

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN RE: M.E.M., ET AL.

****CHARLES DUSTIN MYERS, ****

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

PETITIONER'S RULE 12 MOTION TO
SHOW AUTHORITY

2025-03-21

TO THE HONORABLE JUDGE OF THE 233RD DISTRICT COURT:

COMES NOW, CHARLES DUSTIN MYERS, Petitioner pro se, and files this Rule 12 Motion to Show Authority pursuant to Texas Rule of Civil Procedure 12, and respectfully shows the Court as follows:

1. There is a general presumption that an attorney is acting with authority; however, that presumption is rebuttable. *Breceda v. Whi*, 187 S.W.3d 148, 152 (Tex. App.--El Paso 2006, no pet.). If evidence or circumstances cast doubt on the attorney's authority, the presumption gives way and the attorney must prove actual authority. For example, an attorney who conducted a trial is presumed authorized to pursue an appeal, but that presumption can be rebutted with contrary evidence. Here, the unusual facts surrounding Ms. Carter's involvement thoroughly rebut any presumption of her authority to represent the Respondent named in this matter, Morgan Michelle Myers, as detailed below.

I. Texas Rule of Civil Procedure 12 – Attorney Must Show Authority

A. Carter’s Lack of Authority Indicia

2. A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act. The notice of the motion shall be served upon the challenged attorney at least ten days before the hearing on the motion. At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. **Tex. R. Civ. P.**

3. Multiple red flags call into question whether Carter is authorized – or even genuinely acting – as Ms. Myers’s counsel, justifying relief under Rule 12. Petitioner respectfully requests that the court requires RODERICK D. MARX and COOPER L. CARTER to appear and show their authority to represent MORGAN MICHELLE MYERS in this matter to clear up the ambiguity surrounding their representation.

B. Pleadings Filed by Proxy

4. Every filing attributed to Carter in this case was filed through another attorney, Roderick Marx, rather than by Carter herself. Mr. Marx is the founding partner of the MAJ firm Carter formerly worked for, and he submitted documents “on her behalf” through the electronic filing manager. In effect, Carter has not personally prosecuted or defended anything – someone else is handling the filings. This raises serious doubts about whether Carter is acting as counsel or whether Mrs. Myers’s case is being carried (or neglected) by others without a clear designation. An attorney of record should be the one signing filings or at least directly supervising and endorsing them; if

not, the court and opposing party cannot even be sure the attorney whose name is on the pleadings is truly involved. Such proxy filings strongly indicate that Carter may lack authority or engagement – if she had authority, one would expect her direct participation. Rule 12 is meant to prevent exactly this sort of scenario where a suit might be conducted by someone without clear authorization.

C. Employment/Firm Misrepresentation

5. Carter's own public statements conflict with the representations made to the court about her role. While her pleadings continued to identify her as "Cooper Carter, Marx Altman & Johnson" (with a MAJ email address), her initial response in the instant case was filed by Roderick D Marx, signed by Cooper Carter with the Marx, Altman & Johnson letterhead, and then claimed that Cooper L. Carter was retained in her individual capacity. Further:

- i. Carter's public Facebook profile claims that she is no longer employed with Marx, Altman, & Johnson.
- ii. Carter's public LinkedIn profile claims that she is no longer employed with Marx, Altman, & Johnson, and that she currently is employed at Cantey and Hanger, LLP.
- iii. Carter's Electronic Filing Manager is registered under ccarter@canteyhangar.com.

This level of ambiguity is unnecessary and could be deliberate. In fact, Texas law requires attorneys to keep their State Bar profile updated with current employment information (Tex. Gov't Code § 81.115), which currently reflects her employment with Marx, Altman & Johnson. So the question remains: why would Carter update her Texas State Bar profile to reflect her current employer but leave her social media and LinkedIn outdated?

D. Failure to Participate or Respond (Abandonment)

6. Carter’s complete failure to prosecute the divorce case for an extended period also undercuts any claim of active authority. An attorney who is truly acting with a client’s authorization is expected to pursue the client’s interests diligently – e.g. respond to motions, appear at hearings, move the case forward. Carter, however, has been conspicuously silent. She has not plead any defense for her client, has not participated in any discovery.

7. Carter’s abrupt appearance in this suit—after months of silence in the divorce case—mirrors the same confusion and procedural uncertainty that plagued the divorce action. This re-emergence appears tactical, not substantive, and should not obstruct the SAPCR’s merits-based progression. She has not mentioned anything about the children, their status, or how the current situation is what’s best for them.

8. Carter’s only notable action in the last six months related to her client has been to seek consolidation of the SAPCR with the dormant divorce – essentially tethering the active custody matter to a paralyzed divorce case which would further prejudice the children and delay the relief sought.

II. Conflicts of Interest and Duty of Candor

9. Misrepresenting one’s role or affiliation can also create **conflicts of interest** and breaches of the duty of candor. If an attorney signs pleadings stating it was “necessary to retain their legal services” while filing under a firm’s name, it muddles who was retained – the individual lawyer or the firm. This ambiguity can prejudice the client’s interests and the opposing party’s understanding of the representation.

10. For example, in the case at hand the answer explicitly stated, “*It was necessary for Morgan [Michelle] Myers to secure the services of COOPER L. CARTER, a licensed attorney, to*

prepare and defend this suit.”. Yet, the filing was styled as coming from “*Marx Altman & Johnson*” with Carter as the attorney. If Mrs. Carter was operating as a solo practitioner at that point, the pleading arguably misled the court about who had been hired. This kind of misrepresentation may violate the lawyer’s **candor toward the tribunal** (e.g. Tex. Disc. R. 3.03 or its equivalents) since it obscures a material fact – the lawyer’s true status. Courts have held that lawyers must not omit facts necessary to keep statements from being misleading. Failing to clarify that the attorney is no longer with the named firm, it could be seen as an omission that makes the filing as a whole misleading.

III. Unauthorized Filings and “Ghost” Representation

12. Having documents filed by another attorney who has not formally appeared is another problematic practice. In proper procedure, every pleading or motion must be signed by an attorney of record – i.e. a lawyer who has made an appearance in the case. Texas is clear: “*Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name.*” If Attorney A is counsel of record, it is improper for Attorney B (who has not appeared in the case) to file documents on A’s behalf without disclosure or court permission.

13. In the example above, the e-filing system’s certificate shows “**Roderick Marx on behalf of Cooper Carter**” as the filer, neither of which have formally appeared. This kind of “ghost filing” blurs who is responsible for the document. **Courts frown upon undisclosed involvement of attorneys** because it can circumvent accountability and confuse the record. At best, it is an irregular practice; at worst, it could be seen as misrepresentation to the court. Here, given the same circumstances exist in the divorce case which has been abandoned, Petitioner believes the situation leans more towards misrepresentation.

14. Procedurally, if an attorney who is not counsel of record submits a filing, the court may treat that filing as nullity or require it to be redone. **No appearance means no authority to act.** From an ethical standpoint, using another lawyer to file pleadings without notice may implicate rules against aiding in rule violations. **Lawyers are forbidden from assisting or inducing others to violate the rules** (see Tex. Disc. R. 8.04(a)(1)). If Attorney A knows they should appear officially but instead has Attorney B file a document to evade a procedural requirement, both attorneys tread on thin ice. They could be seen as trying to circumvent the rules of the tribunal. At a minimum, this lack of transparency undermines trust. The proper course would have been for the second attorney to file a notice of appearance (if joining the case) or for the original attorney to personally sign and file the pleading. Having someone “cover” a filing without formal acknowledgment is not a recognized practice. In short, **any attorney involved in a case needs to either be of record or stay behind the scenes entirely.** But if an attorney actually files or signs on behalf of the attorney of record, that person effectively **steps into the role of counsel without the court’s knowledge**, which is improper. It is better to err on the side of disclosure – either by formal association of that attorney or by avoiding involvement in filing.

15. As pointed out, the Petitioner believes that this is occurring because Carter’s EFM account is setup under her prior employer’s email address. So why not change it to reflect the correct address and file your own pleadings? Lastly, these same issues have been present in the divorce matter, and although Carter was served with a Rule 12 motion in that case on September 20, 2024, she has yet to clear up this issue.

IV. CONCLUSION AND PRAYER

For the above stated reasons, Petitioner requests the following relief from the court:

1. That before any requested relief is granted and before any motion can be set for hearing by COOPER L. CARTER, that she be required to appear alongside RODERICK D. MARX and show their authority to represent MORGAN MICHELLE MYERS in this matter;
2. If the authority to represent MORGAN MICHELLE MYERS cannot be shown, Petitioner requests that the court strike all pleadings and motions filed by either attorney in this SAPCR pursuant to Rule 12 of the Texas Rules of Civil Procedure and;
3. Grant any further relief that the court deems just and equitable given the circumstances.

Respondent affirms that the above titled motion was filed in good faith, and the relief sought ultimately serves the bests interests of the children named in this suit.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
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817-546-3693
6641 ANNE COURT
WATAUGA, TEXAS 76148
PRO-SE

AFFIDAVIT OF CHARLES DUSTIN MYERS
STATE OF TEXAS § § COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, personally appeared CHARLES DUSTIN MYERS, who, being duly sworn, deposed and stated:

1. "My name is CHARLES DUSTIN MYERS. I am over 18 years of age, of sound mind, and fully competent to make this affidavit. I have personal knowledge of the facts herein stated, and they are true and correct.
2. I am the Petitioner in Cause No. 233-765358-25, currently pending in the 233rd District Court of Tarrant County, Texas.
3. I filed this Rule 12 Motion to Show Authority due to reasonable and substantial doubt regarding the authority of attorneys COOPER L. CARTER and RODERICK D. MARX to represent Respondent, MORGAN MICHELLE MYERS.
4. I have personally observed and documented procedural irregularities, including but not limited to: a. Failure of attorney COOPER L. CARTER to formally appear or file a notice of appearance in the case, creating ambiguity regarding her representation. b. Pleadings attributed to COOPER L. CARTER being filed solely through attorney RODERICK D. MARX, raising questions regarding actual representation authority and participation. c. Inconsistencies in public statements and professional profiles by COOPER L. CARTER concerning her current employment and representation status. d. The complete absence of meaningful participation or prosecution of related divorce proceedings for a prolonged period, contrasted by her sudden appearance and procedural interference in this Suit Affecting Parent-Child Relationship (SAPCR).

5. These facts collectively cast substantial and justifiable doubt upon the claimed representation of MORGAN MICHELLE MYERS by COOPER L. CARTER and RODERICK D. MARX, necessitating judicial inquiry.
6. My primary motivation in filing this Rule 12 Motion is to ensure clarity of legal representation, procedural integrity, and, most importantly, to safeguard the best interests and welfare of the children involved in this case.
7. I believe wholeheartedly that Cooper L. Carter is litigating in bad faith, has no genuine interest in the best interests of the Children, and only exists as a barrier to the relief the Petitioner has diligently sought for over a year for his children.

FURTHER AFFIANT SAYETH NOT."

CHARLES DUSTIN MYERS

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CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that the above motion, Petitioner's Rule 12 Motion to Show Authority, has been filed with the electronic filing manager and served on the parties of record on this 21st day of March 2025, including:

MORGAN MICHELLE MYERS, RESPONDENT

Via her email registered under the EFM: MORGANMW02@GMAIL.COM

COOPER L. CARTER

Via her email not registered under the EFM: COOPERCARTER@MAJADMIN.COM

/s/ *Charles Dustin Myers*
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