

**IN THE MATTER OF THE
MARRIAGE OF**
MORGAN MICHELLE MYERS
AND
CHARLES DUSTIN MYERS
AND IN THE INTEREST OF
MARA EVONNE MYERS AND
CAROLINE ROSE MYERS,
CHILDREN

IN THE DISTRICT COURT
322ND JUDICIAL DISTRICT
TARRANT COUNTY, TEXAS

FIRST AMENDED COUNTERPETITION FOR DIVORCE

Discovery Control Plan

1. Pursuant to Rule 190 of the Texas Rules of Civil Procedure, discovery is intended to be conducted in this suit under Level 2.

Objection to Associate Judge

2. CHARLES DUSTIN MYERS, Counterpetitioner, objects to an associate judge hearing a trial on the merits or presiding at a jury trial.

Nature of the Suit

3. This suit is brought by CHARLES DUSTIN MYERS, Counterpetitioner, against MORGAN MICHELLE MYERS, Counterrespondent, seeking dissolution of their marriage and resolution of issues affecting the parent-child relationship.

CHARLES DUSTIN MYERS's Information

4. The last three numbers of CHARLES DUSTIN MYERS's Texas driver's license number are 608. The last three numbers of CHARLES DUSTIN MYERS's Social Security number are 963

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Service of Citation

5. No service of citation on MORGAN MICHELLE MYERS is requested at this time.

Divorce Jurisdiction

6. MORGAN MICHELLE MYERS and CHARLES DUSTIN MYERS have been domiciliaries of this state for the preceding six-month period. MORGAN MICHELLE MYERS has been a resident of Tarrant County for the preceding ninety-day period. CHARLES DUSTIN MYERS has been a resident of Tarrant County for the preceding ninety-day period.

Dates of Marriage and Separation

7. MORGAN MICHELLE MYERS and CHARLES DUSTIN MYERS married on or about June 20, 2015 in Watauga, Texas and separated on or about December 18, 2023.

Grounds for Divorce

8. The marriage has become insupportable because of discord or a conflict of personalities between MORGAN MICHELLE MYERS and CHARLES DUSTIN MYERS that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

Children of the Marriage

9. MORGAN MICHELLE MYERS and CHARLES DUSTIN MYERS are parents of the following children born or adopted of this marriage who are under 18 years of age or who are otherwise entitled to support as provided by Chapter 154 of the Texas Family Code:

Name: MARA EVONNE MYERS
Gender: Female
SSN (last 3): XXX
Birth Date: 06/20/2016
Home State: Texas

Name: CAROLINE ROSE MYERS
Gender: Female

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SSN (last 3): XXX
Birth Date: 04/12/2018
Home State: Texas

Continuing Jurisdiction

10. No court has continuing jurisdiction of the suit affecting the parent-child relationship.

No Court-Ordered Relationships

11. There are no court-ordered relationships for the children of this suit.

UCCJEA Statement

12. Each party to this suit resides in Texas. The information required under Section 152.209 of the Texas Family Code is not applicable.

Health Insurance

13. The information required under Section 154.181(b) and Section 154.1815 of the Texas Family Code will be filed with this Court before any hearing on Temporary Orders or a Final Order.

Children's Property

14. CHARLES DUSTIN MYERS states that there is no property of value owned or possessed by the children the subject of the suit.

No Protective Order

15. No protective order under Title 4 of the Texas Family Code or order for emergency protection under Article 17.292 of the Texas Code of Criminal Procedure is in effect in regard to a party to this suit or a child of a party to this suit, and no applications for such orders are pending before the Court.

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Appointment of Joint Managing Conservators

16. It is in the best interest of the children that CHARLES DUSTIN MYERS and MORGAN MICHELLE MYERS be appointed as joint managing conservators of the children. CHARLES DUSTIN MYERS petitions the Court to appoint CHARLES DUSTIN MYERS and MORGAN MICHELLE MYERS as joint managing conservators of MARA EVONNE MYERS and CAROLINE ROSE MYERS with all the rights and duties of a parent appointed as a conservator of a child.

Primary Residence Designation

17. CHARLES DUSTIN MYERS petitions this Court to designate him the conservator who has the exclusive right to determine the primary residence of the children within Tarrant and contiguous counties, Texas.

Property of the Parties

Agreed Division of Marital Estate

18. CHARLES DUSTIN MYERS expects to enter into a written agreement with MORGAN MICHELLE MYERS concerning the division of the marital estate. If a written agreement concerning division of the marital estate is submitted, CHARLES DUSTIN MYERS petitions this Court to approve the agreement and order division of the marital estate as the parties have agreed. If an agreement dividing the property is not reached, CHARLES DUSTIN MYERS petitions this Court to order a division of the estate of the parties in a manner that this Court deems just and right, having due regard for the rights of each party and any children of the marriage, and as provided by law.

Temporary Relief

Combined Family Code Temporary Restraining Order and Injunction

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19. CHARLES DUSTIN MYERS petitions this Court to dispense with the issuance of a bond, grant a temporary restraining order without notice to MORGAN MICHELLE MYERS for the preservation of the property of the parties and the protection of the parties as necessary and, after notice and hearing, render an order granting a temporary injunction for the preservation of the property and protection of the parties as deemed necessary and equitable and including, but not limited to, an order prohibiting MORGAN MICHELLE MYERS from engaging in any of the following conduct:

- a. intentionally communicating in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing or electronic messaging, with the other party by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner, with intent to annoy or alarm the other party;
- b. threatening the other party, in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, to take unlawful action against any person, intending by this action to annoy or alarm the other party;
- c. placing a telephone call, anonymously, at an unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication with the intent to annoy or alarm the other party;
- d. intentionally, knowingly, or recklessly causing bodily injury to the other party or to a child of either party;
- e. threatening the other party or a child of either party with imminent bodily injury;
- f. intentionally, knowingly, or recklessly destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of

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the parties or a protected party with intent to obstruct the Court's authority to divide the parties' estate in a manner that this Court deems just and right, having due regard for the rights of each party and any children of the marriage;

g. intentionally falsifying a writing or record, including an electronic record, relating to the property of either party;

h. intentionally misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any tangible or intellectual property of the parties or either party, including electronically stored or recorded information;

i. intentionally or knowingly damaging or destroying the tangible or intellectual property of the parties or either party, including electronically stored or recorded information;

j. intentionally or knowingly tampering with the tangible or intellectual property of the parties or either party, including electronically stored or recorded information, causing pecuniary loss or substantial inconvenience to the other party;

k. except as specifically authorized by order of this Court:

i. selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of the parties or either party, regardless of whether the property is:

(1) personal property, real property, or intellectual property; or

(2) separate or community property;

ii. incurring any debt, other than legal expenses in connection with this suit for dissolution of marriage;

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- iii. withdrawing money from any checking or savings account in any financial institution for any purpose;
 - iv. spending any money in either party's possession or subject to either party's control for any purpose;
 - v. withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan, employee savings plan, individual retirement account, or Keogh account of either party;
 - vi. withdrawing or borrowing in any manner all or any part of the cash surrender value of a life insurance policy on the life of either party or a child of the parties;
- l. entering any safe deposit box in the name of or subject to the control of the parties or either party, whether individually or jointly with others;
 - m. changing or in any manner altering the beneficiary designation on any life insurance policy on the life of either party or a child of the parties;
 - n. canceling, altering, failing to renew or pay premiums on, or in any manner affecting the level of coverage that existed at the time the suit was filed of, any life, casualty, automobile, or health insurance policies insuring the parties' property or persons including a child of the parties;
 - o. opening or diverting mail, e-mail, or any other electronic communication addressed to the other party;
 - p. signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividend, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party;

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- q. taking any action to terminate or limit credit or charge credit cards in the name of the other party;
- r. discontinuing or reducing the withholding for federal income taxes from either party's wages or salary;
- s. destroying, disposing of, or altering any financial records of the parties, including a canceled check, deposit slip, and other records from a financial institution, a record of credit purchases or cash advances, a tax return, and a financial statement;
- t. destroying, disposing of, or altering any e-mail, text message, video message, or chat message or other electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium;
- u. modifying, changing, or altering the native format or metadata of any electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium;
- v. deleting any data or content from any social network profile used or created by either party or a child of the parties;
- w. using any password or personal identification number to gain access to the other party's e-mail account, bank account, social media account, or any other electronic account;
- x. terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual service, including security, pest control,

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landscaping, or yard maintenance at the residence of either party, or in any manner attempting to withdraw any deposit paid in connection with any of those services;

y. excluding the other party from the use and enjoyment of a specifically identified residence of the other party;

z. entering, operating, or exercising control over a motor vehicle in the possession of the other party; and

aa. tracking or monitoring personal property or a motor vehicle in the possession of a party, without that party's effective consent, including by:

- i. using a tracking application on a personal electronic device in the possession of that party or using a tracking device; or
- ii. by physically following that party or causing another to physically follow that party.

Combined Family Code Temporary Restraining Order and Injunction

20. CHARLES DUSTIN MYERS petitions this Court to dispense with the issuance of a bond, grant a temporary restraining order without notice to MORGAN MICHELLE MYERS for the safety and welfare of the children and, after notice and hearing, that this Court may render an appropriate order, including the granting of a temporary injunction for the safety and welfare of the children as deemed necessary and equitable and including, but not limited to, an order prohibiting MORGAN MICHELLE MYERS from engaging in any of the following conduct:

- a. disturbing the peace of the children or another party;
- b. disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court;

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- c. hiding or secreting the children from the other party or changing the children's current place of abode without the written agreement of both parents or an order of this Court;
- d. making disparaging remarks regarding the other party or the other party's family in the presence or within the hearing of the children; and
- e. being present within the same residence as the children between 8:00 p.m. and 8:00 a.m. with an unrelated adult with whom a party has an intimate relationship.

Temporary Authorizations

21. CHARLES DUSTIN MYERS petitions this Court to authorize MORGAN MICHELLE MYERS to do the following:
- a. to make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation, and medical care.
 - b. to make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.
 - c. to make withdrawals from accounts in financial institutions only for the purposes authorized by this Court.

Temporary Orders and Injunction

Family Code Temporary Orders and Injunction

22. CHARLES DUSTIN MYERS petitions this Court, after notice and hearing, to dispense with the issuance of a bond and render an appropriate order granting a temporary injunction for the preservation of the property and protection of the parties as deemed necessary and equitable, including, but not limited to, an order prohibiting MORGAN MICHELLE MYERS from engaging in any of the following conduct:

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- a. intentionally communicating in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing or electronic messaging, with the other party by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner, with intent to annoy or alarm the other party;
- b. threatening the other party, in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, to take unlawful action against any person, intending by this action to annoy or alarm the other party;
- c. placing a telephone call, anonymously, at an unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication with the intent to annoy or alarm the other party;
- d. intentionally, knowingly, or recklessly causing bodily injury to the other party or to a child of either party;
- e. threatening the other party or a child of either party with imminent bodily injury;
- f. intentionally, knowingly, or recklessly destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of the parties or a protected party with intent to obstruct the Court's authority to divide the parties' estate in a manner that this Court deems just and right, having due regard for the rights of each party and any children of the marriage;
- g. intentionally falsifying a writing or record, including an electronic record, relating to the property of either party;
- h. intentionally misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any tangible or intellectual

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- property of the parties or either party, including electronically stored or recorded information;
- i. intentionally or knowingly damaging or destroying the tangible or intellectual property of the parties or either party, including electronically stored or recorded information;
 - j. intentionally or knowingly tampering with the tangible or intellectual property of the parties or either party, including electronically stored or recorded information, causing pecuniary loss or substantial inconvenience to the other party;
 - k. except as specifically authorized by an order of this Court:
 - i. selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of the parties or either party, regardless of whether the property is:
 - (1) personal property, real property, or intellectual property; or
 - (2) separate or community property;
 - ii. incurring any debt, other than legal expenses in connection with this suit for dissolution of marriage;
 - iii. withdrawing money from any checking or savings account in any financial institution for any purpose;
 - iv. spending any money in either party's possession or subject to either party's control for any purpose;
 - v. withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan, employee savings plan, individual retirement account, or Keogh account of either party;

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- vi. withdrawing or borrowing in any manner all or any part of the cash surrender value of a life insurance policy on the life of either party or a child of the parties;
- 1. entering any safe deposit box in the name of or subject to the control of the parties or either party, whether individually or jointly with others;
- m. changing or in any manner altering the beneficiary designation on any life insurance policy on the life of either party or a child of the parties;
- n. canceling, altering, failing to renew or pay premiums on, or in any manner affecting the level of coverage that existed at the time the suit was filed of, any life, casualty, automobile, or health insurance policies insuring the parties' property or persons including a child of the parties;
- o. opening or diverting mail, e-mail, or any other electronic communication addressed to the other party;
- p. signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividend, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party;
- q. taking any action to terminate or limit credit or charge credit cards in the name of the other party;
- r. discontinuing or reducing the withholding for federal income taxes from either party's wages or salary;
- s. destroying, disposing of, or altering any financial records of the parties, including a canceled check, deposit slip, and other records from a financial institution, a record of credit purchases or cash advances, a tax return, and a financial statement;

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- t. destroying, disposing of, or altering any e-mail, text message, video message, or chat message or other electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium;
- u. modifying, changing, or altering the native format or metadata of any electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium;
- v. deleting any data or content from any social network profile used or created by either party or a child of the parties;
- w. using any password or personal identification number to gain access to the other party's e-mail account, bank account, social media account, or any other electronic account;
- x. terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual service, including security, pest control, landscaping, or yard maintenance at the residence of either party, or in any manner attempting to withdraw any deposit paid in connection with any of those services;
- y. excluding the other party from the use and enjoyment of a specifically identified residence of the other party;
- z. entering, operating, or exercising control over a motor vehicle in the possession of the other party;

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- aa. tracking or monitoring personal property or a motor vehicle in the possession of a party, without that party's effective consent, including by:
 - i. using a tracking application on a personal electronic device in the possession of that party or using a tracking device; or
 - ii. by physically following that party or causing another to physically follow that party;
- bb. interfering with the other party's spending of funds for reasonable and necessary living expenses; and
- cc. interfering with the other party's engaging in acts reasonable and necessary to conduct that party's usual business and occupation.

Family Code Temporary Orders and Injunction

23. CHARLES DUSTIN MYERS petitions this Court, after notice and hearing, to dispense with the issuance of a bond, and render an appropriate order, including the granting of a temporary injunction for the safety and welfare of the children as deemed necessary and equitable, including, but not limited to, an order prohibiting MORGAN MICHELLE MYERS from engaging in any of the following conduct:

- a. disturbing the peace of the children or another party;
- b. disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled without the written agreement of both parents or an order of this Court;
- c. hiding or secreting the children from the other party or changing the children's current place of abode without the written agreement of both parents or an order of this Court;

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- d. making disparaging remarks regarding the other party or the other party's family in the presence or within the hearing of the children; and
- e. being present within the same residence as the children between 8:00 p.m. and 8:00 a.m. with an unrelated adult with whom a party has an intimate relationship.

Temporary Orders for Use of Property

24. CHARLES DUSTIN MYERS petitions this Court, after notice and hearing, to render an appropriate order including, but not limited to, the following:
- a. awarding CHARLES DUSTIN MYERS exclusive control and management over the possession, use, and occupancy of the residence at 6641 Anne Court, Watauga, Tarrant County, Texas 76148, including all furniture, furnishings, and other personal property located at the residence during the pendency of the case; and
 - b. awarding CHARLES DUSTIN MYERS exclusive control and management over the possession and use of 2021 Mazda 3 Sedan.

Temporary Orders Regarding Children

25. CHARLES DUSTIN MYERS petitions this Court, after notice and hearing, to render temporary orders including, but not limited to, the following:
- a. appointing CHARLES DUSTIN MYERS and MORGAN MICHELLE MYERS as temporary joint managing conservators of the children;
 - b. designating CHARLES DUSTIN MYERS as the conservator who has the temporary exclusive right to determine the primary residence of MARA EVONNE MYERS and CAROLINE ROSE MYERS; and
 - c. restricting the area within which the children's primary residence shall be maintained to Tarrant and contiguous counties, Texas.

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Other Requested Relief

Attorney's Fees Request

26. CHARLES DUSTIN MYERS engaged Daniel R. Bacalis, a licensed attorney, to prepare and prosecute this suit. As part of the just and right division of the community estate, as well as for the prosecution of this suit affecting the parent child relationship, CHARLES DUSTIN MYERS petitions this Court to render judgment for reasonable attorney's fees, expenses, and costs through trial and appeal in his favor and against MORGAN MICHELLE MYERS, and order the judgment to be paid directly to Daniel R. Bacalis. CHARLES DUSTIN MYERS petitions the Court to award post-judgment interest as permitted by law.

Prayer

CHARLES DUSTIN MYERS prays the Court to grant a divorce and all other relief requested in this Counterpetition.

CHARLES DUSTIN MYERS prays that this Court immediately grant a temporary restraining order restraining MORGAN MICHELLE MYERS, in conformity with the allegations of this Counterpetition, from the acts set forth above, and that, upon notice and hearing, this temporary restraining order be made a temporary injunction.

CHARLES DUSTIN MYERS prays that this Court, in addition to the temporary restraining order and temporary injunction prayed for above, upon notice and hearing, grant a temporary injunction enjoining MORGAN MICHELLE MYERS from the acts set forth above while this case is pending.

CHARLES DUSTIN MYERS prays that this Court, upon notice and hearing, grant temporary orders as requested in this Counterpetition.

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CHARLES DUSTIN MYERS prays that he be awarded a judgment against MORGAN MICHELLE MYERS for reasonable attorney's fees.

CHARLES DUSTIN MYERS prays for general relief.

Respectfully submitted,

Daniel R. Bacalis PC
669 Airport Freeway
Suite 307
Hurst, TX 76053
Office Phone: (817) 498-4105
Fax: (817) 282-0634

/s/ Daniel R. Bacalis

Daniel R. Bacalis
Attorney for CHARLES DUSTIN MYERS
State Bar No: 01487550
Email: dbacalis@dbacalis.com

Certificate of Service

I certify that a true copy of this document was served in accordance with Rule 21a of the Texas Rules of Civil Procedure on the following on January 31, 2024.

Morgan Michelle Myers by electronic filing manager at morganmw02@gmail.com.

/s/ Daniel R. Bacalis

Daniel R. Bacalis
Attorney for CHARLES DUSTIN MYERS

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Automated Certificate of eService

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Tammy Johnson on behalf of Daniel Bacalis

Bar No. 1487550

tjohnson@dbacalis.com

Envelope ID: 84003319

Filing Code Description: Amended Filing

Filing Description: First Amended Counterpetition for Divorce

Status as of 2/1/2024 9:08 AM CST

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		morganmw02@gmail.com	1/31/2024 2:51:39 PM	SENT



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