



**233-765358-25**

**EMERGENCY EX-PARTE  
MOTION TO DECLARE  
JUDGMENT VOID AB  
INITIO AND FOR  
IMMEDIATE RE-ENTRY**

**03.20.25**

233-765358-25

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NO. 233-765358-25

IN THE 233<sup>RD</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS**IN RE: M.E.M., C.R.M.,****\*\*CHARLES DUSTIN MYERS, \*\***

Petitioner,

Vs.

**MORGAN MICHELLE MYERS,**

Respondent.

EMERGENCY EX-PARTE MOTION TO  
DECLARE JUDGMENT VOID AB INITIO  
AND FOR IMMEDIATE RE-ENTRY

2025-03-20

**TO THE HONORABLE JUDGE OF THE 233<sup>RD</sup> DISTRICT COURT:**

1. For the preceding twelve months and fourteen days, Petitioner has been unlawfully Barred from entering his residence and has been cut out of his children's lives. On March 6<sup>th</sup>, 2024, while walking M.E.M and C.R.M. to school, Respondent unlawfully locked the Petitioner out of the matrimonial home and called the Watauga police department who came to assist in the dispute. When on scene at [REDACTED], Respondent produced an agreed associate judge's report where consent had been withdrawn and used it as a means to bar the Petitioner's entry to the home. With an emergency hearing date set for March 14<sup>th</sup>, 2024, the Petitioner took the advice of the officers and stayed with his father temporarily in Flower Mound, Texas to avoid unnecessary conflict.

2. On March 14<sup>th</sup>, 2024, the Petitioner appeared in person and was served a reduced copy of the orders he was in court to challenge and from which he withdrew his consent from. Despite

this, the orders were rendered anyway, effectively barring the Petitioner from his own home and Children's lives despite his consent not being present at the time of rendition.

3. The orders in question, attached hereto as **EXHIBIT 1**, are facially void and lack legal effect. Despite this, they continue to cause ongoing and irreparable harm, as further detailed below. Accordingly, Petitioner respectfully requests that this Court issue a declaratory judgment formally recognizing the invalidity of these orders which will simultaneously provide long-overdue relief to the children in this matter. In support of this request, the Petitioner shows as follows:

### **I. STATEMENT OF FACTS**

4. On page 1 of the orders, they read as follows: "*The parties have agreed to the terms of this order as evidenced by the signatures below.*"

5. On the final page of the orders, the signatures of CHARLES DUSTIN MYERS and his previous attorney, DAN BACALIS, are not present on the document.

6. The Petitioner refused to sign the orders to which he did not consent to on March 14<sup>th</sup>, 2024.

7. The orders were rendered on March 26<sup>th</sup>, 2024, as an agreement between the parties despite consent not being present at the time of rendition.

8. The orders are void ab initio and have no legal effect.

### **II. ARGUMENT**

#### **A. An "Agreed" Order Without Actual Consent is Void Ab Initio**

9. Texas law is unequivocal that a judgment purporting to rest on an agreement of the parties cannot be rendered or enforced if one of the parties did not genuinely consent at the time of rendition. The consent of all parties at the time the court renders judgment is a prerequisite for

a valid agreed order. As the Texas Supreme Court has stated, **a trial court cannot render a valid agreed judgment absent the consent of the parties at the time it is rendered**, and the agreement can be revoked at any time before judgment is rendered on the agreement. *S & A Restaurant Corp. v. Leal*, 892 S.W.2d 855, 857 (Tex.1995). This is so because a trial court cannot render a valid agreed judgment absent the consent of the parties at the time it is rendered. *Padilla v. LaFrance*, 907 S.W.2d 454, 461 (Tex.1995).

10. In *S&A Restaurant Corp. v. Leal*, the Court reaffirmed that a party may revoke consent to a settlement at any time before judgment is rendered, and if a court nonetheless signs a judgment after consent has been revoked, “a judgment rendered after one party revokes his consent is **void**.” This rule reflects a fundamental principle: **true consent** is the linchpin of any agreed order.

11. Here, Petitioner never consented to the order at the time they were entered. Indeed, his missing signature is a prima facie showing of this fact. Under these circumstances, it was **error for the Court to sign the order as an “agreed” judgment**, and the result is that the order is void ab initio. The Texas Supreme Court’s decision in *Quintero v. Jim Walter Homes, Inc.*, 654 S.W.2d 442 (Tex. 1983) is directly on point. In *Quintero*, the Court held that when a trial court has knowledge that one party does not consent to a judgment, the court “**should refuse to sanction [the] agreement by making it the judgment of the court.**” *Id.* By entering an order in the absence of Petitioner’s consent, the agreed judgment in this case was not just voidable—it is **absolutely void from inception**. In legal effect, there never was a valid temporary order at all, because the requisite meeting of the minds was absent.

12. Texas courts of appeals have applied these principles in situations analogous to Petitioner’s, particularly in family law cases. For example, in *In re E.B.*, No. 12-17-00214-CV

(Tex. App.—Tyler Oct. 18, 2017), the trial court had entered temporary orders incorporating a Rule 11 settlement agreement regarding conservatorship and possession of children. The father, however, had timely revoked his consent to that agreement. The Tyler Court of Appeals held that because the father withdrew consent before judgment, the agreed terms regarding conservatorship and possession were **void**. The appellate court unequivocally stated that the provisions of the temporary orders involving the children “**are void, and the trial court abused its discretion in entering temporary orders based on the [purported] Agreement.**” The court conditionally granted mandamus and directed the trial judge to vacate those portions of the temporary order.

**B. A Void Judgment is a Nullity and Can Be Challenged or Vacated at Any Time**

13. Because the temporary orders were entered without jurisdiction (i.e. without consent jurisdiction conferred by the parties’ agreement), the resulting “agreed” order is void. Under Texas law, a void judgment or order has no legal force or effect from the outset. It is “null” ab initio, and any person or court affected by it is entitled to treat it as a nullity. The Texas Supreme Court has explained that a void order is, in effect, no order at all: “[A] void judgment is a legal nullity . . . .” *Alanis v. Barclays Capital Real Estate Inc.*, No. 04-17-00069-CV (Tex. App. Mar. 27, 2017).

14. Such a judgment may be collaterally attacked and set aside at any time, as it is not subject to ordinary procedural bars. **Browning v. Placke**, 698 S.W.2d 362 (Tex. 1985) (per curiam), is instructive on this point. In *Browning*, the Supreme Court recognized that courts of equal jurisdiction have the authority to declare a judgment void when it suffers from a fundamental defect (such as lack of jurisdiction or lack of consent). Here, this is a direct fit with the present situation.

**C. Respondent's most recent attempt to subvert the process**

15. On March 20<sup>th</sup>, 2025, Respondent filed an original answer and motion to consolidate through COOPER L. CARTER, which was prepared by RODERICK MARX. These filings are a direct showing of the Respondent's game. She remains silent for months, and then at the first sign of her false narrative being under attack, she unleashes her attorney to file pleadings using the EFM Credentials of another individual not named in the suit – Roderick Marx – to prevent the relief duly entitled to Petitioner.

16. Petitioner reminds this court that Respondent's answer is clearly a boilerplate response template that doesn't even address the core issues raised in the SAPCR. The first lines of the Response claim that Respondent has no driver's license or social security number, which shows the rushed nature of her pleading in an attempt to defend the Respondent's false narrative she has procured through fraud.

17. Petitioner also points out that the Respondent wants to consolidate this matter with the divorce matter that is procedurally defunct, which would not be in the best interests of the children because it would move the matter back to the procedurally stalled case that hasn't been prosecuted by the same attorney who is requesting consolidation. Such would defeat the entire purpose of this suit, and would cause undue delay and prejudice the children and Petitioner.

**D. Request for immediate re-entry.**

18. Given the orders in question are facially void, Petitioner requests an immediate notice to be filed and served on the parties of record so that he may return home to his children, residence, and place of business until this matter can be set for a hearing. Petitioner's unlawful exclusion from his residence creates further harm to the children each day it is left unaddressed.

19. Petitioner reiterates that his immediate return is in line with Texas Public Policy, nobody has argued against his relief sought, and this court has the discretion to issue temporary orders and dispense without the necessity of a bond or verified pleading pursuant to TEX. FAM. CODE. 105.001.

20. Preventing a father from accessing his home which is needed for financial stability will continue to cause monetary and emotional damage to the children until resolved.

**PRAYER FOR EXPEDITED RELIEF**

**WHEREFORE, promises considered,** Petitioner respectfully request of this court without delay:

1. To declare the orders attached as Exhibit 1 *void ab initio* and issue findings permitting the Petitioner to return home to [REDACTED] [REDACTED] immediately for the orders lacking consent of all parties at the time of rendition and for not bearing the Petitioner's signature.
2. To serve on all parties of record confirmation that the orders are without legal effect.
3. Enforce the Texas Rules of Civil Procedure and prevent Cooper L. Carter from representing the Respondent in this matter until she can conform to electronic filing requirements and strike her pleadings outright.
4. Any further relief that the court deems just and equitable.
5. Given the extraordinary circumstances, set this motion for hearing at the earliest possible time, to be conducted via zoom if possible for judicial efficiency given the Petitioner's financial strain caused by this situation.

Respectfully submitted,

*/s/ Charles Dustin Myers*

CHARLES DUSTIN MYERS

[REDACTED]

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

PRO-SE

CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that this EMERGENCY EX-PARTE MOTION TO DECLARE JUDGMENT VOID AB INITIO AND FOR IMMEDIATE RE-ENTRY has been filed with the electronic filing manager and served on the parties of record on this 20<sup>th</sup> day of March 2025, including:

MORGAN MICHELLE MYERS, RESPONDENT

Via her email registered under the EFM: [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

*/s/ Charles Dustin Myers*

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

[REDACTED]

PRO-SE



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Filing Code Description: No Fee Documents  
Filing Description:  
Status as of 3/27/2024 7:40 AM CST

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		morganmw02@gmail.com	3/26/2024 3:19:25 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	3/26/2024 3:19:25 PM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Bacalis		service@dbacalis.com	3/26/2024 3:19:25 PM	SENT
Tammy L.Johnson		tjohnson@dbacalis.com	3/26/2024 3:19:25 PM	SENT
Daniel R.Bacalis		dbacalis@dbacalis.com	3/26/2024 3:19:25 PM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	3/26/2024 3:19:25 PM	SENT