

The Ultimate ✓lists

TABLE OF CONTENTS

1. **CHECKLIST OF INITIAL CLIENT SCREENING/INTERVIEW**
 - A. **PRE-INTERVIEW SCREENING**
 - i. Divorce
 - ii. Modification and/or Enforcement
 - iii. Premarital Agreements
 - iv. Paternity
 - v. Other
 - B. **INITIAL CONSULTATION**
 - i. Biography (Client)
 - ii. Biography (Opposing Party)
 - iii. Children
 - iv. Property
 - v. Miscellaneous
 - vi. Handouts/Forms
2. **PRE-FILING CONSIDERATIONS**
 - A. **JURISDICTION**
 - i. Residence and Domicile Requirements for a Status Adjudication and Divorce Suit
 - ii. Personal Jurisdiction to Divide Property in a Divorce
 - iii. Special Appearance Procedure
 - iv. In Rem Jurisdiction for Annulment or to Declare Marriage Void
 - v. Partial Jurisdiction
 - vi. Post-Decree Jurisdiction
 - vii. SAPCR Personal Jurisdiction
 - viii. Child Support & Parentage Jurisdiction
 - ix. Continuing Jurisdiction to Modify Spousal Support
 - B. **VENUE**
 - i. Divorce Venue
 - ii. Custody Interference Venue
 - iii. Protective Order Venue
 - iv. Suit Affecting the Parent-Child Relationship Venue
 - v. Transfer of an Original SAPCR in Texas
 - vi. Transfer of a SAPCR by a Court with Continuing Jurisdiction
 - vii. Retaining and Exercising Jurisdiction
 - viii. Losing Jurisdiction

- ix. Jurisdiction Pending Transfer
- x. Identifying the Court with Jurisdiction
- xi. Transfer of Continuing Jurisdiction

C. STANDING

- i. General Standing for Suits Affecting the Parent-Child Relationship
- ii. Statement to Confer Standing
- iii. Standing for Grandparent or Other Person
- iv. Standing for Sibling
- v. Standing to Request Termination and Adoption
- vi. Limitations on Standing
- vii. Standing of Title IV-D Agency
- viii. Suit for Possession or Access by Grandparent
- ix. Child Support Suit for a Minor or Adult Disabled Child
- x. Modification Standing
- xi. Parentage Standing

D. CLIENT DO'S AND DO NOT'S

E. HABEAS CORPUS

- i. Initial Questions to Ask the Client
- ii. Jurisdiction
- iii. Right to Return of Child
- iv. Defenses to Habeas Corpus
- v. Prepare for Temporary Order
- vi. No Existing Orders

F. PROTECTIVE ORDERS

- i. Initial Considerations
- ii. Entitlement to a Protective Order
- iii. The Application
- iv. Temporary Ex Parte Orders
- v. Hearing
- vi. Transfer

G. UCCJEA SUBJECT MATTER JURISDICTION

- i. General Provisions
- ii. Initial Child Custody Jurisdiction
- iii. Exclusive and Continuing Jurisdiction
- iv. Enforcing the Order

3. **INITIAL FILING**

A. **GROUND FOR DIVORCE**

- i. Present Status of Relationship
- ii. No Fault Grounds
- iii. Adultery
- iv. Cruelty
- v. Abandonment
- vi. Conviction of Felony
- vii. Living Apart

B. **MARRIAGE OR FAMILY COUNSELING**

C. **INFORMAL (COMMON LAW) MARRIAGE**

- i. Declaration and Registration of Informal Marriage

D. **EVIDENTIARY PROOF**

- i. Agreement to be Married
- ii. After Agreement, Live Together in Texas as Husband and Wife
- iii. Represented to Other and Texas That They Were Married

E. **ETHICAL MANDATE TO ENCOURAGE RECONCILIATION**

F. **GEOGRAPHICAL RESTRICTION/RELOCATION**

- i. Legal Considerations
- ii. Factual Considerations
- iii. Documents to Acquire
- iv. Identifying Prospective Witnesses
- v. Considerations if Representing Noncustodial Parent
- vi. General Considerations

G. **CHILD SUPPORT**

- i. Court-ordered Child Support
- ii. Computing Child Support
- iii. Presumption Regarding Guidelines Child Support
- iv. Additional Factors For Court to Consider
- v. Applying Guidelines to Net Resources of \$7,500 or Less
- vi. Applying Guidelines to Net Resources of More than \$7,500 Monthly
- vii. Support Calculation for Obligor with Children Not Before the Court
- viii. Matter of Payment
- ix. Discovery Regarding Original Child Support Determination
- x. To Party Requesting Support in Excess of Guidelines

H. **RIGHTS OF GRANDPARENTS AND OTHERS**

- i. Background

- ii. Overview
- iii. Standing Requirements

I. ANNULMENT

- i. Underage Annulment
- ii. Under Influence of Alcohol or Narcotics
- iii. Impotency
- iv. Fraud, Duress or Force
- v. Mental Incapacity
- vi. Concealed Divorce
- vii. Marriage less than 72 Hours after License Issuance
- viii. Death of Spouse

J. SERVICE

- i. Who can serve citation -TRCP 99
- ii. Who to serve - TRCP 103
- iii. Personal service - TRCP 106 (a)
- iv. Substituted service - TRCP 106 (b)
- v. Return of service - TRCP 107
- vi. Citation by publication - TRCP 109
- vii. Service on a nonresident or defendant absent from the state - TRCP 108
- viii. Service in a foreign country - TRCP 108a
- ix. Other substituted service when citation by publication authorized -TRCP 109a

4. INITIAL RESPONSE

A. SPECIAL APPEARANCE

B. MOTION TO TRANSFER

C. ANSWER

D. PLEA TO THE JURISDICTION

E. PLEA IN ABATEMENT

F. JOINDER

G. COUNTERCLAIMS/COUNTER-PETITION

- i. Assault
- ii. International Infliction of Emotional Distress
- iii. Fraud/Conservation

- iv. Transmitting Sexual Disease
- v. Invasion of Privacy by Unlawful Interception of Communication of Oral or Electronic Communication
- vi. Tortious Interference with Business Relations
- vii. Wrongful Interference with Existing Contract
- viii. Interference with Child Custody
- ix. Parentage Action
- x. Third Party Causes of Action
- xi. Civil Conspiracy

H. SPECIAL EXCEPTIONS

5. TEMPORARY ORDERS - PREPARATION AND PRESENTATION

A. PRELIMINARY MATTERS AND THE NEED FOR TEMPORARY ORDERS

- i. First Interview with Client - Get the Facts
- ii. Begin Preparing Lists of Burdens of Proof for Their Relief Wanted

B. CLIENT'S IMMEDIATE PREPARATION OF A FINANCIAL INFORMATION WORKSHEET AND THE ASSIGNMENT TO CLIENT OF A HOMEWORK PACKET TO COMPLETE

- i. Client Questionnaire
- ii. Personal History
- iii. If Children Involved, Custody Worksheet

C. STATUS QUO - WHAT HAS BEEN THE FACTS?

- i. Determine What Has Been the Status Quo by Answering

D. IS THE STATUS QUO CONSISTENT WITH THE CLIENT'S GOALS AND CASE THEME?

- i. "If its not broke, Don't Fix it"
- ii. If the Status Quo is not in Your Client's Interest, Consider

E. REQUEST FOR TEMPORARY RESTRAINING ORDER AND EX PARTE IMMEDIATE RELIEF

- i. Determine Your Clients Immediate Needs as to Children, Property, Debts, and Damage Control Unless an Immediate Ex Parte Order is Entered
- ii. Consider the Local Rules of Your Court
- iii. Pleadings Should Include Requested Relief as to
- iv. Other Factors of Consideration for TRO's

F. EXTRA ORDINARY RELIEF AND EX PARTE PROTECTIVE ORDERS

- i. Attaching Children
- ii. Taking Possession of Children
- iii. Excluding Respondent from Children
- iv. Excluding Respondent from Residence
- v. Application for Temporary Ex Parte/Protective Order
- vi. Determine if Agreed Terms of Protective Order may be Reached Prior to Hearing and Prepare Orders According to Agreements
- vii. Prepare Protective Order Per Agreement of the Parties or as Ordered by the Court Following the Requirements of TFC §85
- viii. Follow Through by Delivery of Order to Police Agencies and Other Persons per TFC §85, Subchapter D

G. REQUEST FOR TEMPORARY ORDERS

- i. Children
- ii. Conservatorship
- iii. Visitation
- iv. Child Support TFC §154
- v. Temporary Order for Medical Support
- vi. Temporary Injunction (Mutual by Agreement, Standing Orders)
- vii. Temporary Orders on Property
- viii. Temporary Spousal Support (Review §6.502 TFC)
- ix. Temporary Orders Requiring Payment of Interim Attorneys, Accountants, Receivers, Counseling, and Expert Fees
- x. Discovery
- xi. Request for ADR Participation (Have Order Ready)
- xii. Temporary Injunction Requests to Include

H. PRETRIAL AGREEMENTS AND/OR PREPARATION FOR HEARING

- i. Know Your Local Rules Requirements
- ii. Contact Opposition to Determine Possible Agreements

I. IF NO AGREEMENT POSSIBLE, GET READY FOR HEARING

- i. Trial Strategy List and Requirements to meet Burdens of Proof
- ii. Make it Clear What Your Client Desires and Why the Requested Order Would be a Just Result

J. PREPARATION FOR TEMPORARY ORDERS

- i. Does the Order Contain Clear and Concise Language as to its Content that are Not Subject to More than One Interpretation?
- ii. Does Your Order Comply with (Ex Parte Slavin?)
- iii. Is Your Order Enforceable by Contempt?
- iv. Are the Parties and Children Properly Identified by Name?
- v. Can You Identify the Rights, Powers and Duties Applicable to Each Party as to the Children of the Marriage?

- vi. Are the Terms of the Order as to Access and Visitation of Children Clear and Understandable?
- vii. Are the General Terms and Conditions Clear as Not to Cause Confusion?
- viii. Does the Child Support Order Contain Concise Command Language Including
- ix. Does the Language as to the Requirement of Healthcare of the Children Include
- x. If the Parties Own Property, Does the Order Provide
- xi. Debts of the Parties and Command Language of the Payment of the Same

K. TERMS OF TEMPORARY ORDERS

- i. Date of Hearing
- ii. Parties
- iii. Appearances
- iv. Record, Recorded or Waived
- v. Jurisdiction - Show Authority Over the Subject Matter and Parties
- vi. Children
- vii. Parenting Plan
- viii. Conservatorship
- ix. Domicile Restrictions, if any and to What Extent
- x. Possession and Access
- xi. Temporary Child Support
- xii. Health Care
- xiii. Order for Social Study
- xiv. Order for Psychological Evaluation
- xv. Order for Guardian Ad Litem
- xvi. Order for Attorney Ad Litem
- xvii. Order to Produce Financial Information
- xviii. Temporary Injunction Regarding Children
- xix. Information Regarding Parties (Petitioner, Respondent and Children)
- xx. Warnings to Parties
- xxi. Property and Parties
- xxii. Temporary Possession of Property (Clear Description in List Attached to Temporary Order)
- xxiii. Payment of Debts
- xxiv. Inventory and Appraisalment
- xxv. Continuation of Spouse's Health Insurance
- xxvi. Order to Produce Tax Returns
- xxvii. Mediation
- xxviii. Binding/Non-Binding Arbitration
- xxix. Execution of Releases

- xxx. Interim Attorney's Fees
- xxxi. Temporary Injunction
- xxxii. Service of Writ
- xxxiii. Duration
- xxxiv. Date of Order

L. TEMPORARY ORDERS NOTEBOOK

- i. Financial Information Statement
- ii. Opening Statement
- iii. Closing Argument
- iv. Outline of Direct and Cross of Witnesses
- v. Deposition Excerpts
- vi. Client's Summary of Witnesses
- vii. Copy of Subpoenas
- viii. Pleadings and Order on Motion Setting Hearing
- ix. Interrogatory Answers
- x. Responses to Production of Documents
- xi. Telephone Numbers of Witnesses and the Time They are to Arrive
- xii. Proof of Notice of Hearing
- xiii. Outline of Predicate on Evidence
- xiv. Exhibit Checklist
- xv. Summary Exhibit on Interim Attorney's Fees
- xvi. Family Law Tool Kit

M. PROPERTY

- i. Proposed Payment of Debts and Spousal Support
- ii. Property Use of Property

N. PARENT-CHILD RELATIONSHIP

- i. Proposed Possession Schedule
- ii. Case Law
- iii. Exhibit of Needs of the Child for Over Guideline Support
- iv. Order for Drug Testing
- v. Order for Court Appointed Psychologist
- vi. Order for Appointment of Ad Litem/Amicus Attorney
- vii. Order for Social Study

6. DISCOVERY

A. DISCOVERY CONTROL PLANS

- i. Level One
- ii. Level Two
- iii. Level Three
- iv. Modifying Discovery Control Plan

- B. DISCOVERY TIMETABLE
 - i. Requests for Discovery
 - ii. Discovery Responses

- C. FILING DISCOVERY
 - i. Discovery materials that must be filed
 - ii. Discovery materials that may be filed
 - iii. Discovery materials that must not be filed

- D. TYPICAL DISCOVERY
 - i. Inventory and Appraisalment
 - ii. Request for Disclosure
 - iii. Request for Production
 - iv. Interrogatories
 - v. Request for Admissions
 - vi. Subpoena

- E. SUPPLEMENTING DISCOVERY RESPONSES

- F. NON-PARTY DISCOVERY
 - i. Witnesses
 - ii. Designation of Testifying Expert Witnesses

- G. OUT OF STATE DISCOVERY
 - i. Governing Statutes
 - ii. Hague Convention on Evidence
 - iii. Oral Depositions by Telephone
 - iv. Depositions on Written Questions
 - v. Depositions in Foreign Jurisdiction for Use in Texas: Depositions in Texas for Use in a Foreign Proceeding
 - vi. Securing Documents by Deposition in Foreign Jurisdiction

- H. DEPOSITIONS
 - i. Oral Deposition
 - ii. Deposition on Written Question
 - iii. Preparing Client as a Witness

- I. UNUSUAL DISCOVERY
 - i. Request for Medical Records
 - ii. Motion for Physical or Mental Examination
 - iii. Mental Health Records
 - iv. Medical and Mental Health Records of Non-Parties
 - v. Request for Entry on Land
 - vi. Health Insurance Portability and Accountability Act (HIPAA)

- vii. Substance Abuse Records
- viii. Releases
- ix. Financial Records
- x. Depositions Before Suit or to Investigate Claims
- xi. After Judgment Discovery (TRCP 621a, TRAP 24)

J. ELECTRONIC OR MAGNETIC DATA

- i. General Information
- ii. Requests
- iii. Response
- iv. *In re Weekley Homes, LP*, 295 S.W.3d 309 (Tex. 2009)

K. PROTECTIVE ORDERS

- i. General
- ii. Protection from Undue Burden and Expense
- iii. Enforcement

L. MOTION TO COMPEL DISCOVERY

M. OBJECTIONS AND ASSERTIONS OF PRIVILEGE TO WRITTEN DISCOVERY

- i. General
- ii. Request for Disclosure
- iii. Request for Production and Inspection
- iv. Objections to Interrogatories
- v. Assertion of Privilege
- vi. Protective Orders
- vii. Get a Ruling

7. EXPERT WITNESS

A. PSYCHOLOGICAL EXPERTS

- i. Psychologists
- ii. Licensed Professional Counselors
- iii. Licensed Social Worker
- iv. Marriage and Family Therapist
- v. Licensed Chemical Dependency Counselor
- vi. Evaluator for Social Study

B. PROPERTY EXPERTS

- i. Real Estate
- ii. CPA

- C. INVESTIGATIVE EXPERTS
 - i. License Requirements
 - ii. Code of Ethics
 - iii. Discipline Includes

- D. STATUTORY EXPERTS - PARENTING COORDINATORS AND PARENTING FACILITATORS
 - i. Parenting Coordinators
 - ii. Parenting Facilitators

- E. DIRECT EXAMINATION OF EXPERTS
 - i. Personal Background
 - ii. Occupation and/or Profession
 - iii. Certifications and/or Licenses
 - iv. Educational Background
 - v. Professional Training
 - vi. Professional Memberships and Associations
 - vii. Research Projects
 - viii. Clinical Positions
 - ix. Published Papers, Articles, or Writings
 - x. Past Experience as an Expert
 - xi. Current Experience as an Expert
 - xii. Identify if any Prior Relationships Exist with Opposing Counsel, Party, Opposing Party, etc.
 - xiii. How Knowledge of Facts Acquired
 - xiv. Opinion
 - xv. Basis for Opinion
 - xvi. Consultation with Other Experts to Data or Opinion

- F. CROSS EXAMINATION OF EXPERTS
 - i. Personal Background
 - ii. Occupation and/or Profession
 - iii. Lack of Educational Background
 - iv. Lack of Professional Training
 - v. Lack of Professional Memberships and Associations
 - vi. Lack of Research Projects
 - vii. Lack of Clinical Positions
 - viii. Research and Clinical Positions Not Basis for this Lawsuit
 - ix. Lack of Published Papers, Articles, or Writings
 - x. Lack of Experience as an Expert in this Field
 - xi. Bias

- xii. How Knowledge of Facts Acquired
- xiii. Opinion
- xiv. Basis for Opinion
- xv. Consultation with Other Experts to Data or Opinion

G. DAUBERT/ROBINSON CHALLENGES TO EXPERTS

- i. Expert Testimony Standards
- ii. Deadlines & Designations
- iii. Standards for Admissibility
- iv. Expert Qualifications
- v. Relevancy Standards
- vi. Reliability Standards
- vii. Preserving the Objection to the Expert
- viii. Preserving Error for Excluded Expert Evidence

8. FAMILY LAW PRESUMPTIONS

A. TEXAS FAMILY CODE STATUTORY PRESUMPTIONS

- i. Title 1—The Marriage Relationship
- ii. Title 2—Child in Relation to the Family
- iii. Title 4—Protective Order and Family Violence
- iv. Title 5—Parent-Child Relationship

B. COMMON LAW PRESUMPTIONS AND PRINCIPALS

- i. Parent should be appointed possessory conservator
- ii. Husband is presumed father
- iii. Splitting Custody of Siblings
- iv. Termination affidavit presumed valid
- v. Community “Out First” Rule
- vi. Tracing separate property
- vii. Inception of title
- viii. Presumption of community property
- ix. Presumption of separate property
- x. Gifts are separate property
- xi. Engagement gifts
- xii. Cannot make a gift to the community
- xiii. Mixed title
- xiv. Separate property character will not change
- xv. Commingling
- xvi. Spouses fiduciary duty managing community

9. SUBSTANTIVE ISSUES/ANALYSIS

- A. CHARACTERIZATION
 - i. Separate Property
 - ii. Community Property
 - iii. Characterization Rules
 - iv. Mixed Title Property Rules
 - v. Mutation
 - vi. Other Characterization Issues

- B. TRACING
 - i. Reasons
 - ii. Tracing Rules
 - iii. Methods of Tracing

- C. VALUATION
 - i. Types of Property
 - ii. Business Valuation
 - iii. Nature of the Business

- D. CHILDREN
 - i. Rights and Duties Checklist
 - ii. Standard Possession Order Checklist
 - iii. Child Support Checklist for Clients

- E. ADDITIONAL CAUSES OF ACTION
 - i. Breach of Contract
 - ii. Promissory Estoppel
 - iii. Tortious Interference with Existing Contract
 - iv. Tortious Interference with Prospective Relations
 - v. Conversion
 - vi. False Imprisonment
 - vii. Breach of Fiduciary Duty
 - viii. Fraud by Nondisclosure
 - ix. Statutory Fraud
 - x. Intrusion on Seclusion
 - xi. Public Disclosure of Private Facts
 - xii. Defamation (Libel and Slander Actions)
 - xiii. Malicious Criminal Prosecution
 - xiv. Malicious Civil Prosecution
 - xv. Negligence
 - xvi. Negligence Per Se
 - xvii. Wiretap Action: Civil Action Under Texas Criminal Wiretap Act
 - xviii. Wiretap Action: Texas Civil Wiretap Act
 - xix. Aiding and Abetting: Assisting or Encouraging
 - xx. Aiding and Abetting: Assisting and Participating

- xxi. Aiding and Abetting: Concert of Action
- xxii. Conspiracy
- xxiii. Piercing the Corporate Veil
- xxiv. Spousal Liability
- xxv. Damages
- xxvi. Defenses Generally

F. SPOUSAL MAINTENANCE/ALIMONY

A. Spousal Maintenance - Eligibility

- i. Parties have been married for ten years or longer
- ii. Spouse seeking support lacks sufficient property to provide for minimum reasonable needs

Violence

- i. Party from whom maintenance is requested
- ii. Criminal offence occurred

Presumption

Post Divorce

Factors in Determining Maintenance

Relevant Factors

- i. Court must consider all relevant factors

“Gross Income” Defined

- i. “Gross Income” is defined as:
- ii. “Gross Income” does not include

Factors

Modification and Termination

Termination

B. ALIMONY - TFC 7.006

G. CHILD PROTECTIVE SERVICES

- i. TFC Chapter 261 - Investigation of Child Abuse or Neglect
- ii. TFC Chapter 262 - Authorized Governmental Actions
- iii. TFC Chapter 262 and 263 - The Adversarial Hearing, Subsequent Hearings and Timetables

- iv. Final Order Appointing CPS Managing Conservator without Termination of Parental Rights

H. RECUSAL - TFC § 18a

10. PRETRIAL MATTERS

A. DEFAULTS

- i. When Default may be Taken
- ii. Stipulations
- iii. Notice
- iv. General Provisions

B. MOTION FOR SUMMARY JUDGEMENT

- i. Traditional Motion for Summary Judgment
- ii. Summary Judgment Evidence
- iii. No Evidence Motion for Summary Judgment

C. DEATH OF A PARTY

- i. Overview
- ii. General Rule in Texas
- iii. Exception: Adoption

D. NONSUITS/DISMISSALS

- i. Overview
- ii. Notice for Nonsuits/Dismissals
- iii. General Rules

E. PRETRIAL/SCHEDULING ORDERS

- i. Overview
- ii. Consideration
- iii. General Rules

F. FOREIGN JUDGEMENTS

- i. Enforcement of Judgments of Other States
- ii. Enforcement of Judgments of Other Countries

G. RECUSAL

11. ALTERNATIVE DISPUTE RESOLUTION

A. MEDIATION

- i. Mediator

- ii. Agreement/Order to Mediate
 - iii. Objections to Mediation
 - iv. Considerations Regarding the Mediator
- B. COLLABORATIVE LAW
- i. Initial Meeting with Client
 - ii. Collaborative Agreement Checklist
- C. CHECK LIST FOR SAMPLE FAMILY LAW ARBITRATION RULES
- i. Scope and Application of Rules
 - ii. Definitions
 - iii. Commencement of Procedures
 - iv. The Family Law Arbitration Agreement
 - v. Pre-Hearing Procedures
 - vi. Discovery
 - vii. Documents Exchanged
 - viii. Communication with Arbitrator
 - ix. Adjournments
 - x. Hearing Procedures
 - xi. Professional Opinions as to the Best Interest of the Child
 - xii. Conservation of Marital Property
 - xiii. Inspection or Investigation
 - xiv. Reopening the Hearing
 - xv. Waiver of Rules
 - xvi. The Final Award
 - xvii. Change of Modification of Final Award by Arbitrator
- D. MANAGED MEDIATION PROCESS
- i. Managed Mediation Attributes
 - ii. Distinguishing Characteristics of Managed Mediation
 - iii. Function of the Process Manager
 - iv. Selection of the Process Manager
 - v. How the Managed Process Works
 - vi. Ensuring Process Efficiency (3 Factors)
 - vii. Additional Advantages of Managed Mediation
- E. INFORMAL SETTLEMENT
- i. Informal Settlements
 - ii. Contractual Statutory "Written Settlement Agreement" (TCPRC 154.071)
 - iii. Pre-Settlement Meetings
 - iv. Settlement Agreement Checklist
- F. RULE 11 AGREEMENTS
- i. TRCP Rule 11 – Attempting to Avoid Disputes about Agreements in

- Pending Litigation
- ii. Oral TRCP Rule 11 Agreements
- iii. Pre-Lawsuit "Rule 11" Issue
- iv. Challenging "Rule 11 Agreement"

G. CLIENT CHECKLIST

- i. Pre-Settlement Checklist
- ii. Pre-Settlement Child Issues to Be Discussed With the Client
- iii. Pre-Settlement Property Issues to Be Discussed With Client
- iv. Consideration of Additional Pre-Settlement Issues

H. MINI TRIALS

- i. Agreement Required
- ii. Determine Third Party to Act as Impartial "Judge"
- iii. Agree on Procedure to Mini Trial

12. TRIAL NOTEBOOKS

A. TEMPORARY ORDERS HEARING

B. BENCH TRIAL

C. JURY TRIAL

D. PRETRIAL CHECKLIST

E. WHAT TO BRING TO TRIAL CHECKLIST

13. TRIAL TO THE COURT

A. PREPARATION

- i. Witness Preparation

B. WITNESSES

- i. 194 Requests for Disclosures
- ii. Subpoena the Witnesses
- iii. Types of Expert Witnesses (Property Cases)
- iv. Types of Expert Witnesses (Custody Cases)
- v. Timeline Prior to Trial (If No Scheduling Order)
- vi. Trial Preparation

C. EXHIBITS

- i. Common Exhibits
- ii. Demonstrative Exhibits

- iii. During Discovery
- iv. Trial Preparation

D. BUSINESS RECORDS PREDICATE

- i. Questions
- ii. Other Applicable Rules

E. OBJECTIONS

- i. General Objections to Testimonial Evidence
- ii. Privileges from Testifying
- iii. Objections to the Form of the Question
- iv. Objections to the Response
- v. Statements Which are not Hearsay
- vi. Hearsay Exceptions (Availability of Declarant Immaterial)
- vii. Hearsay Exceptions (Declarant Unavailable)
- viii. Non-Testimonial Objections

F. ATTORNEY'S FEES

14. JURY TRIAL

A. LONG TERM PLANNING FOR JURY TRIAL

B. DETERMINING JURY ISSUES WHERE VERDICTS ARE BINDING ON THE COURT

C. SETTING CASE ON JURY DOCKET

D. PRETRIAL MOTIONS AND OTHER MATTERS

E. PREPARING FOR JURY SELECTION (VOIR DIRE)

F. CONDUCTING VOIR DIRE

G. OPENING STATEMENT

H. TRIAL MOTIONS

I. CLOSING ARGUMENT

J. ADDITIONAL MOTIONS

15. POST TRIAL MOTIONS

- A. PRESERVATION OF APPELLATE COMPLAINTS
- B. MOTION TO DISREGARD/JUDGMENT NOTWITHSTANDING THE VERDICT (JNOV)
- C. RENDITION OF JUDGMENT
- D. MOTION FOR ENTRY OF JUDGMENT
- E. ENTRY OF JUDGMENT
- F. FINDINGS OF FACT AND CONCLUSIONS OF LAW (FF/CL)
- G. MOTION FOR NEW TRIAL (MNT)
- H. MOTION TO MODIFY, CORRECT AND REFORM (MTMCR)
- I. MOTION TO REINSTATE AFTER DWOP
- J. MOTION TO EXTEND POST JUDGMENT DEADLINES (MEPJD)
- K. MOTION FOR JUDGMENT NUNC PRO TUNC (MJNPT)
- L. BILL OF REVIEW

16. DECREE AND CLOSING DOCUMENTS

- A. DEADLINES/NOTICES
 - i. Registered Sex Offenders
 - ii. Passport Application
 - iii. Standard Possession Order of Visitation
 - iv. Electronic Communications
 - v. Restricted Access—Family Violence
 - vi. International Travel
 - vii. Child Support
 - viii. Health Insurance
 - ix. Settlement of Future Disputes
 - x. Medical Notification
 - xi. Parent Education and Stabilization Course Attendance
 - xii. Required Notices
 - xiii. Notice from Creditor or Taxing Authority
 - xiv. Court-Ordered Maintenance
 - xv. Federal Income Tax Provisions
 - xvi. Execution of Closing Documents

- xvii. Delivery of Property
- xviii. Continuation of Health Coverage (COBRA)
- xix. Retention of Discovery Materials
- xx. Indemnification Provision

B. CLOSING DOCUMENTS

- i. Real Property Documents
- ii. Personal Property

C. PROVE UP OF AGREED DIVORCE

17. RETIREMENT

A. QUALIFIED PLANS—DEFINED BENEFIT & DEFINED CONTRIBUTION PLANS REQUIRING A QUALIFIED DOMESTIC RELATIONS ORDER (QDRO)

- i. Participant Information
- ii. Alternate Payee Information
- iii. Marital and Division Facts
- iv. The Plan Plan Information
- v. The Plan General Information Regarding Participant and Alternate Payee
- vi. Defined Benefit Plans
- vii. Defined Contribution Plans
- viii. Documents to be Obtained

B. MILITARY RETIREMENT

- i. Terminology
- ii. Military Retirement Plans
- iii. Active Duty Retirement
- iv. Reserve Component Retirement
- v. General Information
- vi. Survivor Benefit Plan
- vii. Proof Needed at Trial for Active Duty Member
- viii. Proof Needed at Trial for Retired Active Duty Member
- xiv. Reserve Component/National Guard Member
- x. Retired Reserve Component/National Guard Member

C. FEDERAL RETIREMENT PLANS

- i. Two Federal Retirement Systems
- ii. Civil Service Retirement Spouse Equity Act of 1984
- iii. Civil Service Disability Benefits
- iv. Federal Worker's Compensation Benefits
- v. Assignment of Federal Employees' Group Life Insurance Benefit

- vi. Railroad Retirement Benefits
- D. STATE AND LOCAL GOVERNMENT PLANS
 - i. State Retirement Plans
 - ii. Local Defined Benefit and Defined Contribution Plans

18. APPEALS

- A. PRESERVATION OF APPELLATE COMPLAINTS
- B. APPELLATE COURT JURISDICTION
- C. ANALYSIS OF MERITS OF APPEAL
- D. SUSPENDING ENFORCEMENT OF JUDGMENT
- E. PURSUING APPEAL AS AN INDIGENT
- F. CLERK'S RECORD
- G. REPORTER'S RECORD
- H. NOTICE OF APPEAL
- I. TEMPORARY ORDERS PENDING APPEAL
- J. DOCKETING STATEMENT
- K. BRIEFING
- L. ORAL ARGUMENT
- M. OPINION/JUDGMENT
- N. MOTION FOR REHEARING
- O. PETITION FOR REVIEW
- P. BRIEFING IN THE TEXAS SUPREME COURT
- Q. PETITION FOR WRIT OF MANDAMUS
- R. PETITION FOR WRIT OF PROHIBITION
- S. PETITION FOR WRIT OF INJUNCTION

- T. PETITION FOR WRIT OF HABEAS CORPUS
- U. APPELLATE TIMETABLE FOR JURY TRIAL
- V. APPELLATE TIMETABLE FOR NON-JURY TRIAL

19. CLOSING THE FILE

20. MARITAL AND OTHER AGREEMENTS

- A. NON-MARITAL COHABITATION AGREEMENT
- B. PREMARITAL AGREEMENT
- C. PROPERTY AGREEMENT BETWEEN SPOUSES
- D. PARTITION AGREEMENT
- E. LITIGATION OF PROPERTY AGREEMENTS
- F. SEPARATION AGREEMENT
- G. AGREEMENT TO CONVERT SEPARATE PROPERTY TO COMMUNITY PROPERTY

21. MODIFICATIONS

- A. MODIFICATION OF CHILD SUPPORT
- B. MODIFICATION OF CONSERVATORSHIP OR POSSESSION

22. ENFORCEMENT

- A. ENFORCEMENT OF CHILD SUPPORT
- B. ENFORCEMENT OF PROPERTY DIVISION
- C. ENFORCEMENT OF MAINTENANCE
- D. TRIAL OF AN ENFORCEMENT ACTION
- E. ENFORCEMENT OF POSSESSION AND ACCESS

23. SUBSTITUTION/WITHDRAWAL

- A. PRELIMINARY MATTERS
- B. HOW DO YOU NOTIFY THE COURT THAT YOU WILL BE REPRESENTING THIS CLIENT?
- C. NOTICE OF APPEARANCE CHECKLIST
- D. MOTION TO SUBSTITUTE COUNSEL
- E. MOTIONS TO WITHDRAW AS ATTORNEY OF RECORD

24. PARENTAGE ISSUES

- A. TERMINATION
 - i. Prior to filing
 - ii. Filing and Finalization Procedure
 - iii. Termination Status Check list
 - iv. Interstate/Private Terminatuion/Adoption Checklist for Texas
- B. ADOPTION
 - i. Texas Penal Code section 25.08
 - ii. Adoption Requirements
 - iii. Filing and Finalization Procedures
 - iv. Examples of Checklists
 - v. Stepparent Adoption
 - vi. Reaffirmation of Foreign Adoption
- C. GESTATIONAL AGREEMENTS
 - i. Initial questions to be asked
 - ii. Filing Procedures
 - iii. What to do at the interlocutory or preliminary hearing
 - iv. Finalization of Validation of Agreement and Adjudification of Parentage

25. TITLE II CONSIDERATIONS

- A. LIMITATIONS OF MINORITY
- B. CONSENT TO MEDICAL, DENTAL, PSYCHOLOGICAL & SURGICAL TREATMENT OF A CHILD
- C. IMMUNIZATIONS
- D. EMERGENCY SHELTERS

- E. NOTICE OF ABORTION
- F. AUTHORIZATION AGREEMENT
- G. LIABILITY OF PARENT FOR CONDUCT OF CHILD
- H. CIVIL LIABILITY FOR INTERFERENCE WITH POSSESSORY INTEREST IN CHILD
- I. CHANGE OF NAME OF CHILD
- J. CHANGE OF NAME OF ADULT

26. WARNINGS & CAUTIONS

- A. LIST OF POSSIBLE WARNINGS/CAUTIONS (*NOT ALL INCLUSIVE!*)
- B. SAMPLE AFFIDAVIT

27. WEBSITES AND COOL LINKS

28. HEALTHY LIFESTYLES

A. IMPROVING LIVES WITH HEALTHY LIFESTYLES

- i. Find Balance
- ii. Exercise
- iii. Diet
- iv. Develop Faith
- v. Nurture Healthy Thoughts
- vi. Be of Service to Others
- vii. Nurture Love
- viii. Be Ambitious, But Be Happy with what You Have Right Now
- ix. Identify and Appreciate People, Places, Things, and Emotions
- x. Be Cautious of Others Who Take Advantage

B. LIFE COACHING

- i. Purpose
- ii. Method

C. COUNTERACTING THE EFFECTS OF LEARNED UNHEALTHY LIFESTYLES

- i. Change of Lifestyle Rarely Occurs Without Time and Effort

- ii. Brain Can Hold Only Two Basic Emotions
- iii. Identify Sources of Stress
- iv. Set Goals
- v. Develop Tools for Dealing with Stress
- vi. Counselors, Psychologists (Clinical)
- vii. Psychiatrists
- vii. Self Help Books

D. INSOMNIA

- i. 2 Types
- ii. Causes
- iii. Sleep Hygiene