

PRESENTED AT

30th Annual Conference on State and Federal Appeals

June 4-5, 2020

Live Webcast

Texas Courts Respond to COVID-19

**Hon. Blake A. Hawthorne, The Supreme Court of Texas
Hon. Emily Miskel, 470th District Court, Collin County, Texas
David Slayton, Texas Office of Court Administration**

Hawthorne, Miskel, and Slayton:

blake.hawthorne@txcourts.gov
512.463-1312

Contents

I. First Emergency Order Regarding COVID-19 State of Disaster	3
II. Second Emergency Order Regarding COVID-19 State of Disaster.....	3
III. Third Emergency Order Regarding COVID-19 State of Disaster.....	3
IV. Fourth Emergency Order Regarding COVID-19 State of Disaster	3
V. Fifth Emergency Order Regarding COVID-19 State of Disaster.....	4
VI. Sixth Emergency Order Regarding COVID-19 State of Disaster	4
VII. Seventh Emergency Order Regarding COVID-19 State of Disaster.....	4
VIII. Eighth Emergency Order Regarding COVID-19 State of Disaster.....	4
IX. Ninth Emergency Order Regarding COVID-19 State of Disaster	5
X. Tenth Emergency Order Regarding COVID-19 State of Disaster	5
XI. Eleventh Emergency Order Regarding COVID-19 State of Disaster	5
XII. Twelfth Emergency Order Regarding COVID-19 State of Disaster	5
XIII. Thirteenth Emergency Order Regarding COVID-19 State of Disaster.....	6
XIV. Fourteenth Emergency Order Regarding COVID-19 State of Disaster	7
XV. Fifteenth Emergency Order Regarding COVID-19 State of Disaster	7
XVI. Sixteenth Emergency Order Regarding COVID-19 State of Disaster	8
XVII. Seventeenth Emergency Order Regarding COVID-19 State of Disaster.....	8
I. Introduction	10
II. Problems with the Reporter’s Record.....	10
A. Inaudible Audio	10
B. Corrupted Electronic Exhibits.....	11
C. Access to Video or Audio Recordings of Trial.....	11
D. Contemporaneous Objections	12
E. Exhibits Displayed but not Admitted into Evidence.....	12
F. Physical Evidence	12
G. Sensitive Data and Trade Secrets.....	12
III. Problems with Witnesses.....	13
A. The Rule.....	13
B. Coaching During Testimony.....	13
C. Disconnection	13
D. Assessing the Witness’s Credibility	14
E. Admonishments and Standing Orders	14

IV. Conclusion.....	14
I. Become Familiar with Zoom.....	15
II. Test Your Equipment.....	15
III. Check Your Physical Surroundings.....	15
IV. Consider a Virtual Background.....	15
V. Position Yourself in the Frame.....	16
VI. Check Your Display Name.....	16
VII. Meet with Court Personnel Via Zoom.....	16
VIII. Moot Your Case Via Zoom.....	17

1. A Summary of Supreme Court of Texas Emergency Orders Regarding the COVID-19 State of Disaster

By David Slayton
Administrative Director
Texas Office of Court Administration

All COVID-19 Emergency Orders may be found at <https://txcourts.gov/media/coronavirus-covid-19-emergency-orders/>. Orders in RED below have been superseded. Orders in GREEN superseded previous orders.

I. First Emergency Order Regarding COVID-19 State of Disaster

- Issued March 13, 2020 // Extended as clarified and amended by Twelfth Emergency Order
- Without a participant’s consent and subject to constitutional limitations, permits all judges in the state at their discretion, and requires all judges “to avoid risk to court staff, parties, attorneys, jurors, and the public,” to:
 - modify or suspend deadlines and procedures in connection with state of disaster; allow or require remote participation in hearings, depositions, or proceedings (not including jurors); consider as evidence sworn statements made out of court or remotely-given out-of-court sworn testimony; conduct proceedings away from court’s usual location but in the county of venue with reasonable notice and access to participants and public; require proceeding participants to alert court of their or another participant’s COVID-19-like or flu-like symptoms; and take any reasonable action to avoid court proceeding exposure to COVID-19.

II. Second Emergency Order Regarding COVID-19 State of Disaster

- Issued March 17, 2020 // Extended as clarified and amended by Twelfth Emergency Order
- For possession schedules in SAPCR, clarifies that right to possession of and access to a child under a court-ordered possession schedule is not affected by school closure arising from COVID-19 and that the original published school schedule controls.

III. Third Emergency Order Regarding COVID-19 State of Disaster

- Issued March 19, 2020 // Extended as clarified and amended by Twelfth Emergency Order
- Amends First Emergency Order by striking county of venue requirement when courts conduct proceedings away from court’s usual location
- Clarifies that, under First Emergency Order, the modification or suspension of deadlines and procedures in connection with state of disaster applies to Family Code Title 5, Subtitle E, and specifically to Family Code §263.401 [Dismissal After One Year; New Trials; Extension]
- Prohibits judges from conducting non-essential proceedings in person contrary to local, state, or national directives, whichever is most restrictive, regarding maximum group size.

IV. Fourth Emergency Order Regarding COVID-19 State of Disaster

- Issued March 19, 2020 // Extended as clarified and amended by Twelfth Emergency Order

- Supplements and does not replace prior COVID-19 Emergency Orders
- In eviction action to recover possession of residential property under Property Code Chapter 24 and TRCP 510:
 - Prohibits trials, hearings and proceedings and tolls deadlines until after April 19, 2020; allows issuance of writ of possession but bars posting of Property Code §24.0061(d)(1) warning and writ execution until after April 26, 2020; tolls TRCP 510.8(d)(1) – (d)(2) deadlines while Order in effect; and allows acceptance of new filings but suspends TRCP 510.4(a)(1) time period and bars issuance and service of citation until after April 26, 2020;
 - Allows eviction action to proceed only if plaintiff files Sworn Complaint for Forcible Detainer for Threat to Person or For Cause, court determines that facts and grounds for eviction show imminent threat of physical harm or criminal activity, and court signs order stating procedures for case to proceed

V. Fifth Emergency Order Regarding COVID-19 State of Disaster

- Issued March 20, 2020 but retroactive to March 13, 2020 // Extended as clarified and amended by Twelfth Emergency Order
- Supplements but does not replace nor amend prior COVID-19 Emergency Orders, and holds that all deadlines related to attorney professional disciplinary and disability proceedings, whether prescribed by statute, rule, or order, are tolled while Order in effect

VI. Sixth Emergency Order Regarding COVID-19 State of Disaster

- Issued March 22, 2020 // Expires at conclusion of TSBA and TYLA 2020 elections unless extended
- Provides that TSBA and TYLA 2020 elections for presidents-elect and directors must be conducted online only, by electronic vote, and not by paper ballot, and extends voting period to May 29, 2020, at 5:00pm.

VII. Seventh Emergency Order Regarding COVID-19 State of Disaster

- Issued March 24, 2020 // Extended as clarified and amended by Twelfth Emergency Order
- Supplements but does not replace nor amend prior COVID-19 Emergency Orders
- For possession schedules in SAPCR, clarifies that in all instances the existing trial court order controls and that the right to possession of and access to a child under a possession schedule is not affected by any shelter-in-place order or other order restricting movement issued by a governmental entity issued in response to COVID-19.
- Clarifies that nothing in the Emergency Order prevents courts from modifying their order on an emergency basis or otherwise nor prevents parties from altering the possession schedule by agreement if allowed by their court order.

VIII. Eighth Emergency Order Regarding COVID-19 State of Disaster

- Issued April 1, 2020 // Extended as clarified and amended by Twelfth Emergency Order
- Amends paragraph 3 of First Emergency Order to toll any civil case filing and service deadlines in civil from March 13 until June 1. Order does not affect deadlines for filing appeals or other

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Texas Courts Respond to COVID-19

Also available as part of the eCourse

[2020 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the
30th Annual Conference on State and Federal Appeals session
"Texas Courts Respond to COVID-19"