



## Judge Ben Woodward

Tom Green County Courthouse  
112 West Beauregard Street  
San Angelo, Texas 76903

119<sup>th</sup> District Court  
Concho, Runnels & Tom Green  
Counties, Texas

325/657-8012

Fax: 325/658-8046

March 26, 2020

Re: Temporary Procedures for the 119th District Court during COVID-19 Restrictions

Dear Colleagues,

Thank you for your cooperation and assistance during this challenge. I love practicing law and being a judge in West Texas, and the biggest reason is the cooperation and collegiality of the attorneys here. That makes our difficult work more satisfying. Our goal is to resolve disputes and legal problems. With the current restrictions, that will be a bit more difficult to achieve but I am confident we will persevere and accomplish our goal.

I will need to implement some new procedures in many cases. For the time being, please be patient and send me any suggestions you may have.

**“Non-essential Proceedings”:** First, pursuant to the Governor’s Proclamation, the Supreme Court and Court of Criminal Appeals Emergency Orders, and The Office of Court Administration recommendation, I will *not* conduct any *in-person, non-essential* hearings until May 1, 2020. Non-essential proceedings are all proceedings not dominated as Essential. This does not mean I will not hear these cases as scheduled; they will only be heard with an alternative procedure, if safe and reasonably practical, but some may be delayed.

**“Essential Proceedings”:** Essential matters are, by way of example, matters such as criminal magistrate proceedings, CPS removal hearings, Temporary Restraining Orders and Temporary Injunctions, juvenile detention hearings, and family violence protective orders. OCA divides these additionally as matters that must be heard in 7 days, 7-30 days, 30-90 days and 90+ days.

Essential Proceedings also have limitations on numbers of people in the courtroom. So, if you have an essential proceeding, expect limitations as well.

Next, a word about video conferencing. The State is providing the Judiciary a license for Zoom streaming service. You are getting much information about this, but let me summarize. The Judge or someone on the Judge’s staff will act as “host”. The Court will schedule a time for the conference and send you an access code for that conference. It is best for all participants to have access to a computer or other device, with a camera and good quality microphone (the built-in camera and mic in phones, tablets, and computers will likely be sufficient), but one can participate by audio using a phone. *All witnesses must have video and audio.* You log in at no charge through that access code. (You will need to register with Zoom but you can do that when you begin your first Zoom conference.) All other participants must log in as well, on their own devices.

Once all are logged in, the participants will see each other and hear each other, but the Host can mute anyone's microphone. The "Host" can also "invoke the rule" by placing witnesses in another virtual room, without audio or video from the proceedings in court. Then, we conduct court as usual, but remotely.

We must comply with the Open Courts doctrine, so I will likely be in a courtroom, but I may use a You Tube option. The case will be streamed to a You Tube channel that does not allow any comments or participation by viewers and can be erased at the end of the proceeding. In those instances, you must advise your client and witnesses that they will be "streamed" live to You Tube.

It is also illegal to record Court while in session. Although remote and on You Tube, this is a court proceeding. Neither you, your clients, or witnesses may record the You Tube Video. *The Court will consider such recordings as contempt of court.*

### ***Family Cases***

If you have a Family Law case set for hearing in the next few months, it is likely not an essential proceeding, so I will either (1) delay the hearing, (2) consider an agreed decree or order as described next, or (3) conduct a Zoom remote hearing.

#### *1. Agreed Divorce Decrees and Agreed SAPCRs.*

If you have an agreed Decree of Divorce (with or without a SAPCR) or an Agreed Order in an Original SAPCR, we can arrange to finalize it in several ways.

**First, By Agreement:** First, you may submit by e-file, a final decree or order, signed by all parties that they "agree as to form and substance", and by the attorneys "as to form". Then, evidence can be presented by stipulations or affidavits signed by the parties. All can be submitted by e-file. Notify Nikki Bruton and she will get the case to me.

**Second, By Remote Hearing:** Another approach if more convenient, will be the Zoom video conferencing. You can make an appointment for the conference call. Notify the Court of all participants that will be on the call. Do not forget to include the Attorney General if a party. We will conduct that proceeding as if in the courtroom (in fact, I may be in the Courtroom).

If you anticipate many witnesses or exhibits, the Court may, in its discretion, delay to a later month. You should call Nikki Bruton, give her a status, and request a conference.

#### *2. Cases with a dispute only about child support.*

If all issues are resolved except for child support, I typically will use the Family Code Guidelines for child support. So, I need income information, such as w-2's, tax returns, check stubs. Small business owners should have an income statement, tax return, bank accounts or some other record of income. Those can be submitted by affidavit. Both parties can submit information.

If a party wants to also present testimony on these matters, we can arrange a Zoom video hearing.

Once the child support issue is determined, the attorneys will submit a decree by e-file, in the same form and manner as described above for agreed orders.

### *3. Other Family Matters.*

If you have a more disputed matter, call Nikki Bruton to arrange a pretrial at least a week before the final hearing. We will handle case-by-case.

### *4. Temporary Orders.*

Each judge will likely have their own procedures, but nothing works better than the lawyers negotiating before the day of the hearings.

I suggest that the Bar contract with one or two mediators who agree to mediate temporary matters by phone. Perhaps a mediator would accept a fixed fee for a 30-minute conference call and be available for several calls the days before Temps.

We are limited to 10 people in the Courtroom and the Court staff will be 3 or 4. With 2 lawyers and 2 clients, there is very little room for witnesses. And that is for one case.

I think you can expect that Temps will be done by Zoom, which has its own challenges. Among others, you will need to have all participants prepared to use Zoom.

### ***Civil Matters***

Summary Judgments can be submitted without a hearing and I urge everyone to do that.

Default Judgments can likely be submitted on affidavits, including as to liquidated damages.

I will determine procedures for hearings on other disputes on a case-by case basis.

### ***Criminal Matters***

My priority will be on pleas of defendants in jail. As always we try to reduce the population at the jail and with COVID-19, that is even more important.

We will ask you to get those plea papers signed before the hearing and e-filed. This expedites the time it takes to do a plea and reduces exposure to both people in the Courthouse as well as the Defendant. The Sheriff is working on ways to get inmates signatures electronically.

We will be able to have only a few of these at any given time, so will likely schedule only one or two attorneys at any given time.

Jury Trials are not possible with current limits on numbers who may gather.

Bench trials are not likely for a while because of the number of people required and because most would require police officers and detectives to be in court, at a time the police and sheriff are spread very thin and under additional pressures. We may be able to arrange a remote hearing through Zoom, but that will require much cooperation between the attorneys and the Court.

Finally, the District Judges are working together to develop more uniform procedures and plans. And those plans tend to change as quickly as we meet. We are working to keep the community safe,

including you and other participants in the cases, as well as move cases as quickly as we can. Thank you for your patience and cooperation.

Sincerely yours,

A handwritten signature in blue ink that reads "Ben Woodward". The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

Ben Woodward

Judge, 119<sup>th</sup> District Court