

304TH DISTRICT COURT BROWN BAG JAN 2017

A/K/A THINGS TO KNOW TO MAKE
SURE WE CAN ALL JUST GET ALONG!

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MY MUSCLE AND PROTECTION!!

- MY BAILLIFS ARE CHARGED WITH ENSURING THE 304TH POLICIES AND PROCEDURES ARE ENFORCED. I HAVE FULL FAITH AND CONFIDENCE IN THEIR ABILITY AND WILL DEFER TO THEIR EXPERTISE.

THE COORDINATOR

- WILL SET HEARINGS (NO HEARINGS/MOTIONS WILL BE SET WITHOUT A CERTIFICATE OF CONFERENCE)
- WILL UPDATE THE APPOINTMENT LIST EACH YEAR
- WILL UPDATE THE MEDIATOR LIST EACH YEAR
- WILL MAKE THE COURT APPOINTMENTS FROM THE LIST IN ORDER
- WILL ACCEPT AND REVIEW ALL ATTORNEY CLE HOURS BETWEEN OCTOBER 1-31 EACH YEAR. IF THE 31ST FALLS ON A WEEKEND THE DEADLINE IS THE FRIDAY BEFORE BY 12PM NOON. FAILURE TO COMPLY WILL LEAD TO YOU NOT BEING ON THE FOLLOWING YEAR'S LIST.
- NO HEARINGS WILL BE SET WITHIN 45 DAYS OF TRIAL UNLESS ALL THE PARTIES STIPULATE THAT THE HEARING WILL BE DISPOSITIVE

CERTIFICATES OF COURT OR HOW YOU GET PAID\$\$\$\$\$

- THE COURT ONLY ACCEPTS A CERTIFICATE OF COURT. THERE IS A SAMPLE ONLINE BUT YOU CAN MAKE IT FIT YOUR PARTICULAR CASE
- YOU MUST INDICATE IF YOU REPRESENT THE PARENT OR CHILD
- YOU MUST ITEMIZE YOUR IN COURT AND OUT OF COURT TIME.
- DO NOT LEAVE ANY BLANKS OR IT WILL NOT BE SIGNED

REMOVAL FROM APPT LIST A/K/A NO \$\$\$\$\$\$\$\$\$\$

- IF YOU FAIL TO APPEAR AT A HEARING WITHOUT CAUSE, A NEW ATTY MAY BE SUBSTITUTED IN ON THE CASE
- IF YOU WILL BE MORE THAN 10 MINUTES LATE AT A HEARING, CALL AND GET SOMEONE TO STAND IN FOR YOU. IF YOU DON'T KNOW ANYONE THEN MAKE FRIENDS WITH SOMEONE TODAY!
- KEEP THE COURT INFORMED ON YOUR PROGRESS VIA PHONE AT 2146984936 OR EMAIL AT TEMECCA.CARTER@DALLASCOUNTY.ORG . EMAIL IS BEST SO THAT THERE IS A PAPER TRAIL
- IF YOU ARE HABITUALLY LATE OR HABITUALLY FAIL TO APPEAR FOR A HEARING, YOU MAY BE REMOVED FROM THE CASE AND THE APPT LIST
- IF YOU HABITUALLY DO NOT SPEAK WITH YOUR CLIENT PRIOR TO THE HEARING, YOU MAY BE REMOVED FROM THE APPOINTMENT LIST
- **IF YOU FAIL TO SEE THE CHILDREN YOU'VE BEEN APPOINTED TO REPRESENT WITHOUT GOOD CAUSE THEN YOU WILL BE REMOVED FROM THE CASE AND THE APPOINTMENT LIST.**

APPOINTMENT LIST

- TO BE FAIR WE STRICTLY GO DOWN THE LIST WHEN MAKING APPOINTMENTS
- THE ONLY TIME APPT'S DON'T HAPPEN IN THIS MANNER IS IF AN APPT NEEDS TO BE MADE IN OPEN COURT
- THE NEXT PERSON IN LINE WILL BE APPOINTED UNLESS THERE IS A SPECIAL CIRCUMSTANCE, I.E. LANGUAGE

JD CASES – JUDGE RODRIGUEZ

- 1) if your client is in detention and they are contesting disposition and want to go home give me their level in detention and let me know how they have been doing since detained.
- 2) Also if they have been detained for a number of days let the Court know how long.
- 3) Be on time for your setting and be prepared.
- 4) if you know ahead of time that there is any issue such as no recommendation let the Court know in advance.
- 5) Restitution- bring your proof documents, receipts etc.
- 6) Meet with your clients in advance and contact your client immediately upon being appointed.
- THE 304TH POLICY IS FOR CHILDREN TO BE PLACED IN OUR DALLAS COUNTY FACILITIES. GOOD CAUSE MUST BE SHOWN FOR PLACEMENT OUTSIDE OF DALLAS COUNTY.
- THE 304TH WILL NOT ACCEPT A WAIVER OF THE 4TH AMENDMENT “STOP AND FRISK” DURING ANY PLEA.

APPOINTMENTS IN CPS CASES

- ATTYS ARE APPOINTED WELL ADVANCE FOR CPS CASES
- YOUR FIRST CONTACT WITH YOUR CLIENT **SHOULD NOT BE ON THE HEARING DATE**
- THE COURT'S ORDER EXPLAINS THE DUTY OF EACH APPT'D ATTY ONCE APPOINTED
- YOUR DUTY AS STATED IN THE COURT'S ORDER OF APPT IS A CONTINUING DUTY
- FAILURE TO COMPLY COULD LEAD TO A NEW ATTY BEING APPT'D ON YOUR CASE
- CONT'D FAILURE COULD LEAD TO YOUR REMOVAL FROM THE APPT LIST

NEGOTIATE TIMELY AND BEFORE YOUR COURT DATE!!

- ON YOUR HEARING DATES, THERE SHOULD NOT BE LONG NEGOTIATIONS
- CONTACT THE PARTIES AND ATTYS IN ADVANCE TO DISCUSS THE ISSUES AND REACH AGREEMENTS, IF ANY
- IF NO AGREEMENTS, THEN BE PREPARED TO COME TO COURT AT YOUR SCHEDULED TIME FOR A HEARING
- PLEASE TRY AND NARROW THE ISSUES BEFORE YOUR HEARING/TRIAL

RESIST!!!!!!!

- RESIST YOUR COMPELLING AND OVERWHELMING DESIRE TO SAY SOMETHING JUST BECAUSE YOU ARE IN FRONT OF ME.
- IF SOMEONE ELSE HAS SAID IT ALREADY, BELIEVE ME, I HEARD IT
- I APPRECIATE ZEALOUS ADVOCACY BUT I DO NOT LIKE DUPLICATIVE TESTIMONY
- PLEASE REVIEW YOUR FILES BEFORE COURT. I ALWAYS TRY AND REVIEW ALL PLEADINGS AND PRIOR ORDERS BEFORE A HEARING SO THAT I AM PREPARED. I EXPECT THE ATTORNEYS ON THE CASE TO DO THE SAME.

COURTROOM DECORUM

- PLEASE REVIEW AND BECOME FAMILIAR WITH THE COURT'S ORDER REGARDING COURTROOM DECORUM. THIS IS ON MY WEBSITE
- ADVISE YOUR CLIENT'S OF THE SAME
- DO NOT ALLOW YOUR CLIENT'S OR WITNESSES TO COME TO COURT IN INAPPROPRIATE CLOTHING OR CHEWING GUM.

??? HAVE YOU GONE TO MY WEBSITE??

- READ THE COURT'S POLICIES AND PROCEDURES ONLINE.
- YOU CAN JUST GOOGLE OR DO A SEARCH FOR 304TH DISTRICT COURT
- ALL MY POLICIES AND PROCEDURES ARE LISTED THERE
- CHECK BACK PERIODICALLY FOR UPDATES

CHILD SUPPORT

- CHILD SUPPORT IS AN OBLIGATION OF ALL PARENTS. CHILD SUPPORT WILL BE ORDERED IN FINAL ORDERS AND IN TEMPORARY ORDERS UNLESS THE PRESUMPTION IS REBUTTED.
- ALL CHILD SUPPORT IS DUE AND PAYABLE TO THE SDU

T.R.C.P. AND DALLAS COUNTY LOCAL RULES (YES THEY DO EXIST!!)

- YOU MUST ABIDE BY THE TRCP AND LOCAL RULES
- ALL REQUESTS FOR RELIEF MUST BE IN WRITING AND SET FOR A HEARING
- BEFORE THE COORDINATOR WILL SET A HEARING, A **CERTIFICATE OF CONFERENCE MUST** BE ATTACHED PURSUANT TO THE DALLAS COUNTY LOCAL RULES
- ALL MOTIONS/ORDERS/ANYTHING FILED MUST BE SUBMITTED TO ALL PARTIES PURSUANT TO THE RULES
- FAILURE TO COMPLY COULD LEAD TO SANCTIONS, IF AN OFFENDED PARTY FILES A MOTION AND REQUESTS THEM

YOUR CASE WILL BE DISMISSED!!

- IF NOT PROSECUTED TIMELY PURSUANT TO TRCP AND DALLAS COUNTY LOCAL RULES
- E/O DATES WILL BE GIVEN ON THE RECORD AND IN OPEN COURT AT EACH PU HEARING.
- ALL E/O HRGS ARE AT 10AM ON THE FRIDAYS
- THE COURT WILL SIGN ALL UNAPPOSED ORDERS PRESENTED ON THE E/O DATE
- IF NO ORDER IS PRESENTED AND NO REQUEST FOR MORE TIME IS MADE, THE CASE WILL BE DISMISSED

SCHEDULING ORDERS

- THE COURT REQUIRES A SCHEDULING ORDER FOR EACH CASE
- YOU MUST CONTACT THE DA VIA PHONE AND/OR EMAIL TO DISCUSS THE DATES PRIOR TO THE HEARING DATE
- ONCE THE SCHEDULING ORDER IS SIGNED, THE DATES WILL NOT BE CHANGED WITHOUT GOOD CAUSE AND AGREEMENT OF ALL PARTIES
- THE CASES ARE SCHEDULED A YEAR IN ADVANCE. AS SUCH NO CONTINUANCES OR REQUESTS FOR EXTENSIONS WILL BE GRANTED UNLESS A MOTION IS FILED AND GOOD CAUSE IS SHOWN. THIS APPLIES EVEN IF THE EXTENTION/CONTINUANCE IS AGREED.
- ALL CASES IN THE 304TH DISTRICT COURT ARE SPECIALLY SET AND WILL BE CALLED TO TRIAL/HEARING WHEN THEY ARE SCHEDULED AND WITHOUT ANY DELAY

PRISONERS

- WHEN A PRISONER IS NEEDED YOU MUST REQUEST THIS 48 HOURS IN ADVANCE
- YOU MUST MAKE THIS REQUEST TO THE COURT'S COORDINATOR. YOU CAN MAKE THIS REQUEST IN PERSON OR VIA EMAIL
- YOU MUST INCLUDE A REQUEST FOR BENCH WARRANT FORM WITH YOUR REQUEST.
- ALL INMATE MEDIATIONS WILL BE DONE DURING THE MORNING HOURS
- DO NOT BENCH WARRANT AN INMATE JUST TO SPEAK WITH THEM! GO SPEAK WITH THEM AT THE JAIL!!!

FAMILY COMES FIRST

- I WILL ALWAYS PLACE WITH FAMILY IF POSSIBLE. FAMILY MAY NOT BE IDEAL WHEN IT COMES TO COMPARING THEM WITH A FOSTER FAMILY, BUT FAMILY COMES FIRST IN MY COURT AND IS SUPPORTED BY THE TEXAS FAMILY CODE AND CPS AND CASA POLICY.
- I WILL HOLD CPS, GAL, AND CASA RESPONSIBLE FOR FAILING TO PUT THE PARENTS ON EQUAL FOOTING WITH FOSTER FAMILIES.
- I BELIEVE FAMILY SHOULD BE GIVEN EVERY OPPORTUNITY.
- CHILDREN WILL NOT REMAIN IN FOSTER CARE STRATEGICALLY WHEN THERE IS AN APPROVED HOMESTUDY.

PERMANENCY

- THE COURT WILL ENSURE THAT CHILDREN IN CPS CARE GET PERMANENCY
- ATTORNEYS FOR PARENTS/CHILDREN SHOULD PREPARE ALL PLEADINGS/ORDERS NECESSARY TO ENSURE PERMANENCY INCLUDING BUT NOT LIMITED TO PERMANENT INJUNCTIONS, PROTECTIVE ORDERS, CHILD SUPPORT ORDERS, JMC/PMC ORDERS, DIVORCE PLEADINGS/ORDERS, MOTIONS FOR RETURN/FBSS, ETC PERSUANT TO TFC 107.0131(1)D.
- THE COURT WILL PREFER FINAL ORDERS IN ALL CASES VS DISMISSAL/NON-SUIT WHENEVER IT IS PRACTICABLE.

SE HABLA ESPANOL?

- ALL INTERPRETOR REQUESTS SHOULD BE EMAILED TO THE COURT'S COORDINATOR 48 HOURS IN ADVANCE AT TEMECCA.CARTER@DALLASCOUNTY.ORG
- RETAINED ATTYS WILL NEED TO PROVIDE THEIR OWN INTERPRETOR. IF YOU WOULD LIKE TO USE THE COURT'S INTERPRETOR, THEN YOU WILL NEED TO PAY THEM IN FULL PRIOR TO THE START OF THE HEARING

NORMALIZING THE CHILD

- MORE VISITS BETWEEN PARENTS AND CHILD IF PLAN IS PROPOSED THAT'S WORKABLE
- CHILDREN SHOULD HAVE PHONE/ELEC CONTACT W/ PARENTS AND THE COURT IS OPEN TO ORDERING IT IF A PLAN IS PROPOSED THAT IS WORKABLE
- CHILDREN IN FOSTER CARE SHOULD BE KEPT IN THEIR SAME SCHOOL OR SHOULD BE RETURNED TO THE SAME SCHOOL AS SOON AS POSSIBLE AND ATTORNEYS APPOINTED ON THE CASES SHOULD WORK TO ENSURE THAT HAPPENS (see Every Student Succeeds Act on next slides or call PD Rhonda Rieken)
- ATTORNEYS FOR PARENTS SHOULD ENSURE THEIR CLIENTS ARE WORKING SERVICES SO THAT RETURN SHOULD BE CONSIDERED AT PERM HEARING. ATTORNEYS FOR PARENTS/CHILDREN SHOULD REQUEST A THAT A STAFFING OCCUR AT LEAST 15 DAYS BEFORE THE PERM HRG TO EXPLORE THIS.

Every Student Succeeds Act

BY RHONDA RIEKEN

- McKinney-Vento Act works for the benefit of homeless children, mandating that they be allowed to remain in their school of origin if it is in the child's best interest, requiring the local school district to provide or arrange transportation to the school of origin, and mandating prompt enrollment and transfer of records if the homeless child transfers school. New revisions to McKinney-Vento act effective Dec. 10, 2016 removed "children awaiting foster placement" from the definition of homeless children and youth. Foster youth education is now addressed in the new Every Student Succeeds Act (Public Law 114-95, sections applying to foster children effective beginning Dec. 10, 2016). Some of these same provisions are also found in the Fostering Connections Act of 2008 (Public Law 110-351) but it did not provide mandates for the schools regarding transportation. Under ESSA and the Fostering Connections Act of 2008, "foster care" means 24 hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility."
- How does this new Act (Every Student Succeeds Act) affect your child client?
- TDFPS and Texas Education Agency are mandated to collaborate to ensure educational stability of children in foster care. Each time a child comes into foster care and each time the child is moved from one placement to another, there should be a determination made as to whether it is in best interest of the child to remain in their current school, called school of origin. If there is no danger to the child and it is in the child's best interest to remain in the school they were attending prior to being removed or moved by TDFPS, the child has the right to remain in their school of origin. CPS and Guardian Ad Litem and CASA should be insisting that foster parents and relative placements keep the child in their "School of Origin"—the school they were attending at the time they were removed--if considering all factors (such as how long until the end of the semester or grading period, the differences in the school settings, the proximity of the school, if the child is a senior, education loss, the child's special needs, etc.) it is in the best interest of the child to remain in their school of origin. A two hour commute to and from school might not be in the best interest of a six year old, but might be right for a graduating senior who is 5 weeks away from graduating. The first consideration should not be whatever the foster parent wants. If you want the child to remain in their school of origin and transportation is an issue, the school's foster care liaison should be contacted for a transportation plan (see below). The school also has a form they fill out which gives the school's assessment on whether staying or moving to a new school is in the child's best interest. But you have to ask.
- Practice Tip—Texas Education Code section 264.115 says TDFPS has a duty to ensure child is enrolled in school within three days of removal or move.
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Every Student Succeeds Act Cont'd

- Foster parents traditionally did not want to allow it because it is not convenient for the foster parent and they did not want to transport or pay transportation cost. ESSA now mandates that the school of origin develop a transportation plan describing how transportation for foster care children to remain in the school of origin will be “provided, arranged and funded”, mandates that the school of origin ensure that the children in foster care needing transportation to the school of origin promptly receive transportation in a cost-effective manner, and if there are additional costs involved in the transportation plan, the school of origin school district and local TDFPS must collaborate to work out how those will get paid—either by the local school district, TDFPS at the local level, or both sharing the costs.
- If the child does transfer to the new home’s local school district, foster parents and Guardian Ad Litem and CPS caseworkers can and should demand under ESSA immediate enrollment in the new school, even if unable to produce records normally required for enrollment. Foster parents should go to the new school armed with a TDFPS Form 2085 and Form 2085E. Upon showing that document, the school should allow immediate enrollment pursuant to ESSA and should flag the child as a foster child. The Child Placing Agency forms are NOT good enough—the school needs the TDFPS forms 2085 and 2085E. Also, if the school states that they are unable to get records promptly from the other school, tell them to invoke ESSA and “foster care” status for the child, because school are mandated to provide prompt transfer of records for foster children.
- Practice Tip—all Texas Schools now must have a designated “foster care liaison.” The names are listed on TEA website’s ASKTED. Contact your client’s school’s foster care liaison to make sure your client is on the liaison’s radar, the liaison is aware of the child’s needs, and the school has received your client’s Special Education or 504 service plans and implements them promptly.
- Practice Tip—educate your foster homes and relative placements. Many of them are not aware of the option for the child to stay in the school of origin, and are not aware that the schools now must come up with the transportation plan. Many of the school transportation directors and foster care liaison I have talked to are very willing to help out our foster kids!
- Practice tip—encourage your foster homes and relative placements to at least keep the child in the school of origin until the end of the semester or school year.
- Practice Tip—don’t forget to utilize our CPS educational specialists if you are having difficulty getting a school to provide services for a child.

BAD WEATHER DAYS

A/K/A WE WILL BE SAFE AT HOME!

- IF THE COUNTY IS OPEN WHEN THERE IS BAD WEATHER, I WILL ADVISE WHETHER THE 304TH COURT IS CLOSED ON BAD WEATHER DAYS VIA MY FB PAGE
- I WILL SOMETIMES STILL CLOSE MY COURT EVEN IF THE COUNTY IS OPEN IF I THINK OUR LIVES ARE IN DANGER. SO PLEASE CHECK FB

COPIES OF THIS POWERPOINT

- I AM GLAD TO SEND YOU AN ELECTRONIC COPY OF THIS PRESENTATION
- I THANK YOU FOR FORGIVING THE TYPOS.
- PLEASE EMAIL MY COORDINATOR FOR A COPY OF THIS POWERPOINT
- IT WILL BE ONLINE AS WELL