

**02-25-00166-CV**

**MANDAMUS  
VOID ORDER**

**04.15.25**

No.02-25-00166-CV  
**IN THE**  
**SECOND JUDICIAL DISTRICT COURT OF APPEALS**  
**AT FORT WORTH, TEXAS**

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**IN RE: CHARLES DUSTIN MYERS, RELATOR.**

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Petition for Writ of Prohibition  
to the 322<sup>nd</sup> Judicial District Court, Tarrant County  
Cause Number 322-744263-23  
Hon. Jeff Kaitcer Presiding

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**PETITION FOR WRIT OF  
MANDAMUS**

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Respectfully submitted by:

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**Pro-se Relator**

**ORAL ARGUMENT REQUESTED**

**Emergency Relief Requested before 04/24/2025**

## Identity of Parties and Counsel

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***Respondent***

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### **Statement of the Case**

**Nature of Underlying Proceeding:** This original proceeding arises from a family law matter pending in the **322nd District Court of Tarrant County, Texas**, styled *In the Matter of the Marriage of Morgan Michelle Myers and Charles Dustin Myers and in the interest of M.E.M. and C.R.M., two children*. Cause No. 322-744263-23. The underlying case is a **divorce and child custody proceeding** consolidated with a **protective order suit** initiated by the Real Party in Interest, Morgan Myers.

**Respondent Judge:** The Respondent Judge, Honorable Jeff Kaitcer, is the presiding Associate District Judge of the 322nd District Court of Tarrant County, Texas. His office is located at 200 E. Weatherford St. 4th Floor Fort Worth, TX 76196-0227.

**Respondent's Challenged Actions:** Relator seeks relief from the Respondent's entry of Temporary Orders on March 14, 2024, which were rendered as "agreed" orders despite Relator's withdrawal of consent, deviation from the terms of a prior associate judge's report, and in violation of his own directives.

**Statement of Jurisdiction**

This Petition for Writ of Mandamus is filed in the Second Court of Appeals, which has jurisdiction to issue writs of mandamus to Associate Judges within its district. **See Tex. Gov't Code § 22.221(c)(2).** Respondent is the Associate Judge of the 322nd District Court of Tarrant County, which lies within the Second Court of Appeals District. Accordingly, this Court has jurisdiction over this original proceeding.

**Issues Presented**

- A. Whether the trial court clearly abused its discretion by repeatedly failing to apply mandatory procedural safeguards under the Texas Family Code—culminating in temporary orders erroneously rendered as a consent judgment without the consent of both parties, causing ongoing, irreparable harm and thus warranting mandamus relief.
- B. Whether the trial court’s prolonged inaction on critical pending motions, combined with opposing counsel’s failure to prosecute for over eleven months, constitutes a clear abuse of discretion—leaving Relator without an adequate remedy by ordinary appeal, and thus requiring immediate mandamus relief to prevent further harm.

### **Statement of Facts**

“**MR**” in this section refers to the mandamus record.

“**APP**” refers to the relator’s appendix.

“Mother” refers to Real Party in Interest

“Father” refers to the Relator

1. On December 14, 2023, Mother sought an ex-parte order of protection from the 322<sup>nd</sup> district court, which was unsuccessful. **MR. 2.7**
2. On December 15, 2023, Mother withdrew all the finances out of the joint marital PNC bank account, amounting to \$1,576 and traveled to Yukon, Oklahoma.

#### ***MR. 19.4***

3. On December 18, 2023, Mother filed for divorce, and claimed in her petition that an active order of protection existed against Father, waiving the 60-day waiting period. **MR. 2.7**
4. On December 22, 2023, Mother applied for a standard protective order from the 322<sup>nd</sup> District Court, claiming family violence occurred on December 18, 2023. **MR. 3**
5. On January 2, 2024, Father filed a DEFENDANT’S ANSWER to the protective order suit, and raised the affirmative defenses of duress, illegality, and fraud, and claimed mother was abusing the legal process. **MR 4.2**

6. On January 3, 2024, Father filed a MOTION TO CONSOLIDATE explaining the relationship between cause numbers 322-744538-23 and 322-744263-23 **MR. 5.1** with an attached EXHIBIT A - BACKGROUND REPORT FOR CASE CONSOLIDATION explaining the family dynamics and concurrent proceedings and raised allegations against Mother. **MR. 5.5-5.6**

7. On January 16, 2024, the parties appeared and announced not ready at a hearing for Father to show cause why a protective order should not be issued against him, where the District Judge ordered Father to vacate the family residence by 2:30 P.M. that same day, granted a continuance, and consolidated the protective order suit with the earlier filed divorce matter, and the case was reset for January 22, 2024. **MR. 6.1.**

8. At the January 22 setting, Father appeared and announced ready by counsel, Dan Bacalis, and Mother approached COOPER L. CARTER in the lobby of the courtroom minutes before the hearing was set to start at 9:00 A.M. and allegedly retained her and requested continuance to delay the case further until February 1, 2024. **MR. 7.1**

9. At the February 1, 2024, there was no hearing, the parties showed up and discussed settlement in the hallway, and Father's counsel drafted a questionable settlement agreement between the parties. **APP 4.1**

10. Left with no other alternative than to sign, Father paid close attention to the terms of the agreement, which were:

- i. A typed written Order conforming to the report was to follow 20 days from the signing of the agreement.
- ii. The temporary order *shall* be prepared by **DAN BACALIS**.
- iii. Each attorney should approve the order.
- iv. The parties themselves do not need to approve the order.
- v. The attorney reviewing the proposed order shall have 5 days.
- vi. There are no ten-day letters.
- vii. If an agreement is not reached, a Motion to sign *shall* be filed and set thirty days from the signing of the report. **APP. 4.5**

and he signed the agreement. **MR. 4.5**

11. On February 8, 2024, an Agreed Order to Consolidate was issued without Father's signature or knowledge. **APP. 3.2**

12. On February 5, 2024, Father emailed Dan Bacalis and terminated his services for failing to adequately represent his and his children's interests **MR. 10.1** and filed a notice with the court. **MR. 10.2**

13. On February 6, 2024, DAN BACALIS filed an AGREED MOTION FOR WITHDRAWAL OF ATTORNEY, and Father signed it. **MR 10.4, 10.6**

14. On February 8, 2024, Respondent signed an ORDER FOR WITHDRAWAL OF ATTORNEY. **MR 11.2**

15. On February 8, 2024, Respondent filed an EMERGENCY MOTION TO RECONSIDER EVIDENCE AND VACATE TEMP ORDERS. **MR 12, 12.5.**

16. On February 14, 2024, the coordinator requested availability, and the opposing counsel could only be available for March 14, 2024. **MR. 13.2**

17. On February 14, 2024, at 3:55 P.M., the opposing counsel claimed she would be filing a countermotion. **MR. 13.3**

18. On February 27, 2024, a notice of hearing was served to all parties for the setting of March 14, 2024. **MR. 14.6**

19. On March 3, 2024, Father filed a NOTICE AND UNSWORN DECLARATION with the court, stating that he would not be leaving the family home and provided insight into recent developments. **MR. 15.1**

20. On March 6, 2024, Mother illegally locked the Father outside of the family residence. **MR 19.16**

21. On March 14, 2024, the parties attended the hearing, and just moments prior, Father was served Temporary Orders by opposing counsel. **APP. 1**

22. The March 14, 2024, temporary orders claim, “as evidenced by the signatures below all parties agree to the terms of this order.” **APP. 1.1**

23. Father’s signature does not appear on the March 14, 2024, temporary orders. **APP 1.38**

24. On March 14, 2024, Father’s emergency motion was denied, and he was ordered to sign the reduced temporary orders based on the associate judge’s report from February 1, 2024. **APP. 2.1**

25. The March 14, 2024, associate judge's report was written by the opposing counsel, and the judge added "for his business." **MR. 18.1**

26. Father refused to sign either the associate judge's report or the orders because he did not agree to them, and they did not follow their own directive as incorporated in statement of fact #18 **APP 4.5**

27. Father filed a REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW on March 26, 2024. **MR 18**

28. Father spent between April 8, 2024, and October 18, 2024, appealing to the Texas Supreme Court. **MR 1**

29. On September 19, 2024, Father requested discovery from the opposing party, including a request for production and admissions. **MR. 19.11.**

30. The opposition failed to answer the admissions and are now admitted by operation of law. **MR 19.13**

31. Father filed a MOTION TO COMPEL DISCOVERY on January 21, 2025. **MR 19.2**

## **SUMMARY OF THE ARGUMENT**

This mandamus petition runs concurrently with cause number **02-25-00164-CV**, currently at the rehearing stage following a summary denial issued April 11, 2025. Relator seeks immediate relief from facially void temporary orders—issued without consent or required findings—that have deprived him of his home, children, and fundamental due process rights for over a year. Despite clear procedural violations and substantial ongoing harm, the trial court’s prolonged inaction and procedural irregularities have effectively denied Relator any meaningful avenue for relief through ordinary appellate remedies, necessitating this court’s immediate mandamus intervention.

## **ARGUMENT**

### **A. Mandamus Standard**

Mandamus is available when a trial court clearly abuses its discretion or violates a legal duty, and no adequate remedy by appeal exists. See *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). This Court has a duty to intervene when a trial court’s actions cause irreparable harm, particularly when they infringe on constitutional rights or ignore statutory mandates. See *In re Lee*, 411 S.W.3d 445, 454 (Tex. 2013). Such is the case here, as shown below. The argument examines four separate orders which have left Relator significantly prejudiced from the outset and with no explanation provided in the last year of

one-sided, un-opposed litigation. **MR 1** The trial court below has abused its' discretion across four separate settings that produced no valid outcome and ongoing harm.

### **B. Setting #1 January 16, 2024 – “Kick-Out” Order**

The trial court's order dated January 16, 2024, violated critical provisions of the Texas Family Code designed explicitly to protect fundamental due process rights in family law matters. Specifically, the order disregarded mandated findings required under Texas Family Code § 85.001 before a party can be excluded from their residence. To lawfully exclude Mr. Myers, the court was required to find from credible evidence that the applicant resided on the premises within the preceding 30 days, that Mr. Myers committed family violence within the same timeframe, and that a clear and present danger of continued family violence existed absent his exclusion. None of these essential statutory conditions were met, as the hearing was continued and consolidated, but never substantively heard **APP 6.1**.

Moreover, the January 16 exclusion order flagrantly violated procedural requirements for temporary orders in suits affecting the parent-child relationship (SAPCR) under Texas Family Code § 105.001. **APP 8.1** Mr. Myers's exclusion from his home effectively severed access to his children without any evidence or testimony presented, and without the requisite evidentiary hearing being held. Such action directly breached §105.001(b), which prohibits

related to temporary conservatorship without first providing notice and holding an evidentiary hearing. **APP 8.1**

Additionally, this order egregiously contravened fundamental due process protections under both the United States and Texas Constitutions. By forcibly removing Mr. Myers from his home and separating him from his children without affording any meaningful opportunity for notice, hearing, or objection, the trial court infringed upon his fundamental liberty interests recognized under the Fourteenth Amendment to the U.S. Constitution and Article I, §19 of the Texas Constitution. **APP 13** Both provisions unequivocally guarantee protection from arbitrary deprivation of life, liberty, or property without due process of law, mandating at a minimum adequate notice and a meaningful opportunity to be heard before any severe deprivation occurs (*Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)).

In sum, the January 16, 2024, order initiated a chain of events resulting in the unlawful disruption of a fit parent's relationship with his children, inflicted ongoing harm upon Mr. Myers's at-home business operations, and clearly undermined the explicit statutory mandate prioritizing the child's best interests in conservatorship and possession matters (Texas Family Code § 153.002). This improper order set a detrimental course, being subsequently reset on January 22, 2024, without rectifying these foundational legal defects.

### C. Setting #2 - January 22, 2024 - Extension

The due process violations compounded at the January 22, 2024, setting.

Relator appeared ready for the rescheduled hearing, prepared to finally confront the allegations. The opposing party, however, thwarted any hearing by engaging new counsel at the courtroom door moments before the start and requesting a continuance, which was granted without a motion. **MR. 7.1**

Over Relator’s objection, the trial court granted the continuance – again without any evidence or affidavit showing good cause, in contravention of Tex. R. Civ. P. 251 (which permits continuances only for sufficient cause supported by affidavit or with consent). Here, the “temporary” order ousting Relator – already issued without basis – was prolonged with no procedural safeguards. The court’s indulgence of the opposing party’s delay tactics deprived Relator of any prompt post-deprivation hearing to which he was entitled. Relator remained out of his home and apart from his children under an unauthorized extension of an already unlawful order. **APP 5.1** This Court should not countenance such end-runs around due process. When a parent has been deprived of fundamental rights, the onus is on the trial court to hold a prompt, lawful hearing – not to repeatedly delay and extend the deprivation. The trial court’s actions on January 16 and 22 reflect a complete collapse of the procedural safeguards that protect litigants; mandamus is warranted

to address this egregious scenario where ordinary process failed. Yet, the case reset once more for February 1, 2024. **APP 5.1**

#### **D. Setting #3 - February 1, 2024 – “Settlement”**

By February 1, 2024, the case had been set for hearing after two delays. On this date, instead of conducting a contested evidentiary hearing on the pending matters, Mr. Myers’s counsel presented him with a purported “**settlement**” **agreement.** **APP 4.1** This agreement – which Mr. Myers felt pressured to accept – **granted primary custody of the children to Morgan Myers** and imposed continued restrictions on Mr. Myers’s access and rights, closely mirroring the very conditions initially imposed by the illegal kick-out order. **MR 8.1-8.3** In essence, although the allegation of family violence had **collapsed** by this time, the resulting temporary orders on February 1 still treated Mr. Myers as if he were a proven abuser. In fact, as part of the settlement offer, Mrs. Myers **non-suited** the protective order suit **APP 4.3**, effectively escaping her burden of proof, and leaving the father significantly prejudiced.

Mr. Myers signed the agreement under duress, an affirmative he raised in his defendant’s answer, **MR. 4.2** and because he paid close attention to the requirements outlined in statement of fact #18. What’s important to note here is that both the January 22<sup>nd</sup>, 2024 and February 1<sup>st</sup>, 2024 reports were prepared by counsel, *not* the Respondent judge. An examination of **APP 2** reveals the

Respondent's handwriting on the bottom portion of the page, and the opposing counsel's handwriting on the top part of the page, while **APP 4** is the handwriting of Mr. Myers' prior counsel, Dan Bacalis.

Notably, that same day, Mr. Myers's counsel signed an "Agreed Order of Consolidation." **APP 3.2** As the docket reflects, Mr. Myers himself had filed a Motion to Consolidate on Jan. 2, 2024, seeking to consolidate the related cases so that all issues could be heard together with a background report. **MR. 1.1 (DKT 9)**, **MR. 5.1** The court never ruled on Mr. Myers's motion in a proper manner. Instead, on Feb. 1, the court had the parties sign an agreed consolidation order – after the fact of the court's own *sua sponte* consolidation on Jan. 16, **APP 6.1** and without Mr. Myers' involvement.

This procedural maneuver effectively **papered over** the court's earlier irregular consolidation, proving further that Mr. Myers' attorney was inadequate. It also meant that Mr. Myers's evidence and arguments in support of consolidation – particularly the factual background report debunking Morgan's claims **MR 5.4** – were never formally addressed – something his attorney should have seen on the docket but chose to ignore outright. **MR 1.2**

By consolidating the cases without acknowledging Mr. Myers's filings, the court again sidelined Mr. Myers's opportunity to put his evidence on record. The agreed consolidation order that Mr. Bacalis signed did not cure the due process

problem; it merely merged the dockets while leaving Mr. Myers's substantive defenses unheard and lacks Mr. Myers signature. In fact, it appears as if everyone was involved *except* Charles, as his signature is the only one missing. **APP 3.2**

Indeed, this missing signature was a foreshadowing of what was to come, and Mr. Myers was faced with one month of time to figure out this situation, and began strategizing to advocate on behalf of his children's best interests—beginning with the termination of his attorney on February 5, 2024.

#### E. Termination of Counsel

Given Mr. Myers' attorney failing to represent his interests adequately, he was terminated on February 5, 2024, **MR 10.1** a notice was filed with the court, **MR 10.2**, and an AGREED MOTION FOR WITHDRAWAL OF ATTORNEY followed. **MR 10** The order was signed by the Associate Judge on February 8, 2024. **APP 11.1**

That same day, father prepared an emergency motion to challenge the basis for the entire proceedings and expose Mrs. Myers deliberate misuse of the legal system and destruction of the status quo. **MR 12.1** This motion provided insights into the *nature of the suits* brought against Mr. Myers, **MR 12.6** the *frivolous claims and false statements made against him* **MR 12.8**, gave the court insights into how the protective order hearings were handled improperly, **MR 12.10**, and after conferring with counsel about available dates, March 14<sup>th</sup> was chosen to hold

a hearing on the matter, and opposing counsel claimed she would be filing a counter motion, which never came. **MR 13.3**

It's important to note that the claims raised against Mrs. Myers are now, in part, admitted by default pursuant to Tex. R. Civ. P. 198, including the claims that: 1) she transferred \$1,576 to herself on December 15, 2023, using a third party family member to effectuate the transfer, and that she illegally locked Mr. Myers out of the family home on March 6, 2024. **MR 19.13**

In other words, the Relator gave notice that he was reasserting his right to his residence absent a valid court order to the contrary, and that it was in the best interests of his children. In retaliation, on March 6, 2024, **the Real Party unilaterally locked the Relator out of his own house**. This extrajudicial “self-help” occurred while Relator’s emergency motion was still pending undecided. The trial court again failed to intervene or provide any immediate remedy. By the time the March 14 hearing arrived, the Relator had been effectively kept from his home and children for nearly two weeks, once again grounded in illegality. Such **irreparable harm to a parent’s rights** and the unjustified severance of bonds between the parent-child relationship without adjudication is precisely the kind of situation mandamus is designed to address. The family code’s paramount concern – the children’s best interest (Tex. Fam. Code § 153.002) – was ill-served by this protracted, lawless limbo. Rather than stability or a thoughtful interim

arrangement, the children were subjected to a legal free-for-all, with one parent ousted and silenced without any findings of fact. The trial court's indifference to Relator's emergency pleas and the Real Party's self-help enforcement demonstrates an abdication of judicial responsibility warranting mandamus.

#### **F. Setting #4 – The March 14 proceedings**

The climax of this procedural saga came on March 14, 2024. On that day, the court was finally set to hear Relator's Emergency Motion (and other pending motions). Instead of a fair hearing, Relator was ambushed with a set of "Agreed Temporary Orders" moments before the proceeding. **APP 1** Opposing counsel handed Relator a draft order purporting to memorialize the Feb. 1 settlement – but the terms diverged from what Relator had understood and never bore his signature or approval.

On page 1, the orders claim that the court heard a motion that was never set for hearing **APP 1.1**, and misrepresent the February 1<sup>st</sup>, 2024, setting. There was no hearing on February 1<sup>st</sup>, 2024, as it was the second reset given the prior continuance granted by the Respondent on January 22, 2024. In fact, Real Party only made one appearance in the entire case throughout four settings, and the Relator made two appearances. **MR. 1** Just a cursory review of the docket sheet itself shows the glaring procedural abnormalities that should at the very least warrant investigation by this court.

The initial terms stated that Mr. Myers would remain in the home until March 1, 2024, yet on the orders handed to him, the dates changed, allowing Mr. Myers in the home until March 20, 2024, and Mrs. Myers to takeover on March 30, 2024. **APP 1.28** This left a **10-day window** where the children would have been homeless and **extended** Mr. Myers' time in the home which he had just been locked out of on March 6, 2024, by Mrs. Myers.

The “hearing” was not meaningful in any way, as it resulted in the summary denial of Mr. Myers’ motion despite no response being given. This associate judge’s report containing the denial was prepared by the opposing counsel and was prepared *prior* to the start of the hearing. It can clearly be seen that the Associate Judge penciled in “*for his business*” on the order that was otherwise prepared by the opposing counsel. On line three, counsel for Mrs. Myers wrote “it is ordered that the parties shall present the temporary orders regarding the associate judge’s report signed 2/1/2024 by 1:30 PM today.” **APP 2.1**

Now, if we defer back to the referenced agreement, it had stipulations set forth by the same judge. When taking those requirements, the clear abuse of discretion becomes apparent:

1. The typed written order was prepared 30 business days after the date the report was signed, or 42 calendar days.
2. The report was **not prepared** by Dan Bacalis.

3. Only opposing counsel for Mrs. Myers approved the order.
4. Provision 4 was technically followed.
5. The attorney reviewing the order was the same attorney who prepared it.
6. No agreement was reached, and no motion to sign was ever filed. **APP**

### **1.38**

Mr. Myers then requested findings of fact and conclusions of law on March 26, 2024, and of course, no findings were ever issued because no facts were ever established outside of Mr. Myers' pleadings which remain ignored. **MR. 18**

Without a court reporter present at the March 14 proceeding, the only way for Mr. Myers to object to these orders was to not sign them despite the judge's order. This was not done by Mr. Myers out of disrespect but was done to protect his rights that have been continuously violated up to this point. **APP. 1.38**

### **G. The aftermath – silence from April 2024 until March 2025**

After the March 14 setting, the remainder of the docket shows a one-sided attempt to seek relief, including before this court. Mr. Myers filed a Petition for Writ of Mandamus in this court on April 8, 2024, and was denied *per curiam* all the way up through the Supreme Court.

After denied being heard at the top level, Mr. Myers continued to strategize to try and correct this life-altering situation that has left him in between houses and with significant business losses. *See MR 1.* He now returns to this court in the

same position as before, with one year of wasted time and no answers provided since. Instigating recusal proceedings and federal removal were merely steps in the relief process as Mr. Myers has no adequate remedy by an appeal.

The only key events relevant to this mandamus after the March 14 proceedings occurred on September 17, 2024, Mr. Myers requested discovery from the opposing party, and received no response, leading to a motion to compel discovery being filed on November 15, 2024. **MR 19.1**

Since January 16, 2024, Mr. Myers has received only *per curiam* denials and now has two concurrent mandamus petitions before this court. The instant matter, and the related matter of No. 02-25-00164-CV, which currently sits at the rehearing stage, tell the full story of what has happened below when put together minus the administrative remedies pursued between October and December of 2024.

Mr. Myers now faces imminent homelessness, has had his relationship with his children significantly damaged, and his business that both Mrs. Myers and the children have relied on for financial stability has been dismantled.

While the motive of Mrs. Myers and the true nature of her conduct may not be adjudicated to the merits here, it is important that this court step in, and declare the March 14, 2024, temporary orders for what they are: ***void ab initio***. Only then can the true nature of Mrs. Myers actions be revealed to the court outside what she has already admitted by default for failing to answer requested admissions in a

timely manner, which falls on the lack of prosecution exhibited by her legal representative, who has made no effort to participate in these proceedings.

The constitutional dimension of this travesty cannot be overstated: fit parents have a fundamental liberty interest in the care, custody, and control of their children (*Troxel v. Granville*, 530 U.S. 57, 65 (2000); *In re C.J.C.*, 603 S.W.3d 804, 807 (Tex. 2020)). The law presumes that fit parents act in their child's best interests and the State may not infringe on parental rights "simply because a judge believes a 'better decision' could be made". *Id.* Yet Relator – an indisputably fit father with no findings against him – has been treated worse than an unfit parent: stripped of custody and even access to his children with no lawful basis. The March 14 orders epitomize the trial court's disregard for Relator's fundamental rights and the governing law.

The orders here were plainly rendered as consent orders despite the undeniable absence of Relator's genuine consent. Texas precedent firmly establishes that a court may not render a valid consent judgment unless consent exists at the very moment the court enters its judgment (*Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951)). Where, as here, consent was explicitly withdrawn and demonstrably coerced, the resulting orders are not merely voidable—they are void ab initio, representing an outright nullity under Texas law.

## **PRAYER**

Without any evidence, testimony, or action by the opposing party, this case relies on the pleadings and procedure. Nobody opposes the relief sought here. Nobody argues with the points made here. The Court now stands at a critical juncture where its action—or inaction—will determine whether justice remains accessible to those who have been systematically denied it. Mr. Myers has exhausted every available legal avenue, meticulously following Texas law while being met with procedural roadblocks, judicial indifference, and per curiam denials that offer no explanation or remedy.

The extraordinary circumstances of this case cry out for the extraordinary remedy of mandamus. From January 16, 2024, onward, the children went from having both parents in their daily lives to *neither* parent in their daily lives. At every turn – the normal safeguards of our legal system failed, leaving Relator with no adequate remedy except this Court’s intervention. Texas law does not permit a parent’s fundamental rights to be stripped away on an improvised, evidence-free basis, yet that is exactly what happened here. Relator’s relationship with his children hangs in the balance, and each day of unwarranted separation is harm that cannot be undone to his business and livelihood.

A per curiam denial here will only result in the continuation of Mr. Myers’ perpetual journey for justice.

WHEREFORE, all promises considered, Relator respectfully prays that this court immediately:

1. Issue a writ of mandamus directing the trial court to vacate the March 14, 2024, “Agreed Temporary Orders,” which are void under *Burman*; See **APP 1.11**
2. Alternatively, issue a reasoned, written opinion to ensure meaningful appellate review, as required by fundamental fairness and the rule of law given the time this matter has been pending;
3. Issue any further relief that justice may require given the extraordinary circumstances presented herein, in both equity, efficiency, or in any other manner the court deems just and right;

Respectfully submitted,

/s/ Charles Dustin Myers  
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PRO-SE RELATOR

**Certification (TRAP 52.3(j))**

Relator, Charles Dustin Myers, certifies that he has reviewed this petition and concluded that every factual statement in the petition is supported by competent evidence included in the appendix or record.

*/s/ Charles Dustin Myers*  
CHARLES DUSTIN MYERS  


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PRO-SE RELATOR

**Certificate of Compliance (TRAP 9.4(i)(3))**

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), Relator certifies that this document contains **4227 words**.

*/s/ Charles Dustin Myers*  
CHARLES DUSTIN MYERS  


817-546-3693  
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PRO-SE RELATOR

**CERTIFICATE OF SERVICE**

Relator certifies that on April 14, 2025, a true and correct copy of the foregoing Petition for Writ of Mandamus was served on all parties and counsel of record as follows:

**Respondent**

Hon. Jeff Kaitcer  
Associate Judge, 322nd District  
Court Tarrant County Family Law  
Center 200 E. Weatherford St. 4th  
Floor Fort Worth, TX 76196  
817-884-1888

Via electronic submission to the court coordinator

Via email: [LKBaker@tarrantcountytexas.gov](mailto:LKBaker@tarrantcountytexas.gov)

**Real Party In Interest**

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TEXAS O.A.G.

No. \_\_\_\_\_ -CV

IN THE  
SECOND JUDICIAL DISTRICT COURT OF APPEALS  
AT FORT WORTH, TEXAS

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**IN RE: CHARLES DUSTIN MYERS, RELATOR.**

---

Petition for Writ of Mandamus  
to the 322<sup>nd</sup> Judicial District Court, Tarrant County  
Cause Number 322-744263-23  
Hon. Jeff Kaitcer Presiding

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**RELATOR'S APPENDIX**

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Respectfully submitted by:

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

[REDACTED]  
[REDACTED]  
**Pro-se Relator**

**EMERGENCY RELIEF REQUESTED**

<b>ITEM</b>	<b>NAME</b>
TAB1 .....	TEMPORARY ORDERS SIGNED 03.14.24
TAB 2 .....	ASSOCIATE JUDGE'S REPORT 03.14.24
TAB 3 .....	ASSOCIATE JUDGE'S REPORT 02.01.24
TAB 4 .....	AGREED ORDER TO CONSOLIDATE 02.01.24
TAB 5 .....	ASSOCIATE JUDGE'S REPORT 01.22.24
TAB 6 .....	DISTRICT JUDGE'S RENDITION 01.16.24
TAB 7 .....	TEX. FAM. CODE § 85.001(a)
TAB 8 .....	TEX. FAM. CODE § 105.003(b)
TAB 9 .....	TEX. FAM. CODE § 153.002
TAB 10 .....	TEX. R. CIV. P. § 198
TAB 11 .....	TEX. R. CIV. P. § 251
TAB 12 .....	TEX. CONST. ART. 1, § 19
TAB 13 .....	U.S. CONST. AMEND. XIV, § 1

## TAB 7

TEX. FAM. CODE  
§ 85.001(a)

**Texas Family Code § 85.001 - Required Findings and Orders****FAMILY CODE**

TITLE 4. PROTECTIVE ORDERS AND FAMILY VIOLENCE

SUBTITLE B. PROTECTIVE ORDERS

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

SUBCHAPTER A. FINDINGS AND ORDERS

**Sec. 85.001. REQUIRED FINDINGS AND ORDERS.**

(a) At the close of a hearing on an application for a protective order, the court shall find whether family violence has occurred.

(b) If the court finds that family violence has occurred, the court:

(1) shall render a protective order as provided by Section 85.022 applying only to a person found to have committed family violence; and

(2) may render a protective order as provided by Section 85.021 applying to both parties that is in the best interest of the person protected by the order or member of the family or household of the person protected by the order.

(c) A protective order that requires the first applicant to do or refrain from doing an act under Section 85.022 shall include a finding that the first applicant has committed family violence.

(d) If the court renders a protective order for a period of more than two years, the court must include in the order a finding described by Section 85.025(a-1).

**Amendment History**

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by Acts 2001, 77th Leg., ch. 91, Sec. 6, eff. Sept. 1, 2001.

Amended by:

- Acts 2011, 82nd Leg., R.S., Ch. 627 (S.B. 789), Sec. 1, eff. September 1, 2011.

**Texas Family Code § 85.001 - Required Findings and Orders**

- Acts 2023, 88th Leg., R.S., Ch. 688 (H.B. 1432), Sec. 3, eff. September 1, 2023.

## TAB 8

TEX. FAM. CODE  
§ 105.003(b)

**Texas Family Code - Section 105.001****Texas Family Code - Section 105.001****FAMILY CODE**

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

**SUBTITLE A. GENERAL PROVISIONS****CHAPTER 105. SETTINGS, HEARINGS, AND ORDERS****Sec. 105.001. TEMPORARY ORDERS BEFORE FINAL ORDER.**

(a) In a suit, the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child, including an order:

- (1) for the temporary conservatorship of the child;
- (2) for the temporary support of the child;
- (3) restraining a party from disturbing the peace of the child or another party;
- (4) prohibiting a person from removing the child beyond a geographical area identified by the court; or
- (5) for payment of reasonable attorney's fees and expenses.

(a-1) If the court on its own motion refers to mediation a suit in which an initial hearing regarding the rendition of a temporary order described by Subsection (a) has not yet occurred, the court may not postpone the hearing to a date that is later than the 30th day after the date set for the hearing.

**Texas Family Code - Section 105.001**

(b) Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. Except as provided by Subsection (h), an order may not be rendered under Subsection (a)(1), (2), or (5) except after notice and a hearing. A temporary restraining order or temporary injunction granted under this section need not:

- (1) define the injury or state why it is irreparable;
- (2) state why the order was granted without notice; or
- (3) include an order setting the cause for trial on the merits with respect to the ultimate relief requested.

(c) Except on a verified pleading or an affidavit in accordance with the Texas Rules of Civil Procedure, an order may not be rendered:

- (1) attaching the body of the child;
- (2) taking the child into the possession of the court or of a person designated by the court; or
- (3) excluding a parent from possession of or access to a child.

(d) In a suit, the court may dispense with the necessity of a bond in connection with temporary orders on behalf of the child.

(e) Temporary orders rendered under this section are not subject to interlocutory appeal.

(f) The violation of a temporary restraining order, temporary injunction, or other temporary order rendered under this section is punishable by contempt and the order is subject to and enforceable

**Texas Family Code - Section 105.001**

under Chapter 157.

(g) The rebuttable presumptions established in favor of the application of the guidelines for a child support order and for the standard possession order under Chapters 153 and 154 apply to temporary orders. The presumptions do not limit the authority of the court to render other temporary orders.

(h) An order under Subsection (a)(1) may be rendered without notice and an adversary hearing if the order is an emergency order sought by a governmental entity under Chapter 262.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1997, 75th Leg., ch. 575, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1390, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1036, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 509 (H.B. 2671), Sec. 2, eff. September 1, 2023.

## TAB 9

# TEX. FAM. CODE § 153.002

**Texas Family Code - FAM § 153.002.**  
**Best Interest of Child**  
**Current as of January 01, 2024 |**  
**[Updated by FindLaw Staff](#)**

**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.**

TAB 10

TEX R. CIV. P. § 198

**Texas Rules of Civil Procedure****Rule 198: Requests for Admissions****RULE 198. REQUESTS FOR ADMISSIONS****198.1 Request for Admissions.**

A party may serve on another party-no later than 30 days before the end of the discovery period-written requests that the other party admit the truth of any matter within the scope of discovery, including statements of opinion or of fact or of the application of law to fact, or the genuineness of any documents served with the request or otherwise made available for inspection and copying. Each matter for which an admission is requested must be stated separately.

**198.2 Response to Requests for Admissions.****(a) Time for Response.**

The responding party must serve a written response on the requesting party within 30 days after service of the request, except that a defendant in a suit governed by the Family Code served with a request before the defendant's answer is due need not respond until 50 days after service of the request.

**(b) Content of Response.**

Unless the responding party states an objection or asserts a privilege, the responding party must specifically admit or deny the request or explain in detail the reasons that the responding party cannot admit or deny the request. A response must fairly meet the substance of the request. The responding party may qualify an answer, or deny a request in part, only when good faith requires. Lack of information or knowledge is not a proper response unless the responding party states that a reasonable inquiry was made but that the information known or easily obtainable is insufficient to enable the responding party to admit or deny. An assertion that the request presents an issue for trial is not a proper response.

**(c) Effect of Failure to Respond.**

If a response is not timely served, the request is considered admitted without the necessity of a court order.

## TAB 11

TEX R. CIV. P. § 251

**Texas Rules of Civil Procedure****Rule 251: Continuance****RULE 251. CONTINUANCE**

No application for a continuance shall be heard before the defendant files his defense, nor shall any continuance be granted except for sufficient cause supported by affidavit, or by consent of the parties, or by operation of law.

## TAB 12

Tex. Const. Art. 1, § 19

**Texas Constitution - Article 1, Section 19****Texas Constitution - Article 1, Section 19**

Texas Constitution, Article 1, Section 19:

No citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

## TAB 13

U.S. Const. amend. XIV, § 1

**U.S. Constitution - Amendment XIV, Section 1****U.S. Constitution - Amendment XIV, Section 1**

U.S. Constitution, Amendment XIV, Section 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**CERTIFICATE OF SERVICE**

Relator certifies that on April 14, 2025, a true and correct copy of the foregoing RELATOR'S APPENDIX was served on all parties and counsel of record as follows:

**Respondent**

Hon. Jeff Kaitcer  
Associate Judge, 322nd District  
Court Tarrant County Family Law  
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Via electronic submission to the court coordinator

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**Real Party In Interest**

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TEXAS O.A.G.

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Filing Description: IFP Statement

Status as of 4/14/2025 9:06 AM CST

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