

NO. 322-744263-23
IN THE 322ND DISTRICT COURT OF TARRANT COUNTY, TEXAS

Morgan Michelle Myers,

Petitioner,

v.

Respondent's Rule 12 Motion to Show
Authority

Charles Dustin Myers,

Respondent

2024-09-20

To the Honorable Judge of the 322nd District Court of Tarrant County:

REBUTTABLE PRESUMPTION

There is a general presumption that an attorney is acting with authority; however, that presumption is rebuttable. *Breceda v. Whi*, 187 S.W.3d 148, 152 (Tex. App.--El Paso 2006, no pet.); *Kelly v. Murphy*, 630 S.W.2d 759, 761 (Tex. App.--Houston [1st Dist.] 1982, writ ref'd n.r.e.); *see also City of San Antonio v. Aguilar*, 670 S.W.2d 681, 684 (Tex. App.--San Antonio 1984, writ dism'd) ("[A]n attorney who has conducted a case in the trial court is presumed to have authority to pursue an appeal, although this presumption can be rebutted."). Here, however, this presumption is to be rebutted for the foregoing reasons:

I. Legal Basis for Rule 12 Motion

2. Pursuant to Tex. R. Civ. P. § 12, a party may challenge an attorney's authority to act on behalf of a party in a proceeding. When such a challenge is raised, the burden of proof shifts to the challenged attorney to demonstrate their authority to represent the party. *Id.* The attorney must appear before the trial court and show sufficient authority to prosecute or defend the suit on behalf of their client. (*Breceda v. Whi* (2006) 187 S.W.3d 148, 152; *Kelly v. Murphy* (1982) 630 S.W.2d 759, 761).

3. Rule 12 of the Texas Rules of Civil Procedure permits any party to challenge an attorney's authority to prosecute or defend a lawsuit. (See *Nolana Open MRI Ctr., Inc. v. Pechero* (2015) No. 13-13-00552-CV, at *15). The purpose of a Rule 12 motion is to protect parties from groundless suits and to permit dismissal of suits instituted without authority. (See *Nicholas v. Envtl. Sys. (Int'l) Ltd.* (2016) 499 S.W.3d 888, 895; *Angelina Cty. v. McFarland* (1964) 374 S.W.2d 417, 422–23).

4. Here, the procedural inconsistencies, lack of formal notice, and submission of documents by other parties on behalf of Ms. Carter raise substantial doubts about whether she possesses the necessary authority to represent the Petitioner. Despite being allegedly retained on January 22, 2024, Ms. Carter has not filed a formal notice of appearance, leaving her role ambiguous. Further complicating matters, filings under her name have been submitted by others, including the founder of Marx Altman & Johnson, her purported former employer. Coupled with her suspiciously timed State Bar profile update and lack of meaningful engagement, these facts compel the Respondent to seek clarification and challenge her authority under Rule 12.

II. Procedural Basis

5. No Formal Notice of Appearance Filed. Although Cooper Carter was allegedly retained on January 22, 2024, she has not filed a formal Notice of Appearance in this case. The absence of a Notice of Appearance creates substantial ambiguity regarding her authority to represent the Petitioner, especially given the procedural irregularities discussed below.

6. Lack of engagement. Throughout the proceedings, Ms. Carter has consistently failed to engage in any meaningful way and has failed to respond to any pleadings in the suit.

7. Filings Submitted on Behalf of Cooper Carter. All court documents and pleadings attributed to Ms. Carter have been submitted "on her behalf" by **Roderick Marx**, the founder of **Marx Altman & Johnson**. There is no indication that Ms. Carter is directly involved in this matter, raising significant questions about whether she is properly authorized to act as counsel for Morgan Michelle Myers.

8. Discrepancies in employment. On Ms. Carter's public social media, she claims to be a former attorney for Marx Altman & Johnson and claims to be employed currently with Cantey Hanger LLP.¹ The timeliness of her profile aligns with the public article released by Cantey Hanger LLP

¹ [Ms. Carter's public LinkedIn profile](#)

themselves.² Further, Every attorney in Texas is required by law to maintain a current and up-to-date profile. Tex. Gov't Code § 81.115. Notably, Ms. Carter's profile was updated on **March 13th, 2024**, one day prior to the only hearing that has occurred in this matter³ to her former employer. The Respondent has actively been seeking relief from the result of the aforementioned hearing for nearly seven months without any engagement or any authoritative activity from Ms. Carter, thus warranting this motion.

III. Prayer and Relief

9. Given the ongoing procedural irregularities and the apparent lack of clarity surrounding **Cooper Carter's** authority to represent Petitioner **Morgan Myers**, the Respondent respectfully requests the following:

- i. The Court should schedule a hearing requiring Cooper Carter to personally appear and definitively prove her authority to represent **Morgan Myers**, and to provide clarification as to who is involved in the case, and in what capacity Morgan Michelle Myers is being represented in this matter.
- ii. "Upon [her] failure to show such authority, the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears." (Tex. R. Civ. P. 12; see *Kindle v. Wood Cnty. Elec. Co-op, Inc.* (2004) 151 S.W.3d 206, 210)

² [News article corroborating employment timeline](#)

³ [Ms. Carter's Texas State Bar profile.](#)

- iii. Grant of Summary Judgment Motion: Given that the Respondent's pending summary judgment motion filed on February 26th, 2024, remains unchallenged due to the lack of any meaningful engagement from **Cooper Carter**, and in light of the procedural deficiencies highlighted above, the Court should **grant the pending summary judgment via the attached order** as unopposed for judicial efficiency and to reset the status quo ante.
- iv. Stay all other formal settings and proceedings until resolution of this motion.
- v. **Respondent seeks no further sanctions against Ms. Carter given she fails to show her authority over the Petitioner in this matter.**

Respectfully submitted,

Respectfully Submitted,

/s/ Charles Dustin Myers

Charles Dustin Myers

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CERTIFICATE OF SERVICE

Respondent hereby certifies that on **09/20/2024**, a true and correct copy of the **Respondent's Rule 12 Motion to Show Authority** was served on the following parties via **electronic service through the Electronic Filing Manager (EFM)** and via **email** to the email address on record, pursuant to **Texas Rules of Civil Procedure 21a and 191.4**.

Served to:

- **Morgan Michelle Myers**, Petitioner via electronic filing system.
- **Cooper Carter**, Counsel for Petitioner via electronic filing system.
- **Email Addresses for Service:**
coopercarter@majadmin.com & morganmw02@gmail.com

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