29**Participation in and Purpose of Pre-trial Hearing**

Attendance is mandatory for attorneys of record and parties. The purpose of a pre-

trial hearing is to assist the parties in trial preparation by narrowing the issues for trial or for disposition of the case, to exchange witness lists, to determine what facts can be stipulated, to exchange exhibits, and to indicate time allotments for each witness. Adjustments to the time allocated for trial may be made at this time in the discretion of the judge.

388.30

Pre-trial Order

A proposed pre-trial order should be prepared by both parties in advance of the pre-trial hearing. Failure of a party to complete the order or failure of the opposing party to cooperate with providing the appropriate information and/or documents to complete the order may result in the imposition of sanctions.

The Pre-Trial Order shall include at least the following information:

- (a) The names of all witnesses, with the exception of impeachment witnesses; specify which witness will require an interpreter;
- (b) The names of previously-disclosed expert witnesses who will be testifying, including area of expertise;
- (c) A list of exhibits, with the exception of impeachment exhibits;
- (d) Counsel and self-represented parties are responsible for providing 3 copies of the exhibits for trial or hearing: one for the trial judge, one for the opposing party, and one to be marked at the trial or hearing;
- (e) Any motions in limine or other pre-trial motions with applicable points and authorities;
- (f) Which witnesses will be presented via offer of proof and whether there are objections to this method of testimony;
- (g) An outline of all issues to be presented; and
- (h) Any stipulations.

388.31

Time Allocation/Witness Included in the Pre-trial Order

The time specific hearing trial system is based on reasonable time estimates made before hearing or trial by the attorneys/parties. It will be strictly enforced. For each witness, each party shall indicate the time needed for direct, cross and redirect examination. In addition, counsel/party must indicate time requested for opening and closing statements.

388.32

Trial on the Merits

The trial on the merits is calendared based on the time estimates given. The court must rely on the accuracy of the time estimates to manage the court's calendar. Each side should expect to be limited to the estimate given, which should include time for argument.

388.33 Failure to Appear-Sanctions

Failure to appear at the scheduled final hearing may result in the case being stricken from the contested calendar, granting of partial relief to the appearing party, striking of the nonappearing party's pleadings and the hearing of the matter as a default, an award of attorney's fees and costs, and such other relief as the court finds appropriate, without further notice to the defaulting party.

388.34 Entry of Judgments

Submission dates are pronounced by the court from the bench and are calendared as a hearing by submission. Failure to submit proposed orders may result in appropriate sanctions. If contested entry issues arise, a motion requesting a 15 minute submission hearing must be requested. Extensions of submission dates must be requested by Motion and will only be granted for good cause.

388.35 Jury Trial (section to be developed)

388.36 Termination of Parental Rights/Adoption Pre-Trial Hearing

In order to schedule a pre-trial hearing for an adoption, the party/attorney must submit the following documentation:

- Motion and Order to Appoint a Social Study Investigator;
- Motion and Order to Appoint Amicus Attorney or Guardian Ad Litem;
- Motion and Order to Appoint Attorney Ad Litem, if necessary;
- Motion and Order to Set Final Hearing.

Upon submission of these documents along with Certificate of Readiness, a hearing will be scheduled within 90 days. Prior to the pre-trial hearing, the party/attorney must file finger print cards evaluated for a criminal background by the Texas Department of Public Safety, file the results of the social study, and confirm the amicus attorney has met with the child(ren).

388.37 Termination of Parental Rights/Adoption Final Hearings

A Certificate of Readiness must be on file and provided to the court. Upon its submission, a final hearing date will be issued. Do not request the court to hear the evidence without the submission of processed fingerprint cards. Payment of the social study investigator/amicus attorney/attorney ad litem should occur through petitioner's attorney outside the presence of the court. Family members are welcome to attend the hearing. Child(ren) must be present.

388.38 Name Change Hearing

Attorney/Pro Se litigants must provide the court with a file stamped copy of the Petition for Name Change and a Motion and Order Setting Hearing. Name change hearings may be scheduled at the time requested.

- 388.39 Associate Court (Standard Cases) – Temporary Orders**
Upon an Order of Referral from the District Court, the case is placed on the Associate Court calendar.
- 388.40 Pre-Trial Conference Required Before the Temporary Orders Hearing**
Parties are required to convene 15 minutes before the scheduled hearing for the purpose of settlement conference. The following documents shall be exchanged:
- A completed Income and Expense Statement including the three most recent pay stubs;
 - Proposed parenting schedule and child support requested;
 - Health insurance card and provider list.
- It is the attorney’s responsibility to provide sufficient copies of documents for the opposing party and the court. A copy center is available on the lower level of the courthouse. (Do not ask court staff to make copies of documents)
- 388.41 Failure to Appear at Pre-trial Conference**
If either party/attorney fail to appear for this proceeding for good cause, the court may impose appropriate sanctions.
- 388.42 Failure to Appear at Temporary Orders Hearing**
If the party requesting the temporary orders fails to appear as scheduled, upon oral motion of the appearing party the temporary relief will be denied and the case will be set for trial on the merits. If the moving party’s attorney fails to appear, the attorney may be subject to sanctions. If the opposing party fails to appear at the designated time, the hearing will not be delayed unless good cause is shown.
- 388.43 Temporary Restraining Order Hearing**
A hearing for Temporary Restraining Orders/Temporary Orders is scheduled for 30 minutes in the Associate Court. Stipulations are presented first, followed by disputed issues. Temporary Restraining Orders/Temporary Orders will be entered with an interest in maintaining stability within the family, including financial issues, temporary custody of children and access for parenting time.
- 388.44 Submission of Temporary Orders**
Petitioner’s attorney shall submit a computer generated proposed Temporary Order at the conclusion of the hearing.
- 388.45 Mediation/Settlement Conference/Dispute Resolution Required**
Attorneys/parties are expected to participate in a settlement/mediation conference, develop and exchange proposals to resolve disputed issues. Any mediation/settlement conference ordered by the court *cannot* be canceled or rescheduled without the court’s approval.

- 388.46 Pre-trial for Final Hearing**
Pre-Trial hearings are scheduled for 15 minutes, and calendared approximately 30 days prior to the final hearing. Parties should exchange exhibits that will be presented during the final hearing and complete a Final Hearing Proposed Order before the hearing begins
- 388.47 Participation in and Purpose of Pre-trial Hearing**
Attendance is mandatory for attorneys of record and parties. The purpose of a pre-trial hearing is to assist the parties in trial preparation by narrowing the issues for trial or for disposition of the case, to exchange witness lists, to determine what facts can be stipulated and agreed upon by the parties, to exchange lists of stipulated exhibits, and to indicate time allotments for each witness. Adjustments to the time allocated for trial may be made at this time in the discretion of the judge.
- 388.48 Announcing Agreement at the Pre-trial**
In the event that parties reach a Rule 11 agreement before the pre-trial, the parties shall file the agreement and request to place the final hearing on the uncontested docket by filing a Motion and Request for a Hearing to be placed on the Uncontested Docket.
- 388.49 Contested Final Hearings**
Each hearing is scheduled on the docket for a maximum of 1 hour unless otherwise directed by the District Court.
- 388.50 Uncontested Final Hearings**
Agreements, waivers, and default cases are scheduled on the uncontested docket. These cases are heard by the 388th roving associate judge. A hearing may be requested by submission of a motion to be placed on the uncontested docket. Hearings on the docket **cannot be re-scheduled by telephone or fax.**
The following cases are referred to the roving associate court when on assignment to the 388th District Court.:
- Day 1 Protective Orders
 - Day 2 Calendared Uncontested Matters (cases w/attorneys a.m.; pro-se p.m.)
 - Day 3 Walk – in Uncontested Matters
- 388.51 Pro Se (Self-represented) Uncontested Case**
Those who choose to proceed without an attorney are subject to the same rules and procedures outlined above.
- 388.52 Proposed Order by Associate Judge**
A recommendation will be pronounced at the completion of the hearing. Counsel for the petitioner will complete the proposed order form in conformity with the

pronouncements. Attorneys and parties will be provided with copies of the order. An entry of judgment date will be set by the court.

388.53 De Novo Hearing

A party may request a De Novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's report. Notice of a de novo hearing before the referring court shall be given to the opposing attorney under Rule 21a, Texas Rules of Civil Procedure. Upon its filing, a copy of the Notice along with a Motion for Pre-trial of De Novo Hearing should be submitted to the referring court.

388.54 Protective Orders

DCM procedures apply to applications for protective orders whether filed by the county attorney, private counsel, or by pro se litigant. In screening a case for retention or referral, the following factors will be considered:

- Criminal component;
- Severity of allegations;
- Time requested for trial.

388.55 Ex Parte Protective Order/Exclusion of Party from the Residence Hearing

Upon filing of an ex-parte protective order, the applicant's attorney should immediately notify the court to arrange a hearing for the applicant to testify. Ex-parte hearings are given priority and will be heard as soon as practicable after the applicant's arrival.

388.56 Pre-trial Hearing/Docket Call

The purpose of the protective order pre-trial is to narrow the issues, exchange witness and exhibit lists and witness time allotments. It also may be used for the purpose of discussing settlement. Docket call is scheduled on Thursdays at 4:00 p.m. in Room 902.

388.57 Who Should be Present

Attorneys and Respondents must be present in the courtroom at 4:00 p.m. Applicants may wait in the 388th secure location.

388.58 Preparation for Docket Call

The following information shall be exchanged *before* the 4:00 p.m. docket call :

- Attorneys shall exchange financial information (income and expense statements, including the most recent pay stubs for purposes of assessing

child/spousal support), if applicable.

- If the Parties share children, then proposed parenting schedules shall be exchanged including current insurance information.
- A pre-trial form must be completed prior to the pre-trial hearing.
- Upon the case being called, attorneys shall indicate ready.
- If Respondent has not been served, then the attorney representing the Applicant shall provide due diligence testimony regarding failure to execute service.
- Motions for Alternative Service, if needed, shall be presented to the court at the time of pre-trial.
- Attorneys shall ensure and verify to the court that the Applicant has been provided with an individualized safety plan.
- Respondent's failure to secure an attorney at the time of pre-trial will be considered under TX. Fam. Code 84. et.seq.

388.59 Protective Order Hearings/District Court

Hearings on domestic violence with criminal components, violence against children, or multiple issue cases (pending divorce or SAPCR) are retained by the District Court and are generally heard on Thursdays.

388.60 Protective Order Hearings /Associate Courts

Hearings on domestic violence cases without criminal components are scheduled on Thursdays on the 9th floor and are limited to one hour in the associate courts unless the district judge, in her discretion, determines that the allegations in the affidavit and the administration of justice require that additional time be allowed. If a protective order is recommended, the proposed protective order will be taken to the District Court immediately for signature. Parties and attorneys are excused after receiving signed copies.

388.61 Victim Safety

Applicants should arrive on the 9th floor through the back elevator. Applicants should be accompanied by county attorney staff or a victim advocate. The court bailiff will escort the Applicant to a secure area before the hearing. At the hearing's conclusion, the court bailiff will escort the Applicant out of the building.

388.62 Firearms Surrender in Protocols

In coordination with partner law enforcement agencies, prosecuting attorneys, domestic violence advocates, defense attorneys, and others, the 388th District Court joins in a coordinated and collaborative effort to implement firearms surrender protocols with the following goals:

- Increase victim safety
- To enhance protections for domestic abuse victim safety
- Ensure batterer accountability

Through the adoption of court-specific procedures, the court will order the surrender of firearms in protective order cases in conformity with both state and federal law.

1. A Sworn Statement of Possession of Firearms to every respondent once a protective order is issued. The form will be provided to litigants in Spanish upon request;
2. The completed Possession of Firearm Form will be filed in the court file;
3. The Judge will make an inquiry on the record to each party and/or witness regarding possession of firearms;
4. If after a full inquiry, the Judge finds that the Respondent is not currently in possession of a firearm no further action is required by the court;
5. If the Judge determines that the defendant is in possession of firearms, the Judge will issue an Order to Surrender Firearms to the Respondent;
6. Upon the issuance of an Order to Surrender Firearms, the Respondent will make arrangements to have a designated representative surrender the firearms to a law enforcement agency as outlined in the Order to Surrender. The case manager will fax a copy of the Order and a surrender receipt to the law enforcement substation notifying firearm surrender is on the way. Firearms must be surrendered within 48 hours;
7. A surrender receipt will be issued to the surrendering party by the law enforcement agency for any firearms taken into custody. The Respondent may also obtain a copy of the written surrender receipt from the arresting agency. The Respondent must file a copy of the surrender receipt with the District Clerks;
8. Law enforcement will fax a copy of the surrender receipt to the Court issuing the Protective Order notifying firearms have or have not been surrendered by the due date;
9. Law enforcement will store all surrendered firearms in accordance with agency policy.

388.63

Retrieving firearms after the expiration of a protective order

The respondent may file a Motion to Retrieve Firearms within 30 days after the expiration of the protective order. The applicant will have the opportunity to present a Motion to Prevent Firearm Return. After notice and hearing on the motions, the court will make a determination whether the respondent is legally eligible for the

firearms' return and issue an order accordingly.

388.64 Domestic Relations Office (DRO) Cases:

In the event that an obligor is in default of child support payments, or visitation issues exist, the DRO, acting as a friend of the court, may prepare a motion and serve both the obligee and the obligor with an order to appear in court. The motion will be set for pre-trial 60 days from the date filed. A final hearing will be set 30 to 45 days after the pre-trial hearing.

388.65 Court Room Decorum

The following courtroom conduct and decorum shall govern all attorneys and litigants appearing in the court.

388.66 Conduct Required By All Persons

Stand when the judge enters the courtroom and at such other times as the bailiff shall instruct.

388.67 All parties shall appear before the court at each setting and following each recess.

388.68 Once an attorney has entered the courtroom and appeared before the court, he/she should request leave from the court to exit.

388.69 In addressing the court, attorneys should stand and remain standing at counsel table or at the podium.

388.70 Counsel shall remain at the podium while examining witnesses and shall request permission from the court to approach a witness.

388.71 Judges and opposing counsel shall be addressed respectfully at all times. All objections and legal arguments by counsel shall be directed to the judge and not opposing counsel.

388.72 Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel or litigants.

388.73 Attorneys shall not approach the bench except with permission or request of the court.

388.74 Attorneys are responsible for providing copies of all paperwork including exhibits, orders and decrees and shall not request the court staff to make copies.

388.75 No talking or unnecessary noise that interferes with court proceedings is permitted.

388.76 All cell phones and pagers must be turned to the **OFF** position. The court may allow the use of cell phones to confirm calendar availability.

388.77 Electronic equipment (radios, tape recorders, computers, cameras, etc.,) are not allowed in the courtroom unless the device is required for the court proceeding and prior approval has been given by the court.

388.78 While in the courtroom, there shall be:

No leaning on the court bench;
No propping of feet on counsel table or chairs;
No sitting on counsel table;
No gum chewing;
No bottles, beverage containers or food;
No tobacco in any form shall be used;
No reading of newspaper or magazines.

388.79 Courtroom Attire

All persons entering the courtroom shall be dressed in business attire.

388.80 Attorneys shall wear business attire while in the court. Male attorneys shall be dressed in business suits or sports coats with dress shirt and tie. Female attorneys shall be dressed in business suits or business attire and jackets.

388.81 The following attire shall not be worn in the courtroom:

Blue jeans or blue jean material, shorts, spaghetti strap shirts, tank tops, sheer clothing, clothing that exposes the chest or midriff, sweat suits, hats, caps, sunglasses or flip flops.

388.82 Attorneys shall advise their clients, employees, agents and witnesses of the formalities of the court, and of these rules of conduct and decorum.

388.83 **The court may enforce these rules of conduct and decorum by appropriate action or sanctions.**