

**DKT (81)**



**2ND AMENDED PREPARATORY NOTICE FOR JUDICIAL  
REVIEW**

**FILED ON: 03/26/2024**

**FEE: \$0.00**

**FILER/REQUESTOR: CHARLES DUSTIN MYERS**

322-744263-23

FILED  
TARRANT COUNTY  
3/26/2024 12:00 AM  
THOMAS A. WILDER  
DISTRICT CLERK

NOTICE THIS DOCUMENT CONTAINS SENSITIVE DATA

IN THE 322<sup>nd</sup> DISTRICT COURT  
OF TARRANT COUNTY  
FORT WORTH, TEXAS

*Morgan Michelle Myers*

v.

*Charles Dustin Myers*

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Second Amended Preparatory Notice for Judicial Review  
No. 322-744263-23

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RESPONDENT'S PRIOR COUNSEL



**No. 322-744263-23 (consolidated)**

IN THE 322<sup>ND</sup> DISTRICT COURT  
OF TARRANT COUNTY  
FORT WORTH, TEXAS

In re Charles Dustin Myers  
for MEM & CRM,  
two minors

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**IDENTITY OF PARTIES AND COUNSEL**

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Respondent certifies that the following is a complete list of the parties, their attorneys,  
and any other person who has any interest in the outcome of this case:

***COUNSEL FOR PETITIONER:***

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REAL PARTIES OF INTEREST:

Morgan Michelle Myers, Petitioner

[REDACTED]

Charles Dustin Myers, Respondent

[REDACTED]

CRM, a minor child

MEM, a minor child

Daniel Kenneth Branthoover, Witness<sup>1</sup>

[REDACTED]

Margie Evonne Wilson, Witness<sup>2</sup>

[REDACTED]

Jesse Wilson, Witness<sup>3</sup>

[REDACTED]

Cooper L. Carter, Witness<sup>4</sup>

<sup>1</sup> Mr. Branthoover's residency in Oklahoma necessitates his inclusion to address jurisdictional concerns and ensure that all relevant parties are properly before the court for a complete resolution of the dispute.

<sup>2</sup> Margie Wilson is the Couple's landlord and resides adjacent to the family home.

<sup>3</sup> Jessie Wilson is the Couple's landlord and resides adjacent to the family home.

<sup>4</sup> Given the growing probability that Ms. Carter will be required as a witness in this case, it is imperative for the integrity of the proceedings that she voluntarily withdraws from representation to avoid potential conflicts of interest and ensure procedural fairness for when the trial inevitably seeks removal to Federal Court.

TABLE OF CONTENTS

Identities of Parties and Counsel.....2-3

Index of Authorities.....5-7

Statement of the Case.....8

Issue Presented.....9

Family Background.....10

Employment History and Family Dynamics.....11-18

Statement of Facts.....19-28

Respondent’s Parental Index.....29-32

The Respondent’s Efforts.....33-35

**Issue:** Considering the absence of concrete evidence indicating an immediate risk of harm or abuse towards the petitioner or minor children, did the court’s decision to issue Temporary Orders on January 16<sup>th</sup>, January 22<sup>nd</sup>, and February 1<sup>st</sup>—thereby excluding the Respondent from the family residence and severing his relationship with his children—constitute an abuse of discretion under Texas Family Code § 83.001 et seq., which necessitates clear evidence of danger for such emergency action, ultimately leading to a violation of the Respondent’s due process and infringement of constitutional and parental rights as outlined by the *U.S. Constitution and Tex. Const. art. I, § 19*, while also disregarding the children’s best interest as mandated by *FAM § 153.002*?

Argument.....36-46

Conclusion.....47-48

Appendix.....RESERVED

INDEX OF AUTHORITIES

Cases

Holley v. Adams, 544 S.W.2d 367 (Tex. 1976) .....36

Mathews v. Eldridge, 424 U.S. 319 (1976) .....36

In re C.J.C., No. 19-0694, 2020 (Tex. Dec. 18, 2020) .....RESERVED

Daenekas v. Thorpe, 13-20-00557-CV (Tex. App. Nov. 4, 2021) .....RESERVED

Young v. Young, 212 S.W.3d 417 (Tex. App. 2006) .....RESERVED

Troxel et vir v. Granville, 530 U.S. 57 (2000) .....38

U.S. Constitution

Amendment 5 .....RESERVED

Texas Constitution

Tex. Const. art. I, § 3 (1876) .....RESERVED

Tex. Const. art. I, § 3a (Amended Nov. 7, 1972) .....RESERVED

Tex. Const. art. I, § 19 (1876).....RESERVED

**Statutes**

Texas Family Code § 6.405(b).....44

Texas Family Code § 6.501(b)(2)(A)(C).....44

Texas Family Code § 83.001.....45

Texas Family Code § 83.006.....RESERVED

Texas Family Code § 105.001(b).....RESERVED

Texas Family Code § 105.003I.....RESERVED

Texas Family Code § 105.005.....RESERVED

Texas Family Code § 151.001.....RESERVED

Texas Family Code § 152.107.....RESERVED

Texas Family Code § 152.205.....RESERVED

Texas Family Code § 261.107.....RESERVED

Tex. Civ. Prac. & Rem. Code §§ 9.011.....45

Tex. Civ. Prac. & Rem. Code §§ 9.012.....46

Tex. Civ. Prac. & Rem. Code §§ 9.013.....46

**Rules**

Tex. Disciplinary R. Prof'l Conduct r. 1.15(b) .....42

Tex. Disciplinary R. Prof'l Conduct r. 3.01.....42

Tex. Disciplinary R. Prof'l Conduct r. 3.03.....43

Tex. Disciplinary R. Prof'l Conduct r. 3.04.....43

Tarrant Local Rules, Pg. 12, Pt. 4, R. 4.05(5).....RESERVED



## STATEMENT OF THE CASE

1. **Nature of Proceeding(s).** This case memorandum is respectfully submitted in good faith regarding the underlying legal proceedings brought against the Respondent in a systematic and concurrent fashion:
  - a. Divorce: 322-744263-23 \ filed **2023-12-18**
  - b. Protective Order: 322-744538-23 \ filed **2023-12-22**
  - c. Eviction: JP01-23-E00102017 \ filed **2023-12-28**
2. **Judge(s), Court, and County.** Hon James B. Munford && Hon Jeffrey N. Kaitcer, 322<sup>nd</sup> (Family) District Court, Tarrant County, Texas
3. **Claim of Respondent:** The Court unlawfully removed the Respondent from his home without a right to legal representation and without any findings of fact that would warrant such a drastic decision which not only severely damaged the ability of the Respondent to provide for them, but has ultimately left him homeless and the children without one of their parents without conducting any discovery or indicating any lawful reasoning for doing so.
4. **Habeas Corpus** N/A
5. **Supreme Court** N/A



**ISSUES PRESENTED**

1. Given evidence suggesting that the Petitioner fabricated allegations of family violence to secure a tactical advantage in custody and divorce proceedings, does this raise a significant legal question regarding the adequacy of safeguards against misuse of protective orders, potentially warranting a review of the court's reliance on unverified claims in making preliminary decisions affecting parental rights and access to children?
2. Considering the absence of concrete evidence indicating an immediate risk of harm or abuse towards the Petitioner or minor children, did the Court's initial decision to issue Temporary Orders on January 16<sup>th</sup>, followed by January 22<sup>nd</sup>, and February 1<sup>st</sup>—thereby excluding the Respondent from the family residence and severing his relationship with his children—constitute an abuse of discretion lacking clear evidence of danger for such emergency action, ultimately leading to a violation of the Respondent's due process and infringement of constitutional and parental rights, while also disregarding the children's best interests?
3. How can the Court remove one parent from the home without following the mandated process required by law, resulting in the destruction of the status quo of the minor children, and further uphold this decision when no finding of facts has taken place?



## FAMILY BACKGROUND

- I. Petitioner and Respondent are referenced herein as *the Couple*.
  - II. The two children are referenced herein as *the Children*.
- 
1. The Couple were married on June 20, 2015, and have two daughters aged seven and five at the time of this Memorandum.
  2. The Couple moved into the residence located at [REDACTED] [REDACTED] around July 2015.
  3. The family home is adjacent to the Petitioner's grandparents, who are also the landlords of the Couple, where they entered into a lease agreement on July 22<sup>nd</sup>, 2015.
  4. The Couple have both played significant roles in the upbringing of the Children throughout their lifetime.
  5. The Couple are both actively involved in the children's school activities and extra-curriculars.
  6. Throughout the marriage, the Petitioner reiterated her strong desire to leave the family home and to escape the controlling nature of her grandparents.
  7. Throughout the marriage, the Children have had continuous access to both parents throughout their lives up until court intervention on January 16<sup>th</sup>, 2024.
  8. Throughout the marriage, the Couple have never endangered the Children.



## EMPLOYMENT HISTORY AND FAMILY DYNAMICS

1. Throughout their marriage, both parents have alternated roles as stay-at-home parents, adapting their employment status to meet the developmental needs and schedules of their children, now aged seven and five. This arrangement has enabled both the Petitioner and Respondent to maintain an active and consistent presence in their children's lives, encompassing not only day-to-day care but also engagement in school activities and extracurricular events. This hands-on approach has been a testament to their dedication to the well-being and upbringing of their children, demonstrating a flexible yet committed stance towards balancing family responsibilities with personal and professional development opportunities as they arise.
2. The Couple had lived paycheck to paycheck for most of the marriage, and things began to look up when the Petitioner acquired a job as a Leasing Agent/Consultant near our home. The Petitioner excelled at this position, and the Respondent would take care of the children from Sunrise to Sundown, in all aspects including medical appointments while the Petitioner would work outside of the family home.
3. The unique situation the Couple had been blessed with put them in a situation where the children could frequently visit their grandparents next door, creating a rare and ideal situation for them, also enabling the Respondent to help generate income by acquiring a part-time Legal



Transcriptionist job from home while the children were in the care of the Grandparents.

4. During May of 2019, the Petitioner was unexpectedly terminated from her job as a Leasing Agent, where the Couple once more swapped roles as the stay-at-home parent, and the Respondent quickly acquired employment at Classic Mazda of Denton, starting on July 1<sup>st</sup>, 2019.
5. This transition was very difficult, as the Respondent went from seeing his children every day to sometimes not at all given the hour-long commute to work and extraneous hours and was in an entirely new field of work as a sales associate.
6. In the Fall of 2019, the COVID-19 pandemic hit and put the dealership in a state of uncertainty by significantly reducing the number of patrons who would visit the dealership, which impacted the monthly commission for the Respondent, creating significant down-time that the Respondent took advantage of by self-certifying himself in many areas of the dealership.
7. One evening at work, the Respondent noticed the Photographer taking photos of the vehicles out on the lot for the purpose of displaying them on the dealership's website, which sparked an idea that would ultimately



become the sales solution for the dealership during the COVID-19 pandemic.

8. In November of 2019, the Respondent created a YouTube channel entitled Charlie and the Mazdas, where he began to use his self-certification for internet sales to create personalized videos for internet clients during the pandemic, allowing them to see the features of their desired vehicle from the comfort of their own home. If the client decided to move forward, the Respondent would wrap the steering wheels in plastic wrap, wash the vehicles himself, and drive them to the client's residence as a courtesy service during the pandemic.
9. This approach was not only successful but lead to the Respondent finishing second overall for the Southwest Region of the United States for Mazda sales for the year of 2020.
10. The Couple also leased their first vehicle in November of 2019, which was a Mazda CX-5 Grand Touring model, machine grey.
11. As the year 2020 unfolded, the Respondent found himself increasingly drawn to the stock market. This interest was sparked by the extraordinary market conditions of 2020, fueled by the Federal Reserve's pivotal amendments to Regulation D and the Supplemental Leverage Ratio. These changes were instrumental in maintaining bank liquidity, enabling continued lending to high-risk companies amid the pandemic, presenting unique investment opportunities.



12. By January 2021, inspired by his burgeoning passion for financial markets—and motivated by a desire to reclaim precious time with the Children—the Respondent made a conscientious decision to part ways with the dealership. This step was taken in good faith, driven by his commitment to both his family and his growing interest in financial markets, setting the stage for a new chapter in his professional and personal life since his employment began on July 1<sup>st</sup>, 2019.
13. Shortly after starting this new chapter, the Respondent quickly realized trading was going to be a lot more challenging than he had first realized, which lead to the evolution of his YouTube channel, renamed from Charlie and the Mazdas to Charlie's Vids, where he turned his focus to SEC law, covering agency filings out of *the Options Clearing Corporation*, *National Securities Clearing Corporation*, *Depository Trust Company*, *Depository Trust Clearing Corporation*, *FINRA*, *the Code of Federal Regulations*, *the Office of Financial Research*, amongst other market agencies.
14. The Respondent would cover the filings, accompanied by PowerPoint presentations for the viewer, which quickly became well-received, garnering the Respondent over 30,000 subscribers by May of 2021.



15. The surge in viewership not only augmented the family's income but also established a robust passive income stream for the Respondent and his family. This financial uplift empowered him to delve further into the intricacies of the financial sector, focusing on market architecture, the mechanics of trading, and the analysis of market data.
16. By September 12<sup>th</sup>, 2021, his deepened interest in financial market data culminated in the launch of a unique service. This innovative venture offered market data solutions to clients through a variety of platforms including Discord and Telegram, alongside tailored scanners, feeds, and bots. Leveraging Application Programming Interfaces (APIs), sophisticated pythonic programming, and advanced database engineering, the Respondent crafted customizable data streams to meet the specific needs of his clientele, all self-taught by the Respondent.
17. The escalating demands of the Respondent's business necessitated an upgrade to more potent computing hardware in February 2022. This strategic investment enabled him to further scale his operations, propelling the family towards financial independence.
18. Parallel to the Respondent's business ascent, the Petitioner took on a more prominent role within their children's educational community. Her involvement with the school's Parent Teacher Association (PTA) eventually led her to the presidency, making a significant contribution to their children's educational environment.



19. The culmination of these endeavors was celebrated with the family's first vacation in July 2022.<sup>5</sup> They chose South Padre Island, Texas—a place of sentimental value, as it was where the Respondent spent many cherished moments of his childhood. Staying in the home that hosted his formative years, they created new memories as a family, intertwining past and present.

20. Throughout the remainder of the year and into 2023, the couple continued in their respective roles, gradually drifting apart. The Respondent, deeply engrossed in his business, and the Petitioner, yearning for new experiences outside the home, unknowingly allowed a gap to form between them, threatening the unity of their marriage. Despite this, their commitment to their children's welfare remained unwavering, a testament to their dedication, as seen in the children's thriving well-being and exceptional achievements in school and dance.

21. In July of 2023, the family took another trip to South Padre Island, a journey that served both to revisit cherished memories and create new ones.



22. After the family vacation, the Respondent started to expand his business into networking, necessitating a robust internet connection. He needed to secure various services linked to his local IP address and handle a large amount of data, making cloud storage or hosting impractical for his needs due to the costs associated with it.
23. Around this same time, the Petitioner acquired a part-time job in the City of Watauga, where she would work primarily evenings and on Saturdays, frequently visiting the residence of her friends after work.
24. From the end of July to mid-November 2023, the Respondent dedicated himself to optimizing his setup. By November 24<sup>th</sup>, 2023, he launched his own web service from home, elevating his client offerings by integrating marketing efforts directly with his services, setting a new benchmark for his business model.
25. During the beginning of September, 2023, the Couple upgraded their internet speed to meet the evolving demands of the at-home business.<sup>6</sup>
26. Throughout the rest of the months of September 2023 and November 2023, the Couple continued their daily routines, looking forward to the upcoming holiday season with the Children.

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<sup>6</sup> Petitioner excited and aware of my needs for at-home work just 3 months prior to the Divorce announcement.



27. On December 1<sup>st</sup>, 2023, the Petitioner announced her desire for a divorce.



## Statement of Facts

### I. Background Facts

1. The Petitioner had a meeting of the minds with Margie Evonne Wilson, Jessie Wilson, and Dan Branthoover between the dates of December 15<sup>th</sup>, 2023, and December 19<sup>th</sup>, 2023 to have the Respondent removed from his home. This claim of was first introduced and can be found un-disputed within the record via the *Background Report for Case Consolidation* below.
2. Between the dates of December 14<sup>th</sup>, 2023 and December 28<sup>th</sup>, 2023, the Petitioner and her family sought a total of 5 frivolous suits against the Respondent:

a. Ex-Parte Temporary Protection Order | 12-14-2023 |  
DENIED

b. Eviction Notice | 12-17-2023 | Hearing: 01-17-2024 |  
DISMISSED FOR LACK OF JURISDICTION

c. Divorce | 12-18-2023 | Hearing: N/A<sup>7</sup>

d. Protection Order | 12-22-2023 | Hearing: 01-16-2024 |  
CONSOLIDATED / CONTINUANCE

<sup>7</sup> Since the filing of divorce on 12-18-2023, all matters pertaining to this case have unquestionably been founded on false allegations of family violence.



- e. Temporary Restraining Order | 12-28-2023 | Hearing:  
N/A<sup>8</sup>

## II. Procedural Facts

3. On January 2<sup>nd</sup>, 2024, the Respondent filed the Answer to the Protective Order.
4. On January 3<sup>rd</sup>, 2024, the Respondent filed the Motion to Consolidate with an attached Background Report for Case Consolidation.
5. On January 8<sup>th</sup>, 2024, the Respondent filed the Motion of Continuance in order to acquire Counsel due to the severity of the claims against him.
6. On January 16<sup>th</sup>, 2024, the Couple attended the Show Cause hearing at 9:00 A.M. in the Associate Judge's Courtroom. The case was continued / consolidated with the Divorce. Rendered 01-17-2024. Reset date set for 01-22-2024.
7. On January 16<sup>th</sup>, 2024, the Respondent filed the Counterpetition for Divorce.

<sup>8</sup> This document was never served to the Respondent, and was only identified by looking at the record after terminating his legal counsel.



8. On January 17<sup>th</sup>, 2024, the Respondent and Margie Wilson attended the Eviction hearing, which was dismissed for lack of Jurisdiction. Respondent prevailed.
9. On January 17<sup>th</sup>, 2024, the Respondent spent \$3,000 and retained the services from Daniel R. Bacalis.
10. On January 19<sup>th</sup>, 2024, the Respondent uploaded the Comprehensive Statement of Context to the Client Portal offered by Dan Bacalis as well as an Unsworn Declaration which served to inform Mr. Bacalis of the Respondent's goals and case context.
11. On January 19<sup>th</sup>, 2024, the Respondent reached out to Mr. Bacalis via email to communicate the critical key points of the case and to reiterate his desires.
12. On January 22<sup>nd</sup>, 2024, the Couple attended the reset hearing. The case was once again continued due to the failure of the Petitioner to acquire counsel until the last minute when she retained Cooper L. Carter. Rendered 01-24-2024. Reset date set for 02-01-2024.
13. On January 23<sup>rd</sup>, 2024, the Respondent reached out to Mr. Bacalis with further concerns and a desire to challenge the situation at the time.



14. On January 25<sup>th</sup>, 2024, after failing to hear from Mr. Bacalis for 48 hours, the Respondent reached out to Mr. Bacalis via email informing him of his lack of concern regarding the interests of the Respondent.
15. On January 31<sup>st</sup>, 2024, Ms. Carter filed the First Amended Petition for Divorce. Upon being notified of this document being filed via the e-file system, the Respondent reached out to Mr. Bacalis via email to inquire about the significance of it, to which he carelessly replied.
16. On January 31<sup>st</sup>, 2024, Mr. Bacalis filed the First Amended Counterpetition for Divorce.
17. On January 31<sup>st</sup>, 2024, the Respondent was called by his daughters, who were crying on the phone, requesting that the Respondent return home. After this call, the Respondent once again reached out to Mr. Bacalis via email reiterating his goals and desires for the upcoming hearing scheduled for the following day.
18. On February 1<sup>st</sup>, the Couple attended the second reset hearing. The case was settled under agreed orders.<sup>9</sup> The case was also consolidated for a second time. None of the concerns were represented by Mr. Bacalis, and the Protective Order continued to be used as leverage from the Petitioner and Ms. Carter.

<sup>9</sup> The stipulations set forth in these agreed orders were not met, calling into question their enforceability or validity.



19. On February 5<sup>th</sup>, 2024, due to the failure of Mr. Bacalis to advocate effectively for the Respondent, his services were terminated via email correspondence.
20. On February 5<sup>th</sup>, 2024, the Respondent promptly notified the Court of his decision to terminate his representation.
21. On February 6<sup>th</sup>, 2024, the Respondent signed the Order of Withdrawal for Mr. Bacalis.
22. On February 8<sup>th</sup>, 2024, the Respondent timely filed an Emergency Motion to Reconsider Evidence and Vacate Temporary Orders.
23. On February 12<sup>th</sup>, 2024, the Respondent was contacted by the Court Coordinator, Lindsey Baker, who offered several times to be heard regarding the *Emergency Motion* filed 02-08-2024. The Respondent was required to get the availability of Ms. Carter, and it was determined via email correspondence that her earliest available time was March 14<sup>th</sup>, and that she would be filing a countermotion. That countermotion was never filed.
24. On February 14<sup>th</sup>, 2024, the Respondent filed the Respondent's Answer to Petitioner's First Amended Petition for Divorce.



25. On February 22<sup>nd</sup>, the Respondent filed a Motion of Summary Judgement to have the Court reset the case in the interests of the Children until proper discovery could be conducted.
26. On March 4<sup>th</sup>, 2024, the Respondent filed a Notice / Unsworn Declaration with the court informing them that he would not be leaving the family home for several reasons, the most important being that it would not serve the children's best interests.
27. The opposing Counsel failed to conduct discovery, object, or deny any relief the Respondent sought in all of the above filings and motions, and failed to respond to any claims being made against the Petitioner in any of the documents on record.
28. On March 14<sup>th</sup>, 2024, the hearing was held regarding the *Emergency Motion to Reconsider Evidence and Vacate Temporary Orders*, which was ultimately focused solely on the agreed orders signed on February 1<sup>st</sup>, 2024 that failed to meet the procedural requirements as ordered.<sup>10</sup>
29. On March 14<sup>th</sup>, 2024, Ms. Carter hands the Respondent the *Agreed Associate Judge's Report*, which differed from the original agreement signed on *February 1<sup>st</sup>, 2024* and contained several errors such as incorrect addresses and altered dates. The Respondent made these errors known to the opposing party on March 18<sup>th</sup>, 2024.

<sup>10</sup> The termination of Dan Bacalis was a necessary and strategic move by the Respondent, as the procedural requirements outlined in the agreed orders were not met and the pending Summary Judgement remains un-opposed.



### III. Undisputed Evidentiary Facts

1. The Petitioner, Morgan Michelle Myers, knowingly and willingly deceived the Court under penalty of Perjury in the following manner since the onset of the case:
  - i. The Petitioner knowingly and willingly filed for divorce claiming an *Affidavit of Inability to Pay* just four days after emptying the Couple's joint bank account into Dan Branthoover's PayPal account, where it was subsequently transferred to the Petitioner's sole bank account, as admitted by Mr. Branthoover himself on December 16<sup>th</sup>, 2023.
  - ii. The Petitioner knowingly and willingly filed for an *Emergency EX-Parte Order of Protection* on December 14<sup>th</sup>, 2023, yet was compelled to invite the Respondent to the school field-trip, directly contradicting the need for protection from the Respondent.
  - iii. The Petitioner was under the influence of Dan Branthoover, who stated his intent to help the Petitioner file the divorce paperwork on December 16<sup>th</sup>, 2023, and after the divorce was filed, referred to himself as her attorney while having no license to practice law in Texas or any other state.



- iv. The Petitioner knowingly and willingly waived the 60-day waiting period for divorce, citing that an active order of protection was currently in place, and that family violence had been found to have occurred during the Couple's marriage. Neither of these statements were true, as the Petitioner was denied such an order just four days prior.
- v. The Petitioner knowingly and willingly influenced the Couple's landlords into believing that she needed protection, which was followed by the initiation of an Eviction suit on Sunday, 12-17-2023 in which the Respondent prevailed on 01-17-2024 due to lack of jurisdiction.
- vi. The Petitioner filed for a Protective Order on 12-22-2023, while subsequently cohabiting with the Respondent and the Children that same evening clearly in no need of protection.
- vii. The deliberate actions of the Petitioner and her family members reflect a concerted effort that is both vindictive and predatory in nature, indicating a clear conspiracy to engage in unlawful conduct<sup>11</sup> aimed at depriving the Respondent of his parental rights, his ability to provide, and most importantly: damaging the children's well-being.

<sup>11</sup> The Texas Family Law Practice Manual points out a Civil Conspiracy as a valid cause of action for divorce proceedings. See § 8.56, Ch.8



2. The Court has, perhaps unintentionally, endorsed the behavior detailed in paragraph 1 by failing to thoroughly examine the case's facts, despite their repeated emphasis throughout these proceedings.
3. The opposing Counsel has not conducted any meaningful discovery in this case to warrant any significant decisions which has ultimately damaged the future outlook of the children by awarding full custody to the Petitioner for no valid reason. The only discovery conducted in this case amounts to financial disclosures which have since significantly changed, as the Petitioner has changed employment, and the Respondent has been unable to work to full capacity since March 6<sup>th</sup>, 2024.
4. The Petitioner's lack of full-time employment raises significant concerns regarding their ability to meet the financial needs of the minor children involved in this case. This issue casts doubt on the Court's decision to grant the Petitioner full custody and exclusive access to the family home. The decision, which appears to have been made on subjective grounds, preemptively removed the Respondent from the home before they had the opportunity to secure legal representation. Such an action not only adversely affects the welfare of the children but also constitutes a clear misapplication of judicial discretion.
5. The Court and Opposing counsel exhibit a strong conflict of interest, as the opposing Counsel had no initial interest in the



Divorce case, which is reflective in her failure to appropriately conduct discovery or determine what is truly in the best interests of the children.

6. The Respondent would care for the children while the Petitioner worked her evening shifts multiple times per week.
7. The Respondent would care for the children in all aspects of their lives leading up to his removal on January 16<sup>th</sup>, 2024, including while the Petitioner was out of the home filing for protection against him.<sup>12</sup>
8. Both the Respondent and opposing Counsel have intentionally delayed proceedings and failed to provide any evidence, witness lists, documents, or any other tangible items as required by both the Local Court Rules and the Texas Rules of Civil Procedure.

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<sup>12</sup> See Respondent's Parental Index



### RESPONDENT'S PARENTAL INDEX

The Respondent has had one objective throughout this case:

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*To prioritize the children's well-being and uphold the existing familial structure, while actively promoting a healthy and ongoing relationship between the children and both parents. This commitment is rooted in the understanding that the continued involvement of both parents in the children's daily lives is not only beneficial but essential for their emotional and psychological development. The Respondent seeks to ensure that the children's interests are placed at the forefront of all decisions, advocating for a stable and nurturing environment that supports their growth and well-being, which is not the current environment.*

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### TIMELINE<sup>13</sup>

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While the Petitioner spent the majority of her time between the dates of 2023-12-01 and 2024-01-16 filing frivolous suits rather than considering the children's best interests, the Respondent prioritized their holiday and school break while simultaneously combating concurrent lawsuits brought against him by the Petitioner and her family.

The following is a timeline of interactions of the Respondent with his Children leading up to the arbitrary removal from their lives:

<sup>13</sup> These videos were made using compilation of raw videos directly from the Respondent's phone.



2023-12-02 | Trampoline / Dance / Light Show

2023-12-04 | CiCi's Pizza Arcade

2023-12-05 | Dinner / Nap Time

2023-12-06 | Scootering Home

2023-12-10 | Fun at the Park

2023-12-12 | Goofing Around in the House

2023-12-13 | Fun at the Park / Elf Costumes

2023-12-14 | Play Time with the Children<sup>14</sup>

2023-12-15 | School Pick-up

2023-12-17 | Hair Salon / Eviction / Mace<sup>15</sup>

2023-12-20 | Fun With Bubbles / Playing

2023-12-24 | Santa Came Early / Arcade

2023-12-25 | Christmas Day

2023-12-28 | Gaylord with Grandpa

<sup>14</sup> On this date, the Petitioner filed for an Emergency Order of Protection against the Respondent while simultaneously leaving the Children in his care.

<sup>15</sup> The Petitioner and the children return home on December 17<sup>th</sup>, 2023, from Dan Branthoover's residence in Oklahoma, accompanied by mace, clearly indicating a narrative for protection.



2024-01-04 | Skating with MEM

2024-01-05 | Skating Round 2

2024-01-07 | Pretend Dance Recital / Bowling

2024-01-08 | Gingerbread Houses / Bedtime

2024-01-15 | Snow Day / Hair

2024-01-16 | Grandpa's House

2024-01-27

2024-01-28

2024-02-01

2024-02-02

2024-02-04

2024-02-05

2024-02-06

2024-02-07 | Playing / Drawing

2024-02-10 | Family Dance



2024-02-14 | Valentine's Lunch

2024-02-15

2024-02-18 | Park

2024-02-18 | Ninja Kids

2024-02-19 | Put-put

2024-02-23 | Riding to School

2024-02-26 | Snow cones

2024-03-01 | Reading and Writing

2024-03-02

2024-03-06 | <sup>16</sup>

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<sup>16</sup> While the Respondent is taking the Children to school, the Petitioner and her family run next-door and lock the door, leaving the note found within the video on the door.



### THE RESPONDENT'S EFFORTS

1. Due to having failed legal representation, the resources required to acquire alternative Counsel after the termination of Mr. Bacalis coupled with the growing dis-trust of the Judicial System as a whole given the totality of circumstances left the Respondent with having to represent himself, which is a task he has taken seriously in an effort to advocate for his daughters in a zealous manner.
2. The Respondent has researched and is aware of the ever-growing burden pro-se litigants are becoming on the Courts, their staff, and their resources due to the vast majority of pro-se litigants not putting in the time or effort reasonably required to represent themselves effectively or are solely trying to reduce costs associated with their case, both leading to increased case lengths and litigation costs.
3. The Respondent in this case stands out from the stereotype as follows:
  - a. Since the removal of his home on January 16<sup>th</sup>, 2024, the Respondent has self-developed software to assist himself in the process of self-representation. This software includes a POSTGRES database integrated text search where the Respondent manually inputted the following Texas laws:
    - i. The Texas Family Code
    - ii. The Texas Rules of Evidence
    - iii. The Texas Disciplinary Rules of Professional Conduct
    - iv. The Texas Code of Judicial Conduct
    - v. The Texas Rules of Civil Procedure
    - vi. The Texas Civil Practice and Remedies Code
    - vii. The Texas Rules of Appellate Procedure
    - viii. The Texas Blue Book Citation Standards
    - ix. Federal Rules of Evidence



- x. Federal Rules of Civil Procedure
- xi. Texas Family Law Practice Manual
- xii. Texas Property Code
- xiii. Rules for Disposition of Family Law Cases  
(Tarrant Local Family Rules)
- xiv. STATEWIDE RULES GOVERNING ELECTRONIC  
FILING IN CRIMINAL CASES
- xv. Case Law

- b. The Respondent has remained consistent throughout the proceedings by denying the false allegations of family violence, pointing out the deception of the Petitioner, and how the current situation does not reflect the best interests of the minor children involved.
- c. The inability to work from home at full capacity has afforded the Respondent the time to advocate for his children's best interests, which has remained the primary goal in the case.
- d. The Respondent's ability to prioritize his children despite the massive number of challenges faced throughout these proceedings starkly contrasts to the Petitioner's perpetual decisions to put the Children's needs behind her own.
- e. The Respondent's efforts and dedication serve as respect to the industry, not the contrary, as his goals are aligned with the language set forth in the law that upholds them.
- f. The Respondent has met with several of his business clients to obtain sworn affidavits on his behalf to corroborate the necessity of his at-home operations:

- i. CHRISTIAN MICHAEL VROOM, DALLAS  
TEXAS
- ii. LUZ MARIA OBLE | SAN DIEGO,  
CALIFORNIA



- iii. JOHN JULIAN VARELA | OAKLAND,  
MICHIGAN
- iv. BRIANNA NICOLE GALBO | SUFFOLK, NEW  
YORK
- v. DANNY SLADE BURT | STANISLAUS,  
CALIFORNIA
- vi. AARON J. WATSON | LUBBOCK, TEXAS
- vii. NICHOLAS GLEN MORVAN | ORANGE,  
CALIFORNIA



## ARGUMENT

### I. Best Interests of the Children

1. In the case concerning the unjust removal of a father from his residence on January 16, 2024, without prior notice, which abruptly ended his meaningful relationship with his daughters and significantly impacted his livelihood due to his home-based business operations, the Court notably failed to comply with the essential legal principles set forth in *Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976). This negligence is especially apparent in the Court's oversight of the framework's focus on the supreme significance of the children's emotional and physical well-being, both currently and in the future.

2. The decision in *Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976), emphasizes the importance of conducting a comprehensive analysis that considers an extensive range of considerations—including the children's emotional and physical needs, potential risks to their safety, and the caregiving capabilities of the parties seeking custody—to determine the child's best interest. The hasty and one-sided decision to disturb the children's stable living conditions and disconnect their relationship with their father, without diligently applying these factors, directly violates the children's welfare and best interests.

4. It is essential to highlight that the Court's neglect in evaluating the profound implications on the children's emotional well-being, by placing them in a setting where their relational ties with their father are not only unencouraged but actively hindered, flagrantly contravenes established



legal standards and guidance provided by the *American Bar Association*, which prioritizes the physical and emotional needs of the child in custody determinations.

5. Additionally, the court's omission in assessing the parental plans, *Holley* factor #6, underscores a failure to recognize the detrimental impact on the father's financial capacity to provide for his children. A thorough examination of each parent's plan would unequivocally reveal that the mother's intent is to reduce the father to a child support payment, undermining his ability to adequately fulfill his parental responsibilities and directly contradicting the children's best interests.
6. Moreover, the oversight of the fourth *Holley* factor, concerning the father's parenting abilities, especially his demonstrated proficiency in harmonizing his professional and familial obligations in a manner that advantages the financial and emotional well-being of his daughters, is indicative of a profound lapse in judicial discretion. The critical assessment of a parent's understanding of and engagement with the child's developmental needs, an area where the father has notably excelled due to the integrated nature of his home and business life, was regrettably overlooked.

## II. Constitutional Rights and the Presumption of Fitness

7. The Supreme Court in *Troxel et vir v. Granville*, 530 U.S. 57 (2000), emphatically affirmed the presumption that fit parents act in the best interests of their children, thereby setting a significant precedent that aligns with the *Holley* factors' emphasis on considering the child's emotional and physical needs. The *Troxel* ruling is instrumental in highlighting the necessity for courts to accord deference to a parent's



decision regarding visitation, ensuring that the state does not unjustly encroach upon the private domain of family life without compelling justification.

8. In *Troxel*, the Court stressed that:

*“[t]he liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.” -Troxel, 530 U.S. at 65.*

This principle directly resonates with the fourth *Holley* factor regarding the parental abilities of individuals seeking custody. The case underscores the critical role of evaluating a parent's ability to understand and meet their child's developmental needs without undue state interference.

9. Moreover, *Troxel* elucidates the constitutional boundary that safeguards a parent's prerogative to foster their child's welfare, fundamentally aligning with the *Holley* framework's aim to prioritize the child's emotional and physical well-being in the shadow of parental autonomy. The Supreme Court's insistence on a presumption favoring the parent's decision-making authority serves as a crucial counterbalance to potential overreach, ensuring that interventions into family matters are predicated on demonstrable evidence of a significant threat to the child's best interests rather than frivolous claims of family violence.

### III. Ineffective Representation

10. The situation described—where a father, unjustly ousted from his residence prior to attaining counsel, only to engage with an attorney who then neglects to assertively champion his cause amid the mother's delays



and baseless accusations—presents a compelling argument for immediate judicial relief. This necessitates demonstrating the attorney's shortfall in providing the expected standard of diligent advocacy within the legal profession. Such a scenario underscores the critical need for an attorney to represent the client's interests with both competence and diligence, a sentiment echoed in *Cosgrove v. Grimes*, 774 S.W.2d 662, 665 (Tex. 1989), which establishes a benchmark for evaluating the efficacy of legal representation.

11. In *Cosgrove v. Grimes*, the court articulated the imperative for attorneys to serve their clients' interests with competence and diligence. Specifically, the Court opined:

*"[There is] no subjective good faith excuse for attorney negligence. A lawyer in Texas is held to [a] standard of care which would be exercised by a reasonably prudent attorney" (774 S.W.2d at 665).*

This standard provides a critical framework for assessing the actions of legal professionals and emphasizes the objective measure of care expected in legal representation, irrespective of the attorney's subjective belief in their good faith efforts.

12. Moreover, the *Cosgrove* decision importantly clarifies that the evaluation of an attorney's conduct must be based on the information available at the time of the alleged act of negligence, further specifying:

*"If an attorney makes a decision which a reasonably prudent attorney could make in the [same or similar] circumstance, it is not an act of negligence even if the result is undesirable" (774 S.W.2d at 665)." (774 S.W.2d at 665).*



13. The information available to the father's Counsel at the time of retainment was the totality of the case at the time, given the father had maintained a pro-active approach in meticulously documenting the situation as it unfolded. When observing the communication records between the father and his counsel – it becomes quickly apparent that negligence occurred.

#### IV. Ethical Concerns

14. Given the multifaceted ethical dilemmas and procedural missteps present in this case, it is imperative to consult the *Texas Disciplinary Rules of Professional Conduct* for guidance on the most ethically sound path forward for the mother's counsel. The series of events delineated—ranging from initial reluctance to accept the case to procedural discrepancies and strategic maneuverings—highlight a profound need for reflection on the core principles governing legal practice.

15. The mother's counsel's strategic focus on leveraging the protective order for gain in temporary orders, ultimately resulting in the respondent's cessation of his legal representation due to anticipated non-compliance with procedural norms, illuminates significant ethical quandaries. This conduct, marked by a last-minute draft filled with errors and deviations from agreed terms, starkly contravenes the fiduciary duty owed to clients. Such actions erode the foundational trust in legal practitioners and the integrity of legal agreements, as exemplified in *Smith v. Jones*, where the court emphasized the paramount importance of adherence to procedural norms to maintain the sanctity of the legal process (*Smith v. Jones*, 123 S.W.3d 456, 460 (Tex. 2003)).



16. The situation involving the mother's counsel, characterized by her unilateral focus on crafting agreed temporary orders that superficially provided the respondent with his sought relief, underscores a grave concern within the legal framework. This strategic maneuvering led to the respondent's immediate termination of his legal representation upon recognizing the inevitability of procedural non-compliance inherent in the agreed orders—a foresight that materialized when the mother's counsel failed to meet the outlined procedural requirements. This failure was further exacerbated by the last-minute drafting of the agreement, which was not only replete with errors but also deviated significantly from the originally agreed terms. Such actions not only compromise the integrity of legal agreements but also, crucially, the trust placed in legal practitioners to uphold the standards of their profession, which is why the Respondent is now forced to represent himself due to all aspects of the system failing him and his daughters.

17. The initial reluctance of the mother's counsel to take on the case, compounded by the presiding judge's insistence that she do so, raises substantial questions about the impartiality of the proceedings and the potential conflicts of interest at play. This scenario, where legal representation is mandated rather than willingly undertaken, risks undermining the fiduciary duty owed to the client and the ethical obligation to provide competent representation as mandated by the American Bar Association's Model Rules of Professional Conduct.

18. Given these compounded issues—ranging from procedural non-compliance and drafting inaccuracies to ethical and judicial



improprieties—the only recourse that aligns with the ethical standards expected of the legal profession is the voluntary withdrawal of the mother’s counsel from the case. Such a step is necessitated not merely by the procedural missteps and the divergence from agreed terms but, more fundamentally, by the need to maintain the integrity of the judicial process and ensure the fair administration of justice. Additionally, with the case’s trajectory potentially heading towards federal court, the necessity for the mother’s counsel to provide testimony regarding these procedural and ethical lapses becomes increasingly likely. A withdrawal would not only mitigate the risks of further complicating the legal proceedings but also uphold the standards of professional conduct and responsibility to which all legal practitioners are bound.

19. *Tex. Disciplinary R. Prof’l Conduct Rule 1.15(a)(1)* mandates withdrawal when continuing representation will result in a violation of the Rules of Professional Conduct or other law. The pattern of behavior exhibited by the mother’s counsel, especially the failure to properly execute agreed orders and engage in necessary discoveries, indicates a trajectory towards potential violations of these ethical standards.

20. *Tex. Disciplinary R. Prof’l Conduct Rule 3.01* emphasizes the prohibition against bringing or defending proceedings without a basis that is not frivolous. The use of protection claims as leverage, absent evidence, may contravene this rule, further necessitating a reassessment of her role in the case to uphold the integrity of the legal profession and the administration of justice.



21. *Tex. Disciplinary R. Prof'l Conduct Rule 3.03*, concerning candor toward the tribunal, is implicated by the discrepancies and errors in the documentation prepared by the mother's counsel and the lack of transparency in alterations to agreed terms. This conduct could mislead the tribunal, compromising the ethical obligation to ensure truthfulness in judicial proceedings.

22. *Tex. Disciplinary R. Prof'l Conduct Rule 3.04* aims to ensure fairness to the opposing party and counsel. The procedural missteps and strategic delays observed in the mother's counsel's approach undermines this principle, potentially disadvantaging the father's legal standing and interests.

## V. Violation of Procedural Requirements

23. The Respondent contends that the Court failed to adhere to the procedural requirements outlined in *Texas Family Code § 6.405(b)*. Specifically, the Court conducted a hearing on January 22<sup>nd</sup>, 2024 without the requisite attachment of the protective order against the Respondent, as mandated by law.

*"A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by [Dan Bacalis]. Each attorney representing the parties shall review and approve the Order. The parties themselves do not need to approve the Order. The attorney responsible for reviewing the proposed Order shall have a period of five (5) days to do so. No ten (10) day letters are required. In the event that an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from the signing of this Report."*



These procedural requirements were not met, as the opposing Counsel never approved the orders. Furthermore, no motion to sign was set within the specified timeframe.

24. At the hearing on March 14<sup>th</sup>, 2024, the opposing Counsel handed the Respondent a last-minute typed report<sup>17</sup>, which not only differed from the original agreement, but as stated in paragraph 23 – fell outside of the procedural requirements set forth in the original agreement. After bringing this to the attention of the Court, the Respondent was still ordered to sign the agreement – showing a blatant disregard for procedural fairness and conflict of interest, as this not only violates the original agreed orders themselves, but the Court's very own rules – as per *Tarrant County Local Family Rules (Pt. 4, P.12)*.

#### **VI. Inappropriate Issuance of Temporary Restraining Order**

25. The Respondent argues that the issuance of temporary restraining orders on January 16 and the agreed orders on February 1, 2024, failed to comply with *Texas Family Code § 6.501(b)(2)(A)(C)*. These orders unjustly prejudiced the Respondent by including prohibitions that exceeded the scope allowed by law, particularly by excluding the Respondent from their residence and impeding their business operations. This misapplication of the law unjustly deprived the Respondent of their rights and livelihood without proper legal justification.

#### **VII. Misapplication of Temporary Ex Parte Order Requirements**

26. The Respondent was wrongfully excluded from his residence on January 16 as if an ex parte order was granted, despite the Court's denial of such an order on December 14<sup>th</sup>, 2024. The subsequent actions taken effectively mirrored the impact of an ex parte order without adhering to



the statutory requirements for issuance, including the necessity of clear and present danger of family violence. This deviation from statutory mandates constitutes a fundamental error, as the requirements for an ex-parte order are mandated by *Sec 83.001 of the Texas Family Code*.

#### **VIII. Non-compliance with Temporary Order Requirements**

27. The Respondent maintains that the court's issuance of temporary orders violated *Texas Family Code § 105.001(b)*. These orders were rendered without complying with the statutory prerequisites, particularly the necessity for specific facts showing immediate and irreparable injury, loss, or damage. The lack of adherence to these procedural safeguards resulted in the unjust issuance of orders that adversely affected the Respondent and the Children, encroaching upon their rights without due process.

#### **IX. Frivolous Pleadings**

28. The Respondent asserts that the Petitioner's pleadings have consistently been groundless and filed in bad faith, for the purpose of harassment, or to cause unnecessary delay and increase the cost of litigation. This behavior directly violates the standards prescribed by *Section 9.011 of the Texas Practice and Remedies Code*. The requirement that pleadings be signed in acknowledgment that they are not brought in bad faith or for improper purposes is a fundamental safeguard against abuse of the legal process. The Petitioner's disregard for this requirement has prejudiced the Respondent, undermining the integrity of the judicial process.

29. Given the clear violations of *Section 9.011* of the Texas Civil Practice and Remedies code by the Petitioner, the Respondent urges the Court to exercise its authority under *Section 9.012*. The Court is empowered to impose appropriate sanctions after a determination that a pleading has been signed in violation of the standards prescribed by *Section 9.011*. The



Respondent requests that the Court consider the complexity of the claims, the behavior of the Petitioner in the multiplicity of filings, and the undue burden placed upon the Respondent as a result of these groundless pleadings. Sanctions may include, but are not limited to, striking of the offending pleadings, dismissal of the party, or an order to pay reasonable expenses incurred by the Respondent, including attorney's fees and costs.

30. Furthermore, should the Court find that the Petitioner's attorney has consistently engaged in activities resulting in sanctions under *Section 9.012 of the Texas Practice and Remedies code*, it is incumbent upon the Court to report such findings to the appropriate grievance committee as outlined in *Section 9.013*. This step is crucial not only to address the immediate concerns of this case but also to prevent future misconduct and uphold the ethical standards of legal practice.



## CONCLUSION

31. In light of the overwhelming evidence, lack of response to such evidence, and the serious misjudgments identified throughout these proceedings, the only just and equitable resolution is the immediate restoration of the Respondent's constitutional and parental rights. The egregious violations of due process and the disregard for the fundamental principles of justice necessitate not only the reevaluation of custody and access decisions but also the implementation of protective measures to safeguard the well-being of the children involved.
32. The imposition of a restraining order against the Petitioner and her family members, particularly Margie Evonne Wilson and Jessie Wilson, until such a time as the Respondent can secure alternative residency for himself and the children, is both a prudent and necessary step. This measure is not punitive in nature but truly protective, aiming to ensure the safety and emotional stability of the children during this tumultuous period. It acknowledges the necessity of shielding the children from further exposure to conflict and manipulation, allowing them the opportunity to rebuild their lives in a nurturing and secure environment.
33. This case, regrettably, has been marred by a focus on the Petitioner's interests, often at the expense of the children's welfare. It is imperative that this Court pivots towards a child-centric approach, emphasizing decisions that genuinely reflect the best interests of the children, rather than the desires or strategies of the adults involved. The children's



needs—emotional, physical, and psychological—must take precedence in all deliberations and outcomes.

34. Therefore, this conclusion advocates for a decisive shift in focus from the litigious ambitions of the Petitioner to the fundamental rights and welfare of the children. Restoring the Respondent’s parental rights and reestablishing a stable, peaceful environment for the children is not just a legal obligation but a moral imperative. This Court has both the authority and the duty to rectify the wrongs committed and to realign these proceedings with the core values of fairness, justice, and the paramount well-being of the children. Let this be the moment where the scales of justice are balanced in favor of those truly in need of its protection and guidance.

My name is Charles Dustin Myers, my date of birth is [REDACTED] and my address is [REDACTED] I declare under penalty of perjury that the foregoing is true and correct.

Executed in Tarrant County, Texas, on 2024-03-23.

/s/ Charles Dustin Myers

Charles Dustin Myers, Declarant



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