

DKT (248)



NOTICE OF INTENT TO REMOVE

FILED ON: 11/13/2024

FEE: \$0.00

FILER/REQUESTOR: CHARLES DUSTIN MYERS

NO. 322-744263-23 & NO. 322-744538-23

In the Matter of the Marriage of
Morgan Michelle Myers & Charles Dustin Myers
and in the Interest of
M.E.M & C.R.M,
Minor Children.

NOTICE OF INTENT TO REMOVE

In the 322nd District Court.

Tarrant County, Texas

Respectfully submitted,

Charles Dustin Myers

I. INTRODUCTION

Respondent, Relator, Defendant; representing himself in his own individual capacity as CHARLES DUSTIN MYERS, hereby refrains from referring to himself in third person.

I find it to be repugnant. In reality, I'm simply a father. A father who was brought into this situation during the most precious time of year. Now, while I have the highest respect for the judiciary, this court, and all of its' participants - today you have all left me scratching my head as to how after passing through two judges, a panel of three judges in the Second Court of Appeals followed by the entire court en banc, seven Justices at the highest level of the Texas judiciary, a regional presiding Judge, and a visiting retired Judge, in all of their collective experience, could not see the issues within this case.

Perhaps most shocking is how after over 1,500 pages of documents, pictures, sworn statements, and most importantly - without any opposition or engagement with any part of it from our friends on the other side, it's not enough to overcome the apparent, deep-seated antagonism that has only left more questions unanswered and fraud unaddressed.

I am here not out of disrespect, but because I was compelled to be here. I am not seeking the world from this court, only answers. The relief I seek is not that of impossibility - but is that which is enshrined in the most fundamental protections our country has to offer. It's a relief that has been continuously denied time and time again, without any explanation.

In fact, the latest denial actually makes the most sense out of any order issued so far in this case, so for that I am hopeful. However, the latest denial, albeit legally justified on face value, was made in error, and the only exhibit attached to this motion is the reasons why I believe this to be true.

II. ISSUE

A. EFM ISSUES PREVENTED THE FILING OF A CONTINUANCE

1. Exhibit A is attached hereto for the purpose of demonstrating a re-occurring theme in this case. Not only did I have every intention of coming to the hearing, but given the circumstances, did everything in my power to communicate regarding the situation.

2. These efforts only came second to the rules of law.

The inability to access the EFM at such a crucial juncture was communicated to the court and all parties relevant to the matter.

3. Furthermore, the circumstances in this case have left me in a persistent state of planning for an inevitable appeal, such as here, where a denial is issued at the first opportunity and allows the court to escape any explanation for the important questions being asked of it.

4. Given that my access to the EFM was unavailable during the crucial time that a sworn continuance should have been filed, it raises more questions which require answers to protect my rights that have been continuously violated. For example, given the circumstances, I can't rely on the reason being a technicality regarding the EFM.

B. THE DENIAL ONLY CREATES MORE UNADDRESSED ISSUES

5. The problem I have with this decision is that the denial states that the opposing party appeared and that no evidence was admitted - but makes no mention of the agreement made by the parties, the circumstances, and as

mentioned, raises more questions without any answers being provided.

6. This would leave one to believe that despite the mutual agreement, the opposing party showed up anyway and acted as if no agreement was made notwithstanding that it mentioned that she appeared by her attorney of record, which is currently under scrutiny and remains on the long list of unanswered questions.

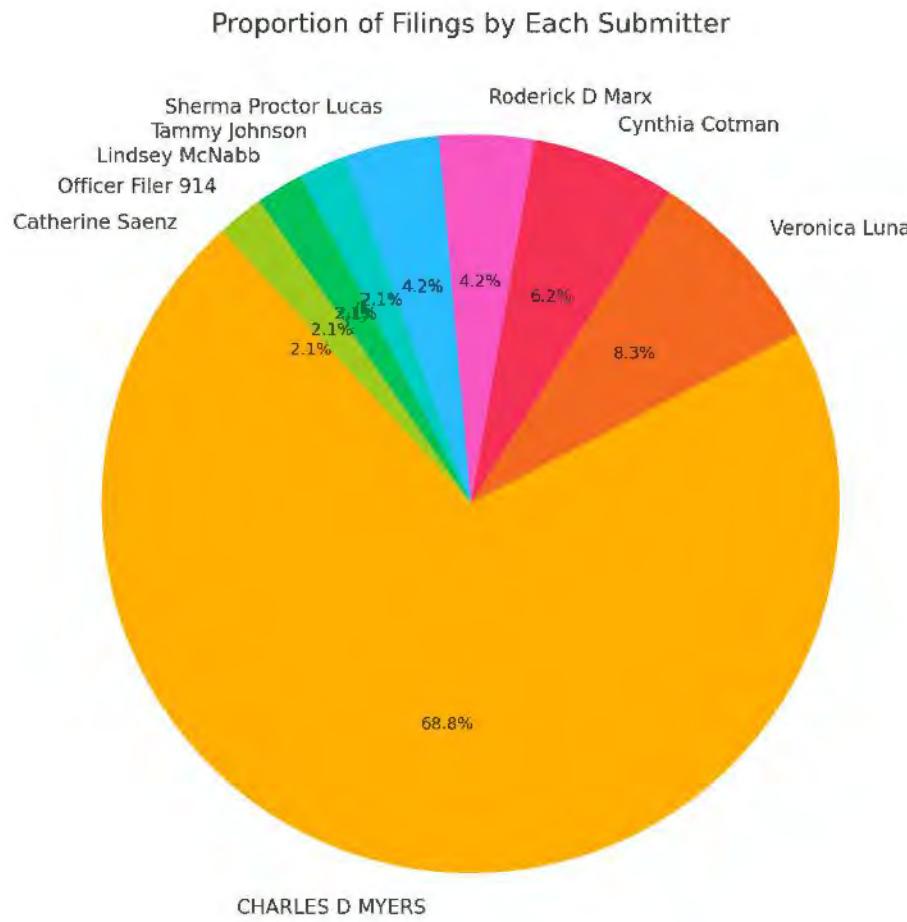
III. NO FURTHER STATE REMEDIES

7. After nearly eleven months of seeking answers, only more questions have arisen.

8. If the court wishes to revisit the denial of the recusal given the circumstances pointed out, or in the alternative, adopt the still-pending motion to enter judgement and original, unmodified joint motion to recuse, it has the discretion to do so.

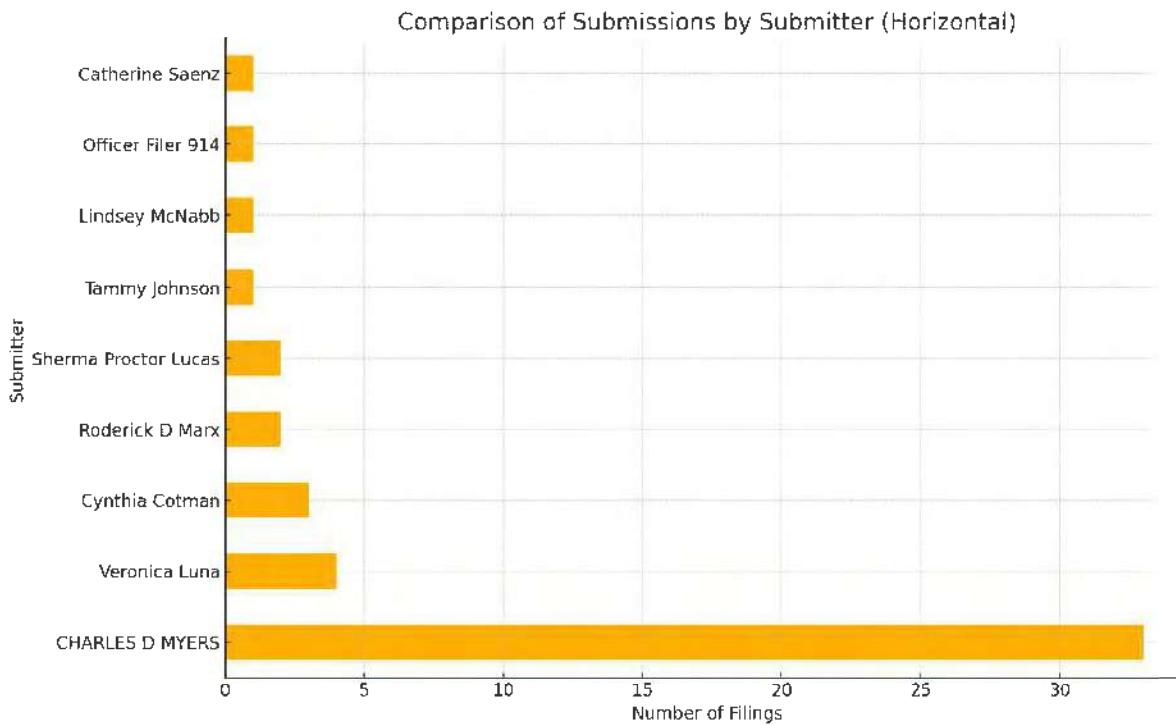
9. I am awaiting proper service of the denial via the electronic filing manager as required by law, and upon receipt will be removing the case to federal district court to address the ongoing constitutional issues that the State refuses to address.

10. The court in its perspective may see me as a nuisance, a pest, a fool. However, when taking a step back and looking at the full picture - it's worth a thousand words, as they say:



You'll notice - no Cooper Carter. This picture is a collection of all case files available on the EFM up until the recusal was filed and is a combination of case numbers 24-0395, 02-24-00149-CV, 322-744538-23, and 322-744263-23 in the order in which they were filed.

11. I've genuinely tried to provide every opportunity to the State to rectify this situation to no avail.



12. The recusal wouldn't be necessary and is not a reflection of the judges in this case. I've attempted every other legal avenue to accomplish such task to no avail, which leads us here. I hope the court can respect that.

13. I hope the court will reconsider its' denial of the recusal or do what is right so that the recusal will be moot. Until the current orders are either vacated or legally justified, I must continue to fight for my family, which requires that I seek federal intervention.

IV. BASIS FOR REMOVAL

14. Defendant, CHARLES DUSTIN MYERS, in the above-captioned matter hereby provides notice of intent to remove this action to the United States District Court for the Northern District of Texas pursuant to 28 U.S.C. § 1441(a) and § 1441(c)(1)(A). Removal is sought on the basis of substantial federal questions arising from alleged violations of Defendant's due process rights, procedural negligence, and claims of unaddressed fraudulent actions by Plaintiff. Defendant submits the following in support of removal:

A. Federal Question Jurisdiction Due to Violations of Due Process Rights

15. This case raises significant federal questions under the **14th Amendment** to the United States Constitution, specifically regarding Defendant's right to due process. Defendant asserts that his due process rights have been repeatedly violated due to procedural negligence by the state court and the imposition of an agreement that was obtained through fraudulent claims by Plaintiff, without proper judicial scrutiny or procedural safeguards. The

state court has taken actions that have fundamentally deprived Defendant of a fair opportunity to present his case, as evidenced by the following:

i. Plaintiff's initial claims, including the unsubstantiated allegation of an active protective order, were not subjected to adequate evidentiary review or discovery. Instead, these claims were used to pressure Defendant into a settlement agreement that has since been revealed to be grounded in misrepresentation. The lack of judicial oversight in this process has effectively deprived Defendant of the ability to defend his rights and property, constituting a direct violation of due process.

ii. The state court compelled Defendant to accept and sign a settlement agreement that Plaintiff obtained through alleged fraudulent representations. When Defendant contested the validity of this agreement, the court disregarded his objections and ordered him to comply without further review. This compelled compliance without scrutiny or due process fails to

meet the fundamental fairness standards established under the 14th Amendment.

iii. Plaintiff's actions, including conversion, perjury, fraud upon the court, and intentional destruction of marital assets remain unaddressed by the state court, which has shown procedural negligence in allowing these issues to persist without a fair review process. The absence of required discovery and evidentiary procedures further denies Defendant an opportunity to contest these fraudulent claims, depriving him of a fundamental right to a fair trial.

B. Failure of the State Court to Provide an Adequate Remedy

16. The state court has demonstrated an unwillingness or inability to provide an adequate remedy in this matter, as illustrated by its failure to address the core issues at the heart of Defendant's claims. Defendant has repeatedly raised these issues before the state court, challenging the authenticity of Plaintiff's claims and the procedural fairness of the settlement agreement. However, the court has continually declined to address these fundamental

issues, thereby failing to provide Defendant with an effective state remedy.

17. Upon filing the Joint Motion to Recuse, the court chose to stop recording the pleadings on the EFM, chose not to modify the Defendant's documents upon forwarding them to the 8th Administrative Regional Judge, and the state court issued an erroneous denial, as outlined in Exhibit 1, without proper judicial scrutiny of either the situation or the issues at hand, choosing to leave them unaddressed. This denial is indicative of the court's unwillingness to engage with the core issues of fraud and due process violations that affect Defendant's rights and has left Defendant with no adequate remedy at the state level.

18. The state court's avoidance of key claims—such as Plaintiff's conversion of marital assets, her perjurious statements, and intentional destruction of community property—has further deprived Defendant of the opportunity to have these matters fairly adjudicated. Defendant contends that these fraudulent actions go directly to the heart of his claims and that the state court's avoidance of these matters amounts to a failure of procedural justice.

This avoidance underscores the need for federal intervention, as the state court has failed to uphold Defendant's right to due process and a fair hearing.

C. Domestic Relations Exception Does Not Apply

19. The Domestic Relations Exception does not bar federal jurisdiction in this case, as Defendant is not seeking federal court adjudication of traditional family law issues such as divorce or custody. Rather, this removal is sought to address alleged due process violations, fraudulent claims, and procedural negligence that have deprived Defendant of his federally protected rights. Defendant seeks federal review to rectify the imposition of a fraudulent settlement agreement that was coerced through misrepresentation, extending beyond the traditional boundaries of domestic relations issues. Therefore, the Domestic Relations Exception does not apply to preclude federal review of the due process violations and fraudulent actions central to this case.

D. Rooker-Feldman Doctrine Does Not Apply

20. The Rooker-Feldman Doctrine does not bar removal because the state court has not issued a final judgment.

All current orders remain interlocutory, and Defendant is not seeking to challenge any final state court decision. Defendant's removal is based on the need for federal review of ongoing procedural violations and due process issues that have not yet reached final adjudication in the state court. Since there is no final judgment, the Rooker-Feldman Doctrine does not apply to prevent federal intervention in this matter.

E. Younger Abstention Doctrine Does Not Apply

21. The Younger Abstention Doctrine generally bars federal intervention in active state proceedings. However, it does not apply here because Defendant is not attempting to disrupt the state court's core jurisdiction over family law matters. Instead, Defendant seeks federal review due to ongoing procedural violations and unaddressed fraudulent actions by Plaintiff, which infringe upon Defendant's federal rights. Federal oversight is necessary to ensure the protection of Defendant's due process rights and to address the state court's failure to enforce procedural safeguards or address Plaintiff's fraudulent actions.

**F. Ambiguity and Procedural Gaps Allow Removal Beyond the
30-Day Window**

22. The ongoing procedural ambiguity and lack of resolution in the state proceedings justify removal beyond the standard 30-day window. The state court's failure to scrutinize Plaintiff's claims, enforce discovery, or provide clarifying documentation has created substantial ambiguity about the true basis for Plaintiff's allegations and the validity of the coerced settlement agreement. This ambiguity effectively extends the removal window, as Defendant has not received adequate information to properly address these ambiguous and procedurally flawed claims.

23. Plaintiff's initial pleadings contain unsubstantiated claims impacting Defendant's rights, and the state court's failure to require discovery has prevented Defendant from understanding the basis for these claims. Due to the state court's lack of procedural enforcement and transparency, Defendant's right to remove remains valid until clarification and compliance with procedural standards are achieved.

24. Additionally, Defendant notes that the state court has the discretion to reconsider its prior denial, as it has not been formally served in compliance with Texas Rules of Civil Procedure 21a and showcases an unwillingness to address the issues herein. Should the court choose not to reconsider its prior ruling, Defendant intends to exercise his right to remove the case to federal court upon receipt of the denial, as outlined in the present notice, pursue relief from damages from Plaintiff.

V. CONCLUSION AND PRAYER

In the instant case, the troubling reality of the court's initial decision will bear a lifetime of consequence on the lives of the children it has left out of the equation.

Given the significant procedural and factual issues in this case, Respondent respectfully requests the Court adopt one of the following remedies to ensure a fair and just outcome:

1. **Recuse** Judges James Munford and Jeffrey Kaitcer from further proceedings, or:

2. **Alternatively**, deny the recusal but with instructions that the Honorable James Munford:

- **Vacate the current temporary orders which are fraudulent;**
- **Adopt the temporary orders and parenting plan submitted by Respondent**, designed to prioritize the children's stability and continuity, and reflect what is in their best interests;
- **Order the parties to engage in mediation** to facilitate a cooperative resolution focused on the children's best interests and future plans for both parents, ensuring both parties' livelihoods are maintained;
- **Require participation in family counseling** to prioritize the children's psychological well-being and assess the impact of the past 11 months;
- **Order that Petitioner complete the court-ordered Children in the Middle parenting class**, or in the alternative, file a notice of completion, given the critical information provided in this program.

Granting either of these alternatives would allow the Court to rectify the underlying concerns of procedural fairness, ensuring that the children's welfare and stability remain the focal points of all decisions. Such actions are essential to moving this case forward in the most efficient and just manner.

The issues in this case can be corrected just as swiftly as they were created. It is here, at the threshold of justice, that the court must exercise its' discretion to correct these grave mistakes to prevent further escalation.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
[REDACTED]
[REDACTED]
817-507-6562
PRO-SE

CERTIFICATE OF SERVICE

I, CHARLES DUSTIN MYERS, certify that a true copy of this notice of intent to remove and all exhibits were served in accordance with Rule 21a of the Texas Rules of Civil Procedure on the following on
11/12/24:

Cooper L. Carter (Counsel for real party in interest)
by EMAIL/ESERVE at COOPERCARTER@MAJADMIN@COM

Morgan Michelle Myers (real party in interest)
by EMAIL/ESERVE at MORGANMW02@GMAIL.COM

Holly L. Hayes, Texas Office of the Attorney General
By EMAIL/ESERVE at 914-filer@texas.oag.gov

/s/ Charles Dustin Myers
Charles Dustin Myers
Chuckdustin12@gmail.com


tel: 1-817-507-6562

Pro-se

EXHIBIT 1

EFFORTS IN COMMUNICATION AND DENIAL

7:45 📅 ⚡ 🔍 ⏱ ✅

N ⌂ 18% 📕



D

Dad



Thursday • 7:23 AM

I have an issue.

Woke up with
extreme tooth pain
to the extent I can't
talk.

I can't file any kind of
notice with the Court
because my case
stopped showing up.



RCS ...

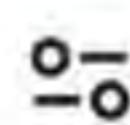


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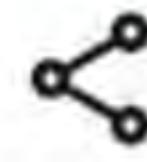
Did you file a
continuous

I can't the case isn't
available online to
file.into

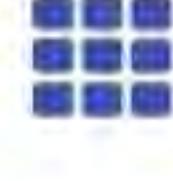


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