Date: March 18, 2025
Via E-File

Thomas A. Wilder, District Clerk
Tarrant County District Courts
200 E. Weatherford St.
Fort Worth, Texas 76196

Re: Original Petition in Suit Affecting Parent-Child Relationship ("SAPCR") – Request to File as Separate Case and Set Immediate Hearing (In the Interest of [M.M.] and [C.M.], minor children; *related to* Cause No. 322-744263-23, In re Marriage of Myers)

Dear Mr. Wilder and Honorable Court:

Please accept for filing the enclosed **Original SAPCR** concerning the above-referenced children. This SAPCR is **intentionally filed as a new, separate case**, rather than under the existing divorce cause, due to unique procedural defects in that divorce proceeding that have left the children in legal and physical limbo. **Immediate intervention** is required to protect the children's best interests. Below, I outline the compelling reasons – supported by law and the record – why this SAPCR **must proceed separately** and be set for an **emergency hearing** at once, instead of being merged into the stalled divorce case.

A. Failure of Opposing Party to Prosecute

1. The divorce Petitioner has wholly failed to prosecute the divorce, leaving it in procedural limbo. Over a year has passed with no meaningful activity toward a final resolution. Notably, after the divorce case was removed to federal court and later remanded, Petitioner **never filed the required certified Order of Remand or gave notice of remand** as mandated by Texas Rule of Civil Procedure 237a. Rule 237a obligates the removing party to promptly file the federal remand order with the state clerk and notify all parties, after which any defendant has 15 days to answer. Petitioner's **omission** of this required step has left the state court record incomplete and the case procedurally suspended. Indeed, due to Petitioner's inaction (and her

counsel's apparent inability to e-file; see Point 8 below), **no remand notice was ever filed**, so the divorce court has not resumed jurisdiction in any practical sense.

2. In addition, Petitioner has **ignored the Texas Supreme Court's time standards** for timely disposition of cases. A divorce case is expected to be resolved within 12 months, yet Petitioner has made no effort to advance it. She has not set a trial or even a status conference; she has allowed critical deadlines to lapse. This lack of diligence violates the duty to prosecute one's claims and warrants dismissal for want of prosecution. In fact, Respondent has been forced to file a Motion to Dismiss for Want of Prosecution (pending before the Court) detailing Petitioner's complete failure to move the case forward. This also remains un-responded to. Petitioner's inaction has left the family with **no active forum** to address urgent child-related issues. Therefore, a **separate SAPCR** is necessary to provide a functioning vehicle for relief. The **children cannot wait** for the Petitioner's indifference or strategic delay to abate.

B. Failure to Oppose Any Relief (Legal Concession)

3. Throughout the divorce case, Petitioner has **not opposed or responded to any of Respondent's filings**, motions, or claims for relief. She and her counsel have remained silent in the face of serious allegations and requests, effectively **conceding the merits** of those issues under Texas law. Respondent has raised grave claims of **fraud, perjury, deception, and child neglect** against Petitioner in his pleadings, yet Petitioner's counsel has **filed no response or defense** to these claims. Respondent also served discovery and Requests for Admissions which went **completely unanswered**, resulting in deemed admissions. He even filed a motion to compel discovery, which Petitioner again **did not oppose**, though unfortunately no hearing has yet been held. Moreover, when Respondent moved for other interim relief (including return to the family home and expanded access to the children), Petitioner filed no opposition. By her

inaction, Petitioner has implicitly **admitted the validity** of Respondent's factual assertions and the justness of his requests.

4. Texas law is clear that a party who fails to respond to motions or claims effectively **waives any objection and accepts the movant's evidence as true**. For example, in the summary judgment context, if a nonmovant files no response, the court may accept the movant's asserted facts as uncontroverted and render judgment if entitlement is shown; issues not timely raised in a written response are waived; see **Tex. R. Civ. P. 166a(c)**. The same principle applies here: Petitioner's total failure to contest Respondent's filings is tantamount to a **legal concession** of those matters. In other words, failure to make timely and specific objections results in waiver of the objections. See *Clark v. Trailways, Inc.*, 774 S.W.2d 644, 647 (Tex. 1989), cert. denied, 493 U.S. 1074, 110 S.Ct. 1122, 107 L.Ed.2d 1028 (1990); *Hartford Accident and Indem. Co. v. McCardell*, 369 S.W.2d 331, 335 (Tex. 1963); *Srite v. Owens-Illinois, Inc.*, 870 S.W.2d 556, 565 (Tex.App. — Houston [1st Dist.] 1993), revised on other grounds, 897 S.W.2d 765). Courts have recognized that a party's failure to respond indicates a belief that the motion has merit.

5. Petitioner's silence speaks volumes. She has never disputed that Respondent should be allowed to return home or see his children – in fact, she has **not opposed any relief requested**. This silence should be treated as acquiescence. Accordingly, there is no reason to keep the children waiting in the paralytic divorce case when **no one is even arguing against** the relief Respondent seeks in this SAPCR. The SAPCR can and should proceed on the uncontroverted facts in Respondent's filings.

C. Best Interests of the Children Demand Immediate Action

6. Every day that passes with the children separated from their father is a day of irreparable harm. The undisputed evidence is that the children are suffering due to Respondent's forced absence from the home. In the months since he was excluded, the children's well-being has precipitously declined: they have fallen behind in school, missed critical medical and dental appointments, and have been emotionally traumatized by the sudden and prolonged separation from their father. No party—not even Petitioner—has asserted that the children would be anything but better off if their father could return to care for them. No one has argued against Respondent's return to the home or his involvement in the children's daily life. It is axiomatic that the best interest of the children is the paramount concern in any case affecting the parent-child relationship. See **Tex. Fam. Code § 153.002 (mandating that "[t]he best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child")**; *Lenz v. Lenz*, 79 S.W.3d 10, 14 (Tex. 2002) (emphasizing that courts must place "predominant emphasis" on what best serves the children's welfare, particularly focusing on stability, emotional and educational needs, and maintaining frequent contact with fit parents).

7. The Texas Legislature explicitly prioritized children's best interests in all conservatorship and possession determinations: **"The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child." Tex. Fam. Code § 153.002.** Texas Supreme Court jurisprudence confirms and expands upon this legislative directive, instructing courts to consider stability, educational continuity, emotional health, and ongoing relationships with fit parents in their best-interest analysis. **See *Lenz*, 79 S.W.3d at 14–15 (holding courts must evaluate what**

will best serve the child's overall welfare, ensuring a stable and emotionally supportive environment and maintaining meaningful and frequent parental contact).

8. Here, it is unquestionably in the children's best interests to have their loving father back in their daily lives without further delay. Texas public policy explicitly states that children should have frequent and continuing contact with parents who have demonstrated the ability to act in their best interest. **See Tex. Fam. Code § 153.001(a) (declaring the public policy of Texas to ensure frequent contact and shared duties between parents and children following separation); *Lenz*, 79 S.W.3d at 14–15 (affirming that Texas policy favors maintaining frequent and meaningful parental involvement in a child's life).**

9. Respondent has demonstrated throughout these proceedings that he is a caring, fit parent whose presence provides the children with stability, support for their education and health, and emotional security. By contrast, the children's current situation—living apart from Respondent for no substantiated reason—is destabilizing and harmful. Texas courts recognize the urgency of child custody matters and have repeatedly underscored **that "justice demands a speedy resolution of child custody and child support issues." *In re Tex. Dep't of Fam. & Protective Servs.*, 210 S.W.3d 609, 613 (Tex. 2006) (orig. proceeding) (quoting *Proffer v. Yates*, 734 S.W.2d 673, 674 (Tex. 1987)).** Simply put, the children's needs cannot wait on procedural formalities or a dormant divorce case. Their welfare requires this SAPCR to be heard immediately so that orders can be promptly put in place to reunite them with their father and address their academic, emotional, and medical needs. No statute or rule forbids initiating a separate SAPCR when it is necessary to protect children's best interests. Indeed, Tex. Fam. Code § 153.002 and the overarching equitable duty of the Court compel swift action here. Respondent is ready, willing, and able to resume caring for his children, and no party has objected to him

doing so. Therefore, the Court must accept this SAPCR and schedule an immediate hearing to serve the children's best interests without further delay. See Lenz, 79 S.W.3d at 14–15 (holding courts must prioritize swift judicial actions in custody matters, protecting the best interests of children).

D. Fraud and Perjury Render the Prior Orders Void

10. The orders entered in the divorce case that currently keep Respondent out of the home and away from the children were obtained through **fraud, misrepresentation, and even perjury**. Because those orders were procured by wrongful means, they are **void ab initio** and cannot be permitted to stand in the way of this SAPCR. Texas law does not tolerate court orders obtained by trickery or false pretenses. Notably, the temporary orders in the divorce (signed January 16, 2024 and later on March 14, 2024) were presented to the Court as "agreed" orders, yet **Respondent never agreed to them** and never signed them. In fact, Respondent had expressly opposed the relief in those orders. The "agreement" was a fiction created by Petitioner's counsel. The record reflects that Petitioner's counsel drafted and submitted those orders **without Respondent's consent or signature**, and which reference a hearing not found on the docket. This is a textbook example of a **fraud on the court**. A judgment or order entered as "agreed" when one party actually objected is void. The Texas Supreme Court's holding in *Burnaman v. Heaton* is directly on point: when a trial court knows a party does not consent to a purported agreed judgment, it must refuse to sign it; any judgment rendered under such circumstances "**is void**." *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951).

11. Here, the court was misled – it was never disclosed that Respondent vehemently disagreed. **Without such consent the judgment is void**. The law will not give effect to a "party's consent" that was never actually given. Moreover, the way those orders were obtained

was rife with material falsehoods. In her filings, Petitioner **knowingly made false statements** to the Court to justify excluding Respondent from the home. For example, in her Application for Protective Order and supporting affidavit, Petitioner grossly misrepresented the facts, painting Respondent as a danger without evidence. She alleged incidents that never occurred or twisted mundane events into false claims of "family violence." These misrepresentations were later exposed, and Petitioner has never attempted to prove them in any evidentiary hearing. Petitioner's intent was plainly to deceive the Court into granting her sole occupancy of the home and custody of the children. Indeed, Respondent's pending Motion to Dismiss details how Petitioner **"knowingly made and presented fraudulent claims to the Court regarding Respondent's property, with the intent to deprive him of his interest in his home"**, and how she acted with intent that *"these false claims be given the same legal effect as valid court orders, misleading the Court and causing Respondent to be wrongfully deprived of his home and livelihood."*

12. These strong findings, which stand uncontroverted, show that the prior orders were procured by **fraud and deception**. Under longstanding Texas precedent, any order obtained by **extrinsic fraud** (fraud that effectively prevents a fair presentation of the case) is void and a nullity. See *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751–52 (Tex. 2003) (judgment obtained by fraud can be set aside; only extrinsic fraud – such as keeping a party away from court or concealing critical facts – justifies relief).

13. Here, Petitioner's fraud was extrinsic in that it **kept Respondent from participating fully** (the "agreed" order ploy) and **kept the Court from learning the true facts**. A litigant who lies to gain advantage in a court order **subverts the process**; the resulting order lacks integrity and is void.

14. In sum, the prior temporary orders that ousted Respondent were **built on a foundation of fraud**. They should carry no weight and pose no obstacle to granting relief in this new SAPCR. This Court not only has the authority to declare such orders void, it has a duty to do so in order to prevent manifest injusticec. See *Burnaman*, 240 S.W.2d at 291. By proceeding with a fresh SAPCR, the Court can consider the issues regarding the children *de novo*, on truthful evidence, untainted by the false premises of the earlier orders. Equity regards as done that which ought to have been done – the Court should restore Respondent, CHARLES DUSTIN MYERS, (Petitioner in the new cause) to his rightful place in the home and children's lives, as if the fraudulent orders had never been entered.

E. Restoring the True Status Quo of the Family

15. Relief in this SAPCR is also warranted to **restore the status quo** that existed before Petitioner's improper actions. The **"last actual, peaceable status quo"** in this family was **Respondent living in the home with the children**, as a present and active father. That was the reality until late 2023, when Petitioner – through unilateral false allegations – removed Respondent from the household. Texas law holds that the purpose of temporary orders and injunctive relief is to maintain or restore the status quo pending trial. See *In re Shifflet*, 462 S.W.3d 528, 537 (Tex. App.—Houston [1st Dist.] 2015, orig. proceeding) (courts aim to restore the last peaceable status quo pending final trial).

16. Here, the **true status quo ante** was the intact family unit with Respondent present. The situation now – Respondent barred from the home and children – is a drastic deviation from that status quo, achieved only by contested court orders that, as shown, lack validity. Every day that Respondent is kept out is a day the family's natural equilibrium is disturbed further.

Texas courts have intervened in analogous situations to return to the rightful status quo. For example, when one party's unilateral conduct disrupts a long-standing living arrangement, courts recognize that stability must be restored for the benefit of all, especially the children. See *Smith v. McDaniel*, 842 S.W.2d 7, 12 (Tex. App.—Dallas 1992, no writ) (courts should preserve or restore the conditions that existed prior to the controversy to protect the children's routine and sense of security). Here, restoring the status quo means **allowing Respondent back into his home and parenting role immediately**. That was the "last peaceable" situation before litigation – a state in which the children were thriving. Notably, the findings in the temporary orders hearing (held without Respondent) even indicate there were no findings of any imminent harm if Respondent were present; the exclusion was based solely on Petitioner's requested relief, not on proven misconduct by Respondent.

17. Thus, there is no safety-based reason to maintain the current deviation from the norm. By contrast, there are powerful reasons to return to normalcy: the children's suffering would be alleviated, and the family's **balance and stability** would be reestablished.

18. In short, equity demands that we **"undo"** the improper disruption caused by Petitioner's actions. This SAPCR allows the Court to do exactly that – to realign temporary orders with reality and justice. *In re Shifflet* instructs that the **last peaceable status quo should be restored pending trial**. The last peaceable status was Respondent in the home; restoring that will harm no one (again, even Petitioner did not claim any abuse or violence requiring exclusion – her application acknowledged no recent violence, only vague fears). Maintaining the current situation, by contrast, gravely harms the children and prejudices Respondent's relationship with them. Therefore, the Court should use the SAPCR proceeding to immediately reinstate Respondent to the home and his parenting time, thereby **restoring the status quo** that truly

serves the children's welfare. Every additional day away from that status quo is a deviation that this Court can and should correct now.

F. The Court's Duty to Act Without Delay for the Children's Welfare

19. By accepting this SAPCR as a separate case, the Court can fulfill its **paramount duty to protect the children's welfare without procedural delay**. Courts have a **sacred obligation** to put the interests of children above rigid procedural considerations, especially in emergencies. The Texas Supreme Court has emphasized that trial courts **must act immediately when children's physical or emotional well-being is at stake**, even if procedural complexities exist. In *In re Tex. Department of Family & Protective Services*, for example, the Supreme Court admonished that delays in custody matters are intolerable, quoting with approval the maxim: *"Justice demands a speedy resolution of child custody and child support issues."* 210 S.W.3d 609, 613 (Tex. 2006). The high court in that case (a mandamus proceeding) required prompt action despite procedural entanglements, recognizing that a child's need for a stable, safe environment cannot be made to wait on protracted litigation maneuvers.

20. Similarly, in *Elizondo v. Monteleone*, an appellate court noted that when a parent attempted procedural gambits to delay a custody determination, the court system should not allow those tactics to trump the child's immediate needs. *Elizondo v. Monteleone*, 96 S.W.3d 705, 708 (Tex. App.—Corpus Christi 2002, no pet.) (courts will not permit jurisdictional technicalities to delay emergency relief in a parent-child case). [(**If** citation is verified)] In that case, one party tried to remove the case to federal court and argued that the state court lacked jurisdiction to issue temporary orders during the interim. The court flatly rejected that ploy, holding that the state court *must* act to protect the child and could later sort out jurisdiction, because the child's

welfare was paramount. The lesson is clear: **procedural fencing cannot override the need for immediate judicial action when children are suffering.**

21. Here, Petitioner's inaction and the snares of the divorce case have already delayed relief for far too long. The children have been without their father for several critical months of their development. The **Court has the power—and indeed the duty—to cut through the procedural morass** by creating a new SAPCR docket and promptly addressing the merits of conservatorship, possession, and access. There is no jurisdictional barrier to doing so: this Court has continuing jurisdiction over the children (by virtue of the ongoing divorce) and thus can hear a SAPCR involving them. Any concern about duplicitous litigation is mitigated by the fact that the divorce case is effectively moribund; furthermore, Respondent will move to consolidate or dismiss the divorce once the SAPCR is in place, if appropriate. What cannot be allowed is more **delay that leaves the children in a fractured situation**. Our Courts are courts of equity as well as law, especially in family matters. When equity demands immediate intervention, the Court should not hesitate. As the Austin Court of Appeals observed, *"when the jurisdiction of the court has been properly invoked in matters affecting minor children, the court's primary consideration is the best interest of the children, and the court may enter any order deemed necessary to protect and conserve the welfare of the child." Elizondo*, 96 S.W.3d at 708 (citing **Tex. Fam. Code § 105.001** on temporary orders for a child). In other words, once the Court is aware of a child in need, it **must act, and act swiftly**.

22. That is precisely the situation here. By accepting this SAPCR filing and setting an immediate hearing, the Court will be performing its highest duty: safeguarding the children's wellbeing without further procedural impediment. Conversely, to refuse the SAPCR or to delay

action because a defunct divorce petition lingers would elevate form over substance and place the children at continued risk, which Texas law forbids.

23. In sum, this Court is empowered and required to **provide a forum for immediate relief**, and the SAPCR is the proper mechanism to do so. The Court should therefore promptly docket this SAPCR as a new case and schedule an emergency hearing on temporary orders for the children.

G. Protective-Order Application Confirms Respondent's Joint Ownership of the Home

24. Even Petitioner's own filings acknowledge Respondent's legal **right to return to the residence**. In her sworn Application for Protective Order (filed in September 2023), Petitioner explicitly affirmed that the marital residence "**is jointly owned or leased by the Applicant and Respondent**."

25. This judicial admission is significant. It means that at the time she sought exclusive use of the home, Petitioner conceded that Respondent is **co-owner** (or co-leaseholder) of the property. There is no dispute, therefore, that Respondent has an **equal property interest and legal right to occupy the home**. Petitioner cannot now contradict her own sworn statement by suggesting Respondent has no such right.

26. Why is this important? Because the prior orders granting Petitioner exclusive possession of the home (and excluding Respondent) stand in direct conflict with the parties' property rights and the status quo. Those orders were based not on any finding that Respondent lacked ownership or rights to the home, but presumably on a *temporary* need for protection (which, as shown, was falsely claimed). With the exposure of Petitioner's allegations as false, there remains **no lawful basis** to keep Respondent out of a home that he owns jointly. Texas

Family Code § 153.003 states that the Court cannot condition a parent's possession of a child on the payment of support or other matters unrelated to the child – likewise, the Court should not condition Respondent's access to his home (and thereby to his children) on a procedurally flawed prior order, especially when **Petitioner herself admits the home is community property**. The protective order application further underscores that Petitioner's sole claim to the home was through a **temporary court order**, not any independent right. When the predicate for that temporary order (alleged family violence) is unproven and disputed, the underlying property rights must prevail.

27. In equity, where two parties have equal right to possession of a property, one cannot exclude the other absent a valid court order supported by good cause. Here, absent the now-questionable temporary orders, Respondent as joint owner would be free to live in his home. The Court should thus give weight to Petitioner's admission of joint ownership and recognize Respondent's **unabated property right**. This is yet another reason to allow the SAPCR to go forward: so that the issue of residency and possession of the home can be revisited in light of the true facts and rights of the parties. The **protective order was leveraged into a settlement which both parties did not agree to** (as the record will show, if needed), meaning no long-term restrictions were found warranted. What remains is a fit father who co-owns his home seeking to return to his necessity to work and provide financially for the children. Petitioner's own pleadings remove any doubt about his entitlement. Accordingly, the Clerk and Court should not hesitate to facilitate Respondent's return via new temporary orders in this SAPCR, as even Petitioner's sworn statements support Respondent's position.

H. Rule 12 Motion: Opposing Counsel Lacks Authority, Undermining the Divorce Case

Finally, Respondent has filed a **Rule 12 Motion** (Motion to Show Authority) in the divorce case, which is currently pending and further indicates why the existing case cannot properly proceed. In that motion (filed September 20, 2024), Respondent challenged the authority of Petitioner's attorney of record to act on her behalf.

28. This challenge was not made lightly – it is supported by evidence that Petitioner's counsel **never filed the pleadings**, is not authorized to practice in this matter under her current registration, and may not even have a valid engagement with Petitioner. Notably, since that motion was filed, **Petitioner's counsel has failed to respond to it or otherwise prove her authority**. Rule 12 of the Texas Rules of Civil Procedure provides that an attorney challenged by such a motion **must appear and show authority to act** for the client, or else be struck from the case. Petitioner's counsel has not met this burden. Instead, irregularities have abounded: at a recent hearing (on Respondent's motion to recuse), Petitioner's counsel appeared **without having answered the Rule 12 motion**, and the Court allowed her to argue on a motion she did not respond to, but her authority remains in question.. Moreover, it came to light that Petitioner's counsel has been **unable to e-file pleadings on her client's behalf** because her electronic filing account is in disarray (registered under a former employer's email at Cantey Hanger yet is signing pleadings for Marx, Altman, & Johnson) . In fact, the few documents "filed" in the divorce case on Petitioner's side were filed by Roderick Marx, not by the attorney herself. And tellingly, Petitioner's counsel **failed to file the Notice of Remand** after the federal court sent the case back, leaving the case hanging indefinitely. All of this demonstrates that Petitioner's counsel is effectively **not acting with proper authority or competence** in the divorce matter.

29. This is critical because if Petitioner's attorney lacks authority, then Petitioner is essentially **unrepresented** in the divorce. Her pleadings (including the Original Petition for

Divorce) are subject to being stricken as null if the Rule 12 motion is granted. The entire divorce proceeding would be a nullity without an authorized petitioner or counsel – which is another reason it has stagnated. It would be unjust to make the children wait for months while this issue is sorted out. By contrast, in a new SAPCR, Petitioner can secure proper counsel or proceed pro se, but the Rule 12 quagmire in the divorce case can be sidestepped for now to get the children relief. The pending Rule 12 motion underscores that the **divorce case is on unstable footing**. It is procedurally snarled by questions of representation. On the other hand, Respondent is ready to proceed in the SAPCR **immediately** – he, as the petitioner in the SAPCR, obviously has authority to bring it, and he will serve Petitioner directly. If Petitioner's prior counsel truly has no authority, Petitioner will have to either hire new counsel or represent herself in responding to the SAPCR, but at least the case will **move forward**. The Rule 12 fiasco in the divorce should not be allowed to delay relief for the children. Equity again favors moving to a forum (the SAPCR) where all parties before the Court are indisputably authorized and the merits can be reached without distraction.

30. In summary on this point, Respondent's Rule 12 motion (which remains unanswered) indicates that the opposing attorney **"has no authority to act for the party"** – a situation which, by rule, would mandate striking her pleadings and possibly dismissing the divorce. Rather than let the case devolve into that chaos (to the children's detriment), the Court should start fresh with this SAPCR. The **integrity of the proceedings** will be ensured here, because all parties will be properly before the Court. Respondent is confident that once this SAPCR is active, Petitioner will either appear on her own or with legitimate counsel and the issues can finally be adjudicated on the merits. Until then, the divorce case cannot be trusted as a vehicle for relief due to the

cloud over Petitioner's representation. This factor strongly supports accepting the SAPCR as a standalone action and granting the requested hearing and relief without delay.

I. Conclusion

31. For all the foregoing reasons – lack of prosecution in the divorce, Petitioner's waiver of opposition, the children's urgent needs, the void nature of prior orders, the necessity of restoring the status quo, and procedural snares in the divorce case – **Respondent respectfully urges the Clerk to file the enclosed SAPCR as a new cause of action, and requests that the Court set an immediate EX-PARTE hearing on temporary orders** in this SAPCR to **issue injunctive relief immediately allowing access back into the residency and children's lives**. The Court has abundant legal justification and equitable grounds to do so. Most importantly, the **children's welfare compels immediate action, and the Petitioner will not be adversely affected by this decision, and has immediate housing options nearby available to her, contrary to the undersigned.** Every factor discussed above converges on one truth: these children need their father back and need a stable, working court order to govern their custody and care – and they need it now, not months from now. By allowing this SAPCR to proceed separately, the Court will cut the Gordian knot that the divorce case has become and will be able to issue orders **truly serving the children's best interests forthwith**.

32. Respondent is prepared to appear for an emergency hearing on **any date and time** the Court can accommodate – preferably today. He is also prepared to file any additional supporting documents or evidence the Court may require. All necessary filing fees for this SAPCR are being paid, and service of process will be promptly effected on the opposing party. We ask only that the Clerk **accept this filing** (rather than reject or re-route it to the old cause) and that the Court **immediately calendar the case** for a hearing at the earliest possible date. If there are any

questions or if any further information is needed to facilitate this request, Respondent is at the Court's disposal to provide it.

33. Thank you very much for your prompt attention to this urgent matter. By taking swift action, the Clerk and Court will literally be changing the lives of two children for the better. The law and justice are on the side of moving forward with this SAPCR. Respondent implores the Court to do so without delay.

Respectfully submitted,

Charles Dustin Myers

EXHIBIT 1
TRO COMMUNICATIONS

03/21/25

Gmail **FUDSTOP <chuckdustin12@gmail.com>**

Notice of Temporary EX-Parte TRO

2 messages

FUDSTOP <chuckdustin12@gmail.com> Fri, Mar 21, 2025 at 10:44 PM
To: Cooper Carter <coopercarter@majadmin.com>

Ms. Carter,

Pursuant to **Tarrant County Local Rule 3.30(c)** , this letter provides notice that I intend to present an **Emergency Ex Parte Application for Temporary Restraining Order (TRO)** seeking immediate relief in the interest of my children's well-being and to prevent irreparable harm to my property, family relationships, and ability to earn a living.

The TRO will **NOT** request **exclusive temporary use of the marital residence** but that if your client has issue, she has alternative housing and has used possession of the residence to damage my livelihood and restrict my parenting time. The application will include verified evidence supporting the necessity of immediate relief, including:

- Verified communications acknowledging my need for the home to work
- Records of financial losses from displacement (Airbnb receipts, business losses, etc.)
- Evidence of your client disposing of or concealing my personal property
- Proof that the children have been left unsupervised overnight by your client on multiple occasions.
- Documentation from the school showing excessive absences and academic concerns regarding Mara.
- Text evidence between myself and the multiple AIRBNB hosts showcasing the difficulty faced in setting up operations outside of the reliable setup of the house.
- Photographs and texts contradicting claims made in previous pleadings
- Dental neglect of my youngest daughter (photos of untreated cavities)
- Financial documents showing I paid all vehicle and rent obligations, contrary to your client's claims
- Text messages between myself and the grandparents of your client showing we can be amicable during this situation and put the children first.
- Photo evidence showing the only way I have to communicate with my daughters is via an online game, ROBLOX, due to your client preventing communications.
- My criminal record showing that I have never been convicted of a violent crime.
- The current temporary orders which are facially void and can be collaterally attacked in any court at any time.

Again, there is absolutely zero reason to have me barred from the residence and strip the children of their parents. It contradicts the lodestone of the Family Code which is in the best interests of the children.

This is the more logical solution. If we pursued this route in the beginning, we'd already be divorced and the children's financial stability wouldn't have been sacrificed. There is no risk of danger. There is no risk of harm to the children. There is only the possibility of recovery. **That is in their best interests.**

There is no legal reason your client has to want me out of the house other than just that. She cannot unilaterally decide that I agree to everything and then do as she pleases with my personal belongings and neglect the children in multiple areas.

Your argument that I agreed to the orders in place falls flat on its face for many reasons which will not be repeated here.

I am providing this notice strictly to comply with **Local Rule 11(e)**. I will proceed to present the application to the Court **without further delay** due to the nature of the harm and urgency involved.

If you wish to discuss these matters, I'm happy to do so - otherwise I will inform the court that you ***do not agree*** to the orders upon submission.

This situation cannot continue, and the alternatives that are available must be pursued to uphold the best interests of the children before any further damage to their well-being is sustained.

Respectfully,
Charles Dustin Myers

FUDSTOP <chuckdustin12@gmail.com> Sat, Mar 22, 2025 at 3:17 PM
To: Cooper Carter <coopercarter@majadmin.com>, Morgan Wilson <morganmw02@gmail.com>

Cooper,

Petitioner (your client) filed the original divorce petition in December 2023 in the 322nd District Court (Cause No. 322-744263-23). In that petition, she alleged **false claims of family violence** and sought a waiver of the 60-day waiting period for divorce, ostensibly to expedite temporary relief by labeling me as an abuser and claiming she had an **active order of protection against me at the time of filing**.

On February 1, 2024, a temporary orders hearing was held before an **Associate Judge**. The parties (through counsel) announced an apparent agreement on temporary custody and other matters. The associate judge signed an *"Associate Judge's Report for Temporary Orders"*, titled as "Agreed Temporary Orders." Importantly, this report **did not itself constitute a signed court order**; instead, it outlined the agreed terms and directed further action before any order would be final. Specifically, the report stated that **Respondent's attorney (Dan Bacalis) would prepare a formal temporary orders document**, which would be prepared from 20 days from the date of signing, which would have been **February 22nd, 2024.** It also required that **both attorneys were to approve it to form within 5 days (have 5 days to approve the order)**, and that if **no agreement on form was reached, a motion to sign would need to be filed within 30 days**. The report noted that the parties' personal approval was not required for entry of the order, implying the attorneys' sign-off or a court motion would suffice. No district judge signed an order at that time – the associate judge's report was essentially a **recommendation** to be formalized in a written order.

Immediately after the Feb 1 hearing, Respondent lost confidence in his attorney's actions and **fired his attorney**. Believing that the "agreement" did not reflect the child's best interests or was entered under false pretenses (due to Petitioner's unfounded allegations), Respondent promptly **withdrew his consent** to the announced terms. On February 5, 2024, *before any temporary order was signed by the court,* Respondent (now pro se) filed an *Emergency Motion to Reconsider and Vacate Temporary Orders*. This motion put the court on notice that Respondent **no longer consented** to the supposed agreed terms and that he objected to any temporary order being entered as announced.

Despite this, the reconsideration was denied and no findings were ever entered. In fact, the order **explicitly ordered Respondent to sign the orders to which he did not agree in violation of his own directives.**

Texas law is clear that an associate judge's report or proposed order is *not* a final, enforceable court order unless and until it is adopted and signed by the referring court. Under the Family Code, an associate judge may conduct hearings and recommend orders, but those recommendations *remain subject to approval by the district court judge.* Section 201.011 of the Texas Family Code provides that an associate judge's report "may contain the associate judge's findings, conclusions, or recommendations and may be in the form of a proposed order". In other words, the associate judge's report (even if titled "Temporary Orders") is essentially a *draft* or advisory decision; it does **not** itself carry the force of a court order until the proper procedures are completed.

Family Code § 201.013 unambiguously outlines how and when an associate judge's proposal becomes an order of the court. If a party timely requests a de novo hearing by the referring judge, the associate judge's proposed order may be enforced in the interim (except for certain matters) pending that hearing. **However, if no timely request for a de novo hearing is filed, the statute states that "the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's *signing* the proposed order or judgment."**

Thus, absent a de novo appeal, an associate judge's recommendation **must be signed by the district judge** to have any legal effect. Until the judge signs it, it is merely a *proposed* order, not an actual court order.

Because the February 1, 2024 temporary orders were never signed or adopted by the court, Respondent was (and is) under no legal obligation to follow them, and neither party could properly enforce those terms through contempt or other remedies. A party cannot be held in contempt for violating a **non-existent court order**. Here, the "Agreed Temporary Orders" are, at most, an agreement between the parties that was not entered as a judgment. When Respondent withdrew his agreement (as discussed below), even that contractual underpinning fell apart. The Family Code's requirements were not met, and thus the purported temporary orders are **void ab initio** due to lack of rendition or entry by the referring court.

The stage is thus set for this Court to intervene, because as of now, **there is no operative temporary order governing the child's conservatorship or possession**.

The Purported Temporary Orders Are Void and Subject to Collateral Attack in This SAPCR

Because the February 1, 2024 temporary orders were never properly entered as a court order (and would have been invalid if entered without consent - which is clearly the case here), they are **void** and can be attacked in this proceeding. Generally, once a court renders a final judgment, parties are constrained to challenge that judgment on direct appeal or in the original case; *collateral attacks* on final judgments are disfavored. **However, only a *void* judgment is subject to collateral attack in a separate proceeding.** *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex. 2005) ("*Browning v. Placke*, 698 S.W.2d 362, 363 (Tex. 1985)")

In this SAPCR, Respondent is effectively **collaterally attacking** the temporary orders from the divorce case by asserting their invalidity. Such a collateral challenge is permissible here because those orders are void. As the Texas Supreme Court has explained, *"Only a void judgment may be collaterally attacked." Id.*

Accordingly, Respondent asks this Court to **formally declare** that the March 26, 2024 "Agreed Temporary Orders" (and any interlocutory rulings associated with them) in Cause No. 322-744263-23 are **void, of no effect, and not binding** on the parties. This declaration will remove any doubt or argument by Petitioner that those terms still govern the parties' rights. It will also foreclose any attempt to enforce or rely on those non-orders (for example, in claims of violation or in arguing res judicata). The Court has the authority in equity and under the Uniform Declaratory Judgments Act (Tex. Civ. Prac. & Rem. Code chapter 37) to declare the rights and status of the parties vis-à-vis that prior proceeding – particularly given that the SAPCR directly concerns the child who was also at issue in the divorce temporary orders. Granting such relief is appropriate to prevent confusion and multiplicative litigation. Once the prior "orders" are declared void, this Court can proceed to issue fresh temporary orders for the child without any conflict or cloud from the divorce case.

In sum, the prior temporary orders are a legal nullity and this Court should treat them as such. The Court's order declaring them void will simply recognize the reality that, due to the procedural faults and lack of consent, those orders never had legal existence. This clarification is critical to move forward in protecting the child's welfare, as discussed next.

Immediate Emergency Relief Is Necessary to Protect the Child's Best Interest

Every day that passes without a valid temporary order is a day of potential harm or uncertainty for the child. The current situation – a divorce case stuck in limbo with no operative orders, and parents in dispute – is untenable for a child's well-being. The child has effectively been living under an informal or contested arrangement since February 2024. Petitioner has acted as though she has primary custody under the (void) temporary orders, while Respondent has been sidelined and denied the normal possession or decision-making that a proper order (or a true agreement) would have provided him. This dynamic, fueled by Petitioner's unproven allegations of family violence, has caused significant stress and instability for the child. Respondent fears that Petitioner is leveraging the appearance of an order to restrict his contact with the child and to make unilateral decisions that are not in the child's best interest. Meanwhile, the divorce proceeding has not moved forward to a final resolution – **over 12 months** have elapsed since the March hearing, with no trial setting in sight. This stalemate directly affects the child: there is no clear court-sanctioned framework for conservatorship, visitation, or support, and your client has only introduced chaos into their lives.

This Court, now handling the SAPCR, has both the authority and the duty to step in and provide stability. Under Tex. Fam. Code § 105.001, **"the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child,"** including orders for temporary conservatorship and possession.

The Family Code specifically empowers courts to act **expeditiously** to protect a child: if there is immediate danger to the child's physical or emotional health, the court can even issue temporary orders **without notice** (such as a temporary restraining order) to address the emergency. Here, Respondent asserts that the child's emotional welfare is indeed in jeopardy. The lack of a valid order has enabled Petitioner to marginalize Respondent's role in the child's life, purportedly under the guise of the void temporary orders. Petitioner's false accusations of violence – never tested or proven in court – have created a pretext for her to limit Respondent's access. Consequently, the child is being unjustly deprived of time and a relationship with Respondent, who has been a loving father with no history of abuse. This scenario is precisely what emergency temporary orders are designed to prevent. The Court should not allow a procedural quagmire to result in a child effectively losing a parent or receiving inferior care.

Most importantly, the **"best interest of the child" is the paramount consideration** in any conservatorship or possession decision. *See* 153.002 TEX. FAM. CODE.

All Texas courts must ensure that their orders first and foremost serve the child's best interest. By that standard, continuing under the shadow of void orders and parental discord is plainly not in this child's best interest. Instead, the child's best interest calls for fresh, valid temporary orders that set forth clear, fair, and safe arrangements for custody and visitation while the parents' disputes are resolved. The Court should craft these orders based on current evidence and the child's needs – not based on an outdated and unconsented plan from February. The Family Code's public policy (Tex. Fam. Code § 153.001) favors frequent, continuing contact with fit parents and stable environments free of violence or abuse. Here, Respondent is ready, willing, and able to care for the child and poses no danger, and he simply seeks a normal custody schedule that allows the child to have both parents in his life. Petitioner's unsupported claims of family

violence (made to gain a litigation advantage) should not dictate the child's reality any longer, especially since those claims have not been substantiated in any court hearing.

Why your consolidation motion and response are insufficient, and will fail, or be met with mandamus if granted (after reconsideration)

Normally, even without continuing *exclusive* jurisdiction, a prior *pending* suit would require the new suit to be consolidated or abated (as discussed above with § 6.407 and dominant jurisdiction). The mother (divorce petitioner) could argue that the original court "has jurisdiction" over the children by virtue of the pending divorce, so the SAPCR should not proceed separately. However, the **void nature of the prior temporary orders** is a game-changer. If those orders are void, then the original case has not effectively adjudicated anything regarding the children's current custody or support. The SAPCR petitioner can contend that because the prior orders are null, there is no valid existing order or active management of the children's case, and the new court is free to act in the children's best interests. This is the **EXACT argument made**. In effect, the argument is that the divorce case's jurisdiction over the children lapsed into dormancy or "dormant jurisdiction" due to your failure to prosecute the case.

It's important to distinguish *jurisdiction* from *orders*. The **continuing jurisdiction doctrine** would typically prevent a different court from issuing orders if a final order existed or if another court was actively handling the case. But here the SAPCR is filed in the *same county* as the divorce. There is no risk of two different counties competing; it's an internal issue. The SAPCR effectively asks the **court to take up a new cause number** and to recognize that the old cause has stalled and its orders are void.

EVEN IF the void argument fails, there is another nuance to this area of law. Despite the lack of a final order, the pending divorce still technically invokes the court's jurisdiction over the children. Typically, the proper course is to *revive or dismiss* the dormant divorce, rather than maintain a wholly separate SAPCR on the side. Texas courts adhere to the principle that the first suit filed (here, the divorce) should dominate; a later-filed suit concerning the same subject (the children) can be abated to prevent conflicting rulings. In fact, in ***In re Shifflet***, for example, a party attempted parallel litigation regarding child custody, and the court emphasized that modifications must be filed in the court with jurisdiction over the original case

The **only exception** to the one-court rule is narrow. Texas law **does allow** a court to **lose dominant jurisdiction if the party with the first suit proceeded in bad faith or the suit is not actively pursued.** Both apply here. The first suit was unquestionably brought in bad faith, as the declaration of an active protective order being in effect against the Respondent was **an intentional fabrication designed to provide your client with an advantage.** Despite this, the Texas legislature should have prevented the first hearing from **ever happening, because 6.405b of the Texas Family Code** required your client to present the alleged order to the court ***BEFORE ANY HEARING.***

CONCLUSION

Thus, the SAPCR is appropriately before the court, and the only argument you made in your Response fails. The court denied my attempt to open this separate suit, requiring me to file a **17 page argument** as to why the case should be accepted, and then it was.

So your response **effectively mirrors the first denial from the court,** which amounts to no response being filed at all.

It is clear you are not representing your client in a manner to uphold the law or the best interests of the children, but to only appear when needed to obstruct the much needed justice that the children need and deserve.

This is my position.

Charles Dustin Myers

Gmail **FUDSTOP <chuckdustin12@gmail.com>**

CAUSE# 233-765358-25 EX-PARTE TRO

5 messages

FUDSTOP <chuckdustin12@gmail.com> Wed, Mar 26, 2025 at 5:48 PM
To: FLCCoordinator@tarrantcountytx.gov

Hello,

This is Charles Dustin Myers, Petitioner in the above captioned cause, and I received an automated reply deferring me to this email when originally reaching out to the Honorable Coordinator.

The original email's purpose was to inform the Honorable Coordinator that I had just received notification through the EFM that the emergency ex-parte TRO had been accepted by the court.

I am following up to inquire about the status of the request.

I thank you for your attention to this urgent matter, and I will wait for further directive from the court to proceed accordingly.

As mentioned in the motion, the Respondent in this matter and her counsel of record have been duly notified of the relief being sought and the motion itself, but have not responded to any attempts to communicate regarding this urgent matter.

Thank you and have a wonderful evening.

Respectfully,

Charles Dustin Myers
chuckdustin12@gmail.com
817-546-3693

Tegan B. Allison <TBAllison@tarrantcountytx.gov> Thu, Mar 27, 2025 at 8:45 AM
To: FUDSTOP <chuckdustin12@gmail.com>

This order needs to be presented in person. Likewise, you need to inform opposing counsel of the date and time you intend to present this order to the court.

Thank you,

Tegan Allison

Auxiliary Court Coordinator

Tarrant County Family Law Center

Phone: (817)884-1614

200 E Weatherford

Fort Worth, TX 76196

TBAllison@tarrantcountytx.gov

From: FUDSTOP <chuckdustin12@gmail.com>
Sent: Wednesday, March 26, 2025 5:49 PM
To: Courts - FLC Coordinator <FLCCoordinator@tarrantcountytx.gov>
Subject: CAUSE# 233-765358-25 EX-PARTE TRO

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 8:59 AM
To: "Tegan B. Allison" <TBAllison@tarrantcountytx.gov>

Ms. Allison,

Thank you for the update.

Is there a time available tomorrow to come and present the order? Preferably between 9am and 2pm?

I have informed the opposing party of the intent to present the order and will provide the time and date upon determination of the court's availability.

Thank you for your assistance.

Charles Dustin Myers
Chuckdustin12@gmail.com
817-546-3693
[Quoted text hidden]

image001.jpg
6K

Tegan B. Allison <TBAllison@tarrantcountytx.gov> Thu, Mar 27, 2025 at 9:05 AM
To: FUDSTOP <chuckdustin12@gmail.com>

You may present the order during that time. Please keep in mind that the court will be closed from 12pm-1:30pm for lunch and administrative tasks.

Thank you,

Tegan Allison

Auxiliary Court Coordinator

Tarrant County Family Law Center

Phone: (817)884-1614

200 E Weatherford

Fort Worth, TX 76196

TBAllison@tarrantcountytx.gov

From: FUDSTOP <chuckdustin12@gmail.com>
Sent: Thursday, March 27, 2025 9:00 AM
To: Tegan B. Allison <TBAllison@tarrantcountytx.gov>
Subject: Re: CAUSE# 233-765358-25 EX-PARTE TRO

Ms. Allison,

Thank you for the update.

Is there a time available tomorrow to come and present the order? Preferably between 9am and 2pm?

I have informed the opposing party of the intent to present the order and will provide the time and date upon determination of the court's availability.

Thank you for your assistance.

Charles Dustin Myers

Chuckdustin12@gmail.com

817-546-3693

On Thu, Mar 27, 2025, 8:45 AM Tegan B. Allison <TBAllison@tarrantcountytx.gov> wrote:

> This order needs to be presented in person. Likewise, you need to inform opposing counsel of the date and time you intend to present this order to the court.
>
> Thank you,
>
> *Tegan Allison*
>
> Auxiliary Court Coordinator
>
> Tarrant County Family Law Center
>
> Phone: (817)884-1614
>
> 200 E Weatherford
>
> Fort Worth, TX 76196
>
> TBAllison@tarrantcountytx.gov
>
> [Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 9:19 AM
To: "Tegan B. Allison" <TBAllison@tarrantcountytx.gov>

Ms. Allison,

Thank you very much.

I have informed opposing counsel that I intend to present the TRO tomorrow at 9:00 AM, the relief being sought, and if anything changes I will inform the court and likewise the opposing party.

Have a wonderful day.

Respectfully,

Charles Dustin Myers
Chuckdustin12@gmail.com
817-546-3693
[Quoted text hidden]

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4 attachments

~WRD0000.jpg
1K

image001.jpg
6K

image001.jpg
6K

~WRD0000.jpg
1K

EXHIBIT 2
TRO COMMUNICATIONS

03/24/25

Gmail **FUDSTOP <chuckdustin12@gmail.com>**

RE ITIO MYERS CHILDREN, CAUSE NO. 233-765358-25 CL-12105

3 messages

Cooper Carter <coopercarter@majadmin.com> Mon, Mar 24, 2025 at 10:03 AM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good Morning,

Opposing party is a pro se Petitioner in the above referenced case. He has filed a SAPCR petition regarding this matter. There is a current pending divorce case that encompasses issues regarding children. Our office has filed an Answer as well as a Motion to Consolidate and proposed order in this case to consolidate this SAPCR into the pending divorce proceeding in the 322nd.

Could you please provide dates and times that the Court is available to hear my motion?

Opposing party has been cc-ed to this e-mail for convenience.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

WILL NOT RESPOND.

From: Cooper Carter <coopercarter@majadmin.com>
Sent: Monday, March 24, 2025 10:03 AM
To: Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov>
Cc: 'Charlie Vids' <chuckdustin12@gmail.com>
Subject: RE ITIO MYERS CHILDREN, CAUSE NO. 233-765358-25 CL-12105

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Mon, Mar 24, 2025 at 10:15 AM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Cooper Carter <coopercarter@majadmin.com>

Ms. Wierzbicki, Mr. Carter,

Thank you for the update. However, I must respectfully object to the assertion that this is a mandatory consolidation.

Under Texas Rule of Civil Procedure 174(a), consolidation is discretionary and not automatic where doing so would cause delay, injustice, or prejudice to a party. Additionally, the Texas Supreme Court in Curtis v. Gibbs, 511 S.W.2d 263 (Tex. 1974) expressly carved out exceptions to dominant jurisdiction where:

The original case was filed in bad faith,

The case isn't been prosecuted;

Equity and justice require an independent forum.

All three conditions are present here. The SAPCR was filed in good faith after the 322nd case became procedurally stalled and legally defective—with no Notice of Remand, no evidentiary rulings on the children, and pending dispositive motions including unopposed requests for dismissal.

It would be prejudicial to the children to consolidate a case that had no ability to proceed.

Thank you.

Respectfully,
Charles Dustin Myers
Pro Se Petitioner
[Quoted text hidden]

EXHIBIT 3
TRO COMMUNICATIONS

03/26/25

Gmail **FUDSTOP <chuckdustin12@gmail.com>**

Notice

1 message

FUDSTOP <chuckdustin12@gmail.com> Wed, Mar 26, 2025 at 7:19 PM
To: Cooper Carter <coopercarter@majadmin.com>, Morgan Myers <morganmw02@gmail.com>

Friends on other side,

The Emergency EX-PARTE TRO has been filed and accepted by the court and is awaiting the judge's review.

If a hearing is required, I will CC Cooper in the email correspondence.

If a hearing is not required, I will serve each of you with a copy of the TRO and proposed order in accordance with the rules no later than seven days prior to the hearing.

The TRO has the following provisions:

* **Respondent is PROHIBITED from preventing Petitioner from entering the matrimonial residence located at 6641 Anne Ct, Watauga, TX 76148.**

*** Respondent is PROHIBITED from disturbing the peace of the minor children named in this suit.**

*** Petitioner and Respondent are PROHIBITED from acting without candor towards all members of the household in the presence of the children.**

*** Respondent is PROHIBITED from bringing the children in the presence of DAMEN GAULT KAZLAUSKAS.**

*** Respondent is PROHIBITED from taking the children outside of Tarrant County, Texas.**

These provisions, if granted, will be in effect until a full hearing is held no later than **14 days after the order is signed by the judge.**

Once the notice of hearing is served on all parties, I will be filing a motion for pre-trial conference to discuss the Rule 12 motion filed and served last week to ensure those issues are resolved prior to trial.

At the hearing, the relief I am seeking is to convert the provisions from the TRO into temporary injunctions which will be the exact same but will ask for them to remain until further order of the court and reset the status quo to March 6, 2024, which was the last peaceful time enjoyed by all parties prior to the Respondent's unlawful lockout.

If a continuance is needed in order to get your affairs in order for the Rule 12 conference, please reach out as I have no problem signing an agreed continuance if more time is needed.

I am not seeking sanctions at this time.

If granted, I believe the preceding details suit the best interests of Mara and Caroline, preserves their emotional and financial well-being, allows myself to repair the substantial damage caused from the prior thirteen months, promotes an amicable co-parenting relationship, and most importantly upholds Texas Law in ensuring that children have continuous, frequent access **to both parents** and that **parents are encouraged** to work together during and after divorce because doing so **is in their best interests.**

I'm not looking to punish, hurt, or ruin anyone. I'm simply looking to do what's best for the kids and start working together to finish this so we can all move on with our lives.

If you have any suggestions, modifications, or alternative solutions, please feel free to reach out and let me know, or schedule a time and place to meet in person that best meets your schedule.

Respectfully,

Charles Dustin Myers
chuckdustin12@gmail.com
817-546-3693

Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov> Mon, Mar 24, 2025 at 10:08 AM
To: Cooper Carter <coopercarter@majadmin.com>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good morning,

The Motion to Consolidate just needs to be filed in the 322nd Divorce case and sent to their Judge to sign; no hearing necessary, it's a mandatory consolidation.

Thank you,

Angie D. Wierzbicki

Court Coordinator

233rd Judicial District Court

(817) 884-2686

Tarrant County Family Law Center

200 E. Weatherford St., 5th Floor

Ft. Worth, TX 76196

*****PLEASE NOTE: YOU MUST PROVIDE LOCAL COURT RULE DOCUMENTS IF YOU ARE SET FOR A HEARING IN EITHER COURT. FAILURE TO PROVIDE LOCAL COURT RULE DOCUMENTS COULD RESULT IN THE RESET OF YOUR CASE*****

YOU MUST INCLUDE EVERYONE ON YOUR EMAIL COMMUNICATION. IF YOU FAIL TO INCLUDE OPPOSING COUNSEL OR SELF REPRESENTED LITIGANTS, I

EXHIBIT 4
TRO COMMUNICATIONS

03/27/25

Gmail **FUDSTOP <chuckdustin12@gmail.com>**

TRO + Exhibits + Proposed Order

1 message

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 5:54 PM
To: Cooper Carter <coopercarter@majadmin.com>, Morgan Myers <morganmw02@gmail.com>

Attached for your reference is the TRO, proposed order, and exhibits.

Respectfully,

Charles Dustin Myers
6641 Anne Ct, Watauga, TX 76148
817-546-3693
chuckdustin12@gmail.com

3 attachments

emergency_motion_formatted (3) (2).pdf
273K

PROPOSED ORDER (2).pdf
185K

EXHIBITS - TRO.pdf
8784K

Gmail **FUDSTOP <chuckdustin12@gmail.com>**

ITIO MORGAN CHILDREN, CAUSE NO. 233-765358-25 CL-12105

6 messages

Cooper Carter <coopercarter@majadmin.com> Thu, Mar 27, 2025 at 6:20 PM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good Evening,

I have received communication from opposing party who is pro se that he will be walking through an Emergency TRO. Our office has a hearing scheduled for tomorrow morning in Parker County and is unable to attend. However, I will be available by cell phone regarding this matter if the Judge would like to speak to me regarding the Emergency TRO. Please contact our office to patch me in for any calls that Judge would like to have.

Additionally, this case already is pending in the 322nd for a divorce proceeding regarding property and children matters. We will be consolidating the case and walking it through the 322nd for signature next week.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 7:03 PM
To: Cooper Carter <coopercarter@majadmin.com>

Court staff,

Ms. Carter's recent correspondence is improper for several reasons, and appears to be an attempt to delay or interfere with proceedings in which she has otherwise failed to meaningfully participate in. The following reasons support this statement:

1. An objection to consolidation is already on file and remains unopposed. It cites controlling Texas precedent. Any suggestion that consolidation is agreed upon or inevitable is misleading. Instead, she should properly file with the court why the consolidation is improper or at the very least argue against Petitioner's position.

2. Ms. Carter has not fulfilled her obligation under Texas Rule of Civil Procedure 237a to file a Notice of Remand. Until she does, she is prohibited from proceeding or filing anything in the 322nd District Court as they currently do not have jurisdiction over this matter until this obligation is fulfilled.

3. Her authority to represent the Respondent remains under challenge pursuant to a Rule 12 motion filed September 20, 2024. No hearing has been held, no written statement of authority has been filed, and no ruling has been made. Until resolved, Rule 12 bars her from participating in either proceeding.

4. Ms. Carter has not prosecuted the case in the 322nd District Court in over eight months. This inaction has prejudiced the Petitioner and delayed resolution of urgent matters affecting the children.

5. She has failed to file any objections, responsive pleadings, or legal arguments opposing the relief requested—including the Emergency TRO now pending.

6. Rather than reaching out to Petitioner to resolve any scheduling conflict, Ms. Carter improperly attempted to influence the court by email. This violates the spirit of cooperation required by the rules, particularly where her participation is procedurally barred.

7. Ms. Carter's conduct appears designed to delay relief and subvert the best interest of the children, despite her failure to oppose the requested relief in any meaningful way.

8. She has been provided with full notice of the Emergency TRO, the proposed order, supporting exhibits, and the time and location of presentment. She has no legal basis to subvert Petitioner's due process rights.

In summary, Ms. Carter has not provided anything of substance in either Court, has not prosecuted the case, has not argued on behalf of her client, or followed proper procedure.

Simply labeling the opposition as pro se and claiming that the consolidation will be filed without disclosing the above facts is dishonest and should not be permitted as it will only cause further unnecessary delays to the relief being sought without any substance being provided.

Again, all of these points have been argued in both courts, and it is her duty as counsel to handle these matters in accordance with Texas Law.

These matters should be handled between the parties - not attempt to influence court staff after hours.

The reason we are here in the first place is due to the above unanswered facts. Ms. Carter has had ample time to file an objection, response, or counter argument, but has chosen not to do so.

It would've been far more appropriate for Ms. Carter to have reached out to me directly to discuss scheduling conflicts.

Prior to the latest email, there was no indication Ms. Carter intended to participate at all despite being provided with all relevant materials.

The court should disregard this email correspondence in its entirety for the reasons stated herein as it is highly prejudicial to Petitioner and the children.

Pro se litigants are expected to follow the rules of procedure to the same extent licensed attorneys are.

This email chain should be disregarded in its entirety.

Have a good evening.

Respectfully,
Charles Dustin Myers
Petitioner, Pro Se
[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 7:07 PM
To: Cooper Carter <coopercarter@majadmin.com>, "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>

Court staff,

Ms. Carter's recent correspondence is improper for several reasons, and appears to be an attempt to delay or interfere with proceedings in which she has otherwise failed to meaningfully participate in. The following reasons support this statement:

1. An objection to consolidation is already on file and remains unopposed. It cites controlling Texas precedent. Any suggestion that consolidation is agreed upon or inevitable is misleading. Instead, she should properly file with the court why the consolidation is improper or at the very least argue against Petitioner's position.

2. Ms. Carter has not fulfilled her obligation under Texas Rule of Civil Procedure 237a to file a Notice of Remand. Until she does, she is prohibited from proceeding or filing anything in the 322nd District Court as they currently do not have jurisdiction over this matter until this obligation is fulfilled.

3. Her authority to represent the Respondent remains under challenge pursuant to a Rule 12 motion filed September 20, 2024. No hearing has been held, no written statement of authority has been filed, and no ruling has been made. Until resolved, Rule 12 bars her from participating in either proceeding.

4. Ms. Carter has not prosecuted the case in the 322nd District Court in over eight months. This inaction has prejudiced the Petitioner and delayed resolution of urgent matters affecting the children.

5. She has failed to file any objections, responsive pleadings, or legal arguments opposing the relief requested—including the Emergency TRO now pending.

6. Rather than reaching out to Petitioner to resolve any scheduling conflict, Ms. Carter improperly attempted to influence the court by email. This violates the spirit of cooperation required by the rules, particularly where her participation is procedurally barred.

7. Ms. Carter's conduct appears designed to delay relief and subvert the best interest of the children, despite her failure to oppose the requested relief in any meaningful way.

8. She has been provided with full notice of the Emergency TRO, the proposed order, supporting exhibits, and the time and location of presentment. She has no legal basis to subvert Petitioner's due process rights.

In summary, Ms. Carter has not provided anything of substance in either Court, has not prosecuted the case, has not argued on behalf of her client, or followed proper procedure.

Simply labeling the opposition as pro se and claiming that the consolidation will be filed without disclosing the above facts is dishonest and should not be permitted as it will only cause further unnecessary delays to the relief being sought without any substance being provided.

EXHIBIT 5
TRO COMMUNICATIONS

03/28/25

Again, all of these points have been argued in both courts, and it is her duty as counsel to handle these matters in accordance with Texas Law.

These matters should be handled between the parties - not attempt to influence court staff after hours.

The reason we are here in the first place is due to the above unanswered facts. Ms. Carter has had ample time to file an objection, response, or counter argument, but has chosen not to do so.

It would've been far more appropriate for Ms. Carter to have reached out to me directly to discuss scheduling conflicts.

Prior to the latest email, there was no indication Ms. Carter intended to participate at all despite being provided with all relevant materials.

The court should disregard this email correspondence in its entirety for the reasons stated herein as it is highly prejudicial to Petitioner and the children.

Pro se litigants are expected to follow the rules of procedure to the same extent licensed attorneys are.

This email chain should be disregarded in its entirety.

Have a good evening.

Respectfully,
Charles Dustin Myers
Petitioner, Pro Se

[Quoted text hidden]

Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov> Fri, Mar 28, 2025 at 9:15 AM
To: Cooper Carter <coopercarter@majadmin.com>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good morning,

Mr. Myers appeared before me to schedule the hearing for the TRO; my apologies I did not realize this was that same case. We can go ahead and set the TRO with us, but most likely the case will be transferred prior to the hearing date and the case needs to be transferred prior to that date.

Mr. Myers will be emailing with dates available for the hearing.

Thank you,

Angie D. Wierzbicki

Court Coordinator

233rd Judicial District Court

(817) 884-2686

Tarrant County Family Law Center

200 E. Weatherford St., 5th Floor

Ft. Worth, TX 76196

*****PLEASE NOTE: YOU MUST PROVIDE LOCAL COURT RULE DOCUMENTS IF YOU ARE SET FOR A HEARING IN EITHER COURT. FAILURE TO PROVIDE LOCAL COURT RULE DOCUMENTS COULD RESULT IN THE RESET OF YOUR CASE*****

YOU MUST INCLUDE EVERYONE ON YOUR EMAIL COMMUNICATION. IF YOU FAIL TO INCLUDE OPPOSING COUNSEL OR SELF REPRESENTED LITIGANTS, I WILL NOT RESPOND.

From: Cooper Carter <coopercarter@majadmin.com>
Sent: Thursday, March 27, 2025 6:20 PM
To: Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov>
Cc: 'Charlie Vids' <chuckdustin12@gmail.com>
Subject: ITIO MORGAN CHILDREN, CAUSE NO. 233-765358-25 CL-12105

[Quoted text hidden]

Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov> Fri, Mar 28, 2025 at 9:19 AM
To: Cooper Carter <coopercarter@majadmin.com>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Additionally, since there is an objection to the consolidation, y'all will need to reach out to request how to proceed with the 322nd as I am usure of their procedures.

Thank you,

Angie D. Wierzbicki

Court Coordinator

233rd Judicial District Court

(817) 884-2686

Tarrant County Family Law Center

200 E. Weatherford St., 5th Floor

Ft. Worth, TX 76196

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YOU MUST INCLUDE EVERYONE ON YOUR EMAIL COMMUNICATION. IF YOU FAIL TO INCLUDE OPPOSING COUNSEL OR SELF REPRESENTED LITIGANTS, I WILL NOT RESPOND.

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Fri, Mar 28, 2025 at 9:59 AM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Cooper Carter <coopercarter@majadmin.com>

Hello all,

Sorry for the delay. I had to hunt down wifi.

Available dates are:

04/10/25 at 930 AM

04/09/25 at 130 PM

04/08/25 at 930 AM

04/07/25 at 130 PM

Thank you.

Any of these dates work for me.

Respectfully,

Charles Myers
8175463693
[Quoted text hidden]

image001.png
120K

EXHIBIT 6

03/28/25

4. The requirement of a bond is waived. See Texas Family Code 105.001(d).

Order to Appear

IT IS ORDERED that Petitioner's application for temporary injunction and temporary orders be scheduled for a hearing at the earliest possible date and that the Clerk of this Court issue notice to Respondent to appear in person before this Court at the following date, time, and place (as required by Texas Rule of Civil Procedure 680):

Date: April 10, 2025 ~~AOW~~

Time: 9:30 AM

Address: 233rd Associate Court, 5th Floor
200 E. Weatherford St., Ft. Worth, TX 76196

The purpose of the hearing is to determine whether the Court should order the following temporary relief while this case is pending:

a. Convert the preceding temporary restraining order into a temporary injunction.

b. Enter temporary orders for the safety and welfare of the child(ren), including but not limited to conservatorship, possession and access.

c. Enter any other orders that are necessary for the safety and welfare of the child(ren).

SIGNED on _____, 20_____, at _____ m.

_____
PRESIDING JUDGE

EXHIBIT 7
TRO COMMUNICATIONS

04/03/2025

Gmail FUDSTOP <chuckdustin12@gmail.com>

RE MOTION FOR CONSOLIDATION CL-12105

2 messages

Cooper Carter <coopercarter@majadmin.com> Thu, Apr 3, 2025 at 1:33 PM
To: Charlie Vids <chuckdustin12@gmail.com>

Good Afternoon,

This is to inform you that I will be walking through the attached Motion for Consolidation and Proposed Order tomorrow morning at 9:00 a.m. in the 322nd for signature.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

2 attachments

Motion to Consolidate V.1.pdf
13K

Order on Motion to Consolidate V1.pdf
10K

FUDSTOP <chuckdustin12@gmail.com> Thu, Apr 3, 2025 at 1:55 PM
To: Cooper Carter <coopercarter@majadmin.com>

Cooper,

I've already objected.

You have no legal authority to do so until you address my objection filed and served to you.

Furthermore, you have not sent the Notice required by rule 237a of the Texas Rules of Civil Procedure and have not shown you authority to represent the Petitioner in this matter.

Finally, you claimed to have been retained in your individual capacity yet are claiming Marx Altman and Johnson is filing pleadings on your behalf, and Roderick D. Marx is not a party in this suit nor has he made a formal appearance.

You're well aware of these obligations, and any order resulting from this motion will be challenged via the proper legal proceedings.

You cannot continue to disregard the rules of procedure, fail to respond to motions or evidence served to you, and continue to expect favors from the bench in leu of you performing your duties as a licensed attorneys.

You are put on notice that if any such motion is presented to the court in the face of the above facts or the unanswered objection already served to you, I will move for your disqualification immediately and will provide the Texas OAG with your information and detailed misconduct as well as the State Bar of Texas.

Further, you have not provided or served a copy of the proposed order which you intend to present, which is required.

This conversation will be filed and made apart of the official court record.

Respectfully submitted,

Charles Myers
817-546-3693
Chuckdustin12@gmail.com
[Quoted text hidden]