

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF TEXAS FORT WORTH DIVISION

**Morgan Michelle Myers,**

Plaintiff,

v.

Civil Action Number:

322-763468-23

**Charles Dustin Myers,**

Defendant

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGE OF THE NORTHERN DISTRICT OF  
TEXAS:**

Defendant, CHARLES DUSTIN MYERS, respectfully removes civil action number 322-768463-23 arising from the 322<sup>nd</sup> District Court of Tarrant County, Texas, to the United States District Court for the Northern District from Texas, Fort Worth division, and in support thereof, shows the following:

## **I. INTRODUCTION**

This case transcends traditional domestic relations disputes, presenting grave constitutional violations that necessitate federal intervention. Between December 14 and December 22, 2023, Plaintiff orchestrated a calculated series of legal actions in response to Defendant's discovery of over 16,500 text messages between Plaintiff and two third parties—Damen Kazlauskas and Debbie Price—revealing a pattern detrimental to the marital relationship. These actions created an inherent procedural bias that deprived Defendant of his fundamental rights before any substantive adjudication by the State court.

On January 16, 2024, Plaintiff's actions culminated in Defendant's removal from the marital residence and business, stripping him of his home, livelihood, and access to his children. These orders were issued without adherence to constitutional safeguards, evidentiary findings, or proper procedure. Despite the parties agreeing to a mutual continuance, this deprivation occurred simultaneously, a decision that the Plaintiff exploited in a later settlement agreement drafted by Defendant's own legal representative who was terminated immediately thereafter. (DKT 48 & 22)

Subsequent proceedings weaponized these unconstitutional orders, culminating in their unilateral reduction and entry despite Defendant's objections at a hearing ostensibly convened to address his challenges. (DKT 78). What began as procedural violations has spiraled into a sustained deprivation of Defendant's constitutional rights, effectively resolving all central issues of the divorce action without trial or meaningful opportunity to be heard.

To date, all pleadings filed by Defendant remain unopposed, no final trial has been set, and Defendant's exhaustive pursuit of relief through state remedies has yielded no results. This Court's intervention is essential to restore procedural integrity and ensure Defendant's fundamental rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment are restored.

## **II. GROUNDS FOR REMOVAL**

The undersigned requests that the court assume jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because this case raises substantial federal questions involving violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and Plaintiff's actions, combined with the state court's initial decision based on those actions, deprived Defendant of his home, business, and custody of his children at the outset of the litigation without the federally guaranteed protections of due process nor the evidentiary findings required by law at the conclusion of a show cause hearing brought under Title 4 of the Texas Family Code. (See *Sec. 85.001*, Tex. Fam. Code, stating "[a]t the close of a hearing on an application for a protective order, the court shall find whether family violence has occurred.").

Here, no findings were entered, and that remains the case to date. The face of DKT. 19 reveals where the Defendant was ordered to vacate his residency only after a continuance was extended to the parties by the court, to which they agreed. It's important to note that this initial decision was made prior to the acquisition of legal representation by the parties and occurred on the only day in 2024 that the 322<sup>nd</sup> District Court of Tarrant County was publicly announced closed due to inclement weather. See <https://www.facebook.com/p/Tarrant-County-District-Courts-100092554647052/>

This initial decision has proven to be procedurally fatal, as nearly 365 days after the case was filed, it remains adjudicated, unprosecuted, and the case's posture touches on several legal doctrines often used as a bar to federal subject matter jurisdiction that could be of wide interest to the federal courts and provide valuable insights and analysis into how protective orders are being utilized as weapons that undermine judicial integrity rather than provide for genuine protection to the party requesting it. Plaintiff's

### **III. JURISDICTION**

This court should use its discretion and retain jurisdiction over this matter pursuant to 28 U.S.C. § 1331 for the extraordinary circumstances presented and which necessitate federal intervention to address grave constitutional violations under the 14th Amendment. Specifically:

Although the Petitioner's complaint doesn't necessarily raise a federal question on its' face, Defendant argues that her initial pleading was fatally and procedurally defective, which was directly responsible for the deprivation of his fundamental rights prior to adjudication. The petition falsely claimed an active protective order that should have, under Texas Family Code § 6.405(b), statutorily barred any hearing until the order was presented to the court. Notwithstanding the federal guarantee of due process and equal protection that were disregarded, the state courts also failed to abide by its own laws when it disregarded this safeguard.

Moreover, the Defendant doesn't ask this court to review a final state court decision, but rather dissolve a fundamentally and procedurally defective order which was secured by fraud and which was prosecuted by an attorney who is likely unauthorized to do so.

Now, Defendant turns to address common jurisdictional bars to federal jurisdiction that are frequently used.

### **IV. THE YOUNGER ABSTENTION**

In general, the Younger doctrine requires that federal courts decline to exercise jurisdiction over lawsuits "when three conditions are met: (1) the federal proceeding would

interfere with an ‘ongoing state judicial proceeding’; (2) the state has an important interest in regulating the subject matter of the claim; and (3) the [defendant] has ‘an adequate opportunity in the state proceedings to raise constitutional challenges.’” *Bice v. La. Pub. Def. Bd.*, 677 F.3d 712, 716 (5th Cir. 2012) (quoting *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432, (1982)). If these “three prerequisites are satisfied, then a federal court can assert jurisdiction only if ‘certain narrowly delimited exceptions to the abstention doctrine apply.’” *Id.* (quoting *Tex. Ass’n of Bus. v. Earle*, 388 F.3d 515, 519 (5th Cir. 2004)). In the present case, the third prong of the younger abstention doesn’t apply. Defendant has exhausted all state remedies, including administrative remedies, to no avail and without any explanation.

Even if the Defendant did have an adequate forum to vindicate his rights in the State courts, the suit leading to the deprivation of his rights was brought in bad faith by Plaintiff, and if relief is not granted, the extraordinary circumstances of this case will cause further ‘irreparable loss [that] is both great and immediate.’, as each day that these issues remain dormant adds to the irreparable loss caused by the Petitioner’s false claims and the State’s actions based on those claims. See *Gates v. Strain*, 885 F.3d 874, 880 (5th Cir. 2018) (quoting *Younger v. Harris*, 401 U.S. 37, 45, 53-54 (1971)).

#### **V. THE ROOKER-FELDMAN DOCTRINE**

The Supreme Court has repeatedly noted that the Rooker-Feldman doctrine is a narrow jurisdictional bar. *Lance v. Dennis*, 546 U.S. 459, 464 (2006) (per curiam); *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. at 283 (2005). The doctrine is designed to prevent lower federal courts from exercising jurisdiction over matters that are exclusively reserved for Supreme Court review under 28 U.S.C. § 1257. *Lance*, 546 U.S. at 463. Accordingly, this 5<sup>th</sup> Circuit has limited the application of Rooker-Feldman to those cases in which “a party suffered

an adverse final judgment rendered by a state's court of last resort." *Ill. Cent. R. Co. v. Guy*, 682 F.3d 381, 390 (5th Cir. 2012). Because the Defendant is not asking this court to review a final judgement rendered by a state court of last resort, the Rooker-Feldman doctrine should not bar federal jurisdiction over this removal.

The orders in question were rendered as an agreement between the parties. To see the fraud upon the court, one needs to look no further than DKT 92, page 1, as it claims the parties agree to the terms of the order ‘as evidenced by the signatures below’, and that the parties ‘appeared on February 1, 2024, to hear Petitioner’s motion for temporary orders’. However, when looking at the docket sheet, the only appearance made by the Plaintiff in this matter occurred on January 16<sup>th</sup>, 2024, when she was awarded on all issues and Defendant was deprived of those same issues prior to any adjudication taking place. This has left the Defendant seeking relief throughout the State system to no avail to the point where he has exhausted all state remedies to vindicate his constitutionally protected rights.

## **VII. EXHAUSTION OF STATE REMEDIES**

From the outset of the case, Defendant has diligently been pursuing answers regarding the procedural posture of this case. How can both parties agree to a continuance, and only one of those parties be deprived of substantial interests without any findings being entered into the record? How can the Plaintiff file multiple frivolous lawsuits in an effort to damage Defendant, and when that effort comes to fruition, leverage the Defendant’s deprivation against him? When the basis for the settlement is challenged on reconsideration, how can the court refuse to re-visit the initial decision made in the case and order him to sign an agreement he doesn’t consent to? (DKT 78). These questions were presented to the second court of appeals and the Texas Supreme Court, who declined to take the case, necessitating this court’s oversight. The state’s failure to

adjudicate this matter should be unacceptable in the eyes of the law especially given that the Plaintiff has raised no defenses against any claims brought forth against her, nor argued against any relief sought by the Defendant.

### **VIII. UNAUTHORIZED PROSECUTION**

This case also presents a unique situation where the party initially deprived at the onset is the only party actively involved in the litigation. The docket consists wholly of un-opposed motions filed by Defendant, all of which remain unresponded to, including a partial summary judgement filed on February 26<sup>th</sup>, 2024, (DKT 68) and a request for discovery and admissions.

Without any engagement from the opposing party throughout the entire appellate process, the only attempt to prosecute Plaintiff's case has come in the form of a pre-trial conference motion filed on 04/24/2024 which was promptly objected to. (DKT 206, DKT 207). Neither the motion nor the objection to the motion have been addressed by the court.

Furthermore, the Texas Office of the Attorney General attempted to intervene into the matter on June 28<sup>th</sup>, 2024, which was also promptly objected to by the Defendant. (DKT 216, DKT 217). Neither the intervention pleading nor the objection to the intervention pleading has been addressed by the court. The Texas OAG has since stopped pursuing relief and has not participated in any manner outside of their initial intervention pleading.

In total, there have only been two motions filed in this case, but the ambiguity regarding who is representing the Plaintiff remains as the only two pleadings filed were "on behalf of Cooper Carter by Roderick Marx". (DKT 21, DKT 206).

Cooper L. Carter's authorization is still in question and has been pending before the State since September 20<sup>th</sup>, 2024. (DKT 2220. Given that Ms. Carter prepared the current orders which reference a hearing that never occurred, and a motion never served on the Defendant, her

authority is directly relevant to the relief being sought by Defendant given that if her authority cannot be shown, Rule 12 of the Texas Rules of Civil Procedure dictates that the court prohibit counsel from appearing in the cause, and the court must strike the unauthorized pleadings if no person who is authorized to prosecute or defend appears.

### **XI. TIMELINESS OF REMOVAL**

Although timeliness is procedural and not jurisdictional, the Defendant argues that removal is timely pursuant to 28 U.S. Code § 1446(b)(3). The “other paper” making the case removable is the docket sheet itself acquired by Defendant on 11/24/2024 showcasing that no transcript for the recusal hearing exists, which was denied on a technicality despite the parties agreeing to reschedule the case. (DKT 248, DKT 251)

Defendant asserts that the Plaintiff’s attorney will not respond to this removal request. If she does so, it would be the first response in eleven months of litigation.

### **X. CONCLUSION**

Defendant, Charles Dustin Myers, respectfully submits that this case exemplifies the type of extraordinary circumstances requiring federal intervention to prevent further irreparable harm and restore fundamental constitutional protections. The procedural irregularities, fraudulent misrepresentations, and deprivation of Defendant's core constitutional rights have rendered the state proceedings fundamentally unfair and incapable of ensuring justice. The state court's failure to address unopposed motions, correct procedural defects, and enforce its own laws has left Defendant with no adequate remedy at the state level.

Federal oversight is essential to safeguard Defendant’s rights to due process and equal protection under the law, and to restore procedural integrity to the underlying divorce action. By intervening, this Court could address critical constitutional violations, set a precedent for



procedural fairness, and ensure that state courts operate within the bounds of both state and federal law when presiding over matters that involve issues directly related to the litigant's livelihood.

Defendant's business has been destroyed, his relationship with his children has been damaged, and he simply asks of this court to be permitted to the home which he was unjustly discarded from without reason.

#### **XI. PRAYER FOR EXPEDITED RELIEF**

WHEREFORE, Defendant respectfully prays that this Honorable Court:

1. Assume jurisdiction over this case pursuant to 28 U.S.C. § 1331, recognizing the substantial federal questions and extraordinary constitutional violations presented;
2. Declare void the orders issued in this matter, which were procured through procedural defects, fraudulent misrepresentations, and violations of Defendant's fundamental rights under the 14th Amendment;
3. Issue a preliminary injunction:
  - i. Restoring Defendant's right to reside in the marital home to stabilize his living conditions;
  - ii. Restoring Defendant's control over his business to enable financial recovery and stability;
  - iii. Enjoining Plaintiff from engaging in actions that interfere with Defendant's constitutional rights;
4. Remand the case to state court with instructions:
  - i. To proceed fairly and in accordance with federal due process and equal protection guarantees;

5. Grant expedited relief to prevent further irreparable harm to Defendant's rights, property, and ability to care for his children caused by the continued effects of the current unconstitutional 'agreed' orders issued without his consent;
6. Grant any further relief the court deems equitable and just given the circumstances presented herein.

Respectfully submitted,

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
Pro-se Defendant  
6641 Anne Court, Watauga TX, 76148  
817-507-6562  
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## **CERTIFICATE OF SERVICE**

Defendant, CHARLES DUSTIN MYERS, hereby certifies that on 12/02/2024 a true and accurate copy of **the Notice of Removal and Exhibit 1** containing all filed and served pleadings, services, and other papers in this matter was served on the following parties via email and the Texas Supreme Court-approved electronic filing manager (EFM):

**Cooper L. Carter (Counsel for Plaintiff)**

Email: [COOPERCARTER@MAJADMIN@COM](mailto:COOPERCARTER@MAJADMIN@COM)

**Morgan Michelle Myers (Plaintiff)**

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Respectfully submitted,

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