

IN THE DISTRICT COURTS AND COUNTY COURTS AT LAW OF NUECES COUNTY, TEXAS

NUECES COUNTY ORDER
REGARDING REMOTE PARTICIPATION IN VIDEOCONFERENCED MEDIATIONS AND/OR THOSE
TELEPHONICALLY CONDUCTED

The Nueces County District Courts and County Courts at Law acknowledge the severity of the COVID-19 pandemic, and the advisability of “social distancing” to contain it. However, mediations noticed and taken remotely pose no risk of spreading the coronavirus, and “[i]t is the policy of this state to encourage the peaceable resolution of disputes... and the early settlement of pending litigation through voluntary settlement procedures.” TEX. CIV. PRAC. & REM. CODE §154.002. In support of this public policy of the State of Texas, Docket Control Orders, or Scheduling Orders, commonly require the parties to have engaged in mediation before a trial may begin. Consequently, if mediations do not continue during this period of “social distancing, “ cases will not be ready for trial when jury trials physically resume in this county. As a result, a blanket cessation of mediations in civil cases during this pandemic creates constitutional concerns as it could deprive citizens of their access to open court, TEX. CONST. art. 1, Sec. 13, and the ability to prepare their cases for a right to trial by jury, a guarantee that shall remain inviolate under the Texas constitution, TEX. CONST. art. 1, Sec. 15, and “shall be preserved” under the Seventh Amendment to the United States Constitution. U.S. CONST., 7th Amend.

Allowing a party to unilaterally choose to not participate in mediation unfairly stalls the ability of litigants to prepare their cases for trial. Given the uncertainty concerning how long social distancing countermeasures will be necessary to prevent the spread of COVID-19, The Nueces County District Courts and County Courts at Law enter this Order to prevent a party from refusing to attend a mediation by remote means during this pandemic.

On March 13, 2020, the Supreme Court of Texas and the Court of Criminal Appeals of Texas issued their First Emergency Order Regarding COVID-19, State of Disaster (Misc. Docket No. 20-007). By way of that Order the Supreme Court of Texas authorized that all courts in Texas to “[a] allow or require anyone involved in a hearing, deposition or other proceeding of any kind – including, but not limited to a party, attorney, witness, or court reporter, ... - to participate remotely, such as by teleconferencing, videoconferencing, or other means.” Mediation is an “other proceeding... of any kind” for which the state’s highest courts have given all “courts in Texas” the power to “require anyone involved” to “participate remotely, such as by teleconferencing, videoconferencing, or other means.”

While jury trials have been temporarily suspended pending “social distancing” recommendations and orders being lifted, the Nueces County District Courts and County Courts at Law want litigants to continue preparing their cases for trial in a safe manner. Due to the coronavirus (COVID-19) crisis, and to ensure the health and safety of the public, court staff(s), and litigants, the District Court Judges and County Courts at Law Judges of Nueces County, during a specially called meeting on March 27, 2020, and continued to March 18, 2020, adopted a resolution regarding videoconferencing depositions and telephonically recorded testimony.

In light of the Supreme Court’s authorization set forth in Misc. Docket No. 20-007, and in the interest of safety and welfare of the public, attorneys, and clients amid the ongoing concerns and escalation of COVID-19, the Nueces County District Courts and County Courts at Law, during a specially called meeting on March 27, 2020, have also made the following decisions regarding mediations in cases filed in Nueces County, and hereby orders the same:

1. Until further ordered, all mediations involving cases filed in Nueces County may be noticed to take place remotely;
2. All mediations shall be preceded by a meet and confer process to choose a mediator and a date and time for the mediation, and then a subsequent notification sent to all parties specifically advising the name and location of the parties and the mediator selected, and any other persons to attend remotely;
3. All mediations shall be preceded by a notification sent to all parties specifically explaining how the parties in the case may access the remote connection being utilized (i.e., Zoom, GoToMeeting.com, etc.)
4. Pursuant to Misc. Docket No. 20-007, it shall not be grounds for refusing to mediate that a Mediator, Plaintiff’s attorneys, Defendant’s attorneys, a party, responsible insurance representative(s) or any other necessary person, wishes to attend remotely, and such a desire shall not delay mediation.
5. A party may satisfy the requirement of mediation in any Docket Control Order or Scheduling Order by requesting in writing to all other parties in the case that such a mediation occur pursuant this Resolution, and after conferring with all other parties concerning scheduling, sending a written Request for Mediation complying with the requirements of Paragraphs 1-3 above.
6. Subject to proper written notice provided in advance after the date of this Order, any mediation in a civil case may proceed telephonically or by videoconference, and shall be deemed to have complied with any requirement of mediation before trial in this jurisdiction.
7. This order automatically expires when the Governor of the state of Texas lifts his disaster declaration.

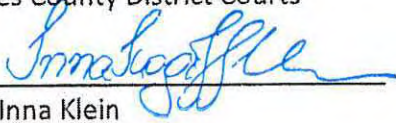
THIS NUECES COUNTY STANDING ORDER SHALL BECOME EFFECTIVE ON 27th DAY OF MARCH, 2020 and will apply to all District Courts and County Courts at Law in Nueces County.



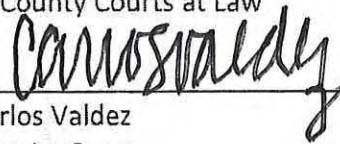
Hon. Nanette Hasette
28th District Court
Local Administrative Judge
Nueces County District Courts



Hon. Lisa Gonzalez
County Court at Law No. 2
Local Administrative Judge
Nueces County Courts at Law



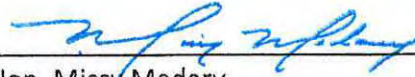
Hon. Inna Klein
214th District Court



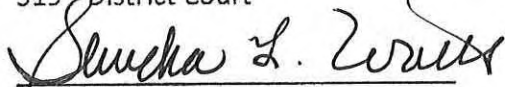
Hon. Carlos Valdez
148th District Court



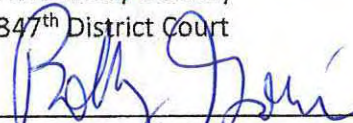
Hon. David Stith
319th District Court



Hon. Missy Medary
347th District Court



Hon. Sandra L. Watts
117th District Court




Hon. Bobby Galvan
94th District Court



Hon. Jack Pulcher
105th District Court



Hon. Deeanne Galvan
County Court at Law No. 3



Hon. Robert Vargas
County Court at Law No. 1



Hon. Mark Woerner
County Court at Law No. 4



Judge Timothy McCoy
County Court at Law No. 5