

322-744263-23

IN THE 322<sup>ND</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS

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ITMOMO,	§	
<i>Morgan Michelle Myers</i>	§	
Petitioner,	§	
v.	§	
<i>Charles Dustin Myers,</i>	§	Notice of Intent to Commence Federal
Respondent	§	Action
& in the interest of	§	
M.E.M. & C.R.M.,	§	
Two minor children.	§	
	§	

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**TO THE HONORABLE JUDGE OF THIS COURT:**

Respondent, CHARLES DUSTIN MYERS, respectfully submits this notice of intent to commence a federal action for the persistent, willful violation of his constitutionally protected right to a fair and impartial tribunal, for the refusal to adjudicate critical issues that have remained unopposed on the record, the continued involvement of the Court Coordinator in recusal proceedings, and the continued favoritism exhibited towards the opposing side.

**I. Summary**

1. A federal court suit is appropriate where a court coordinator repeatedly and clearly acts outside statutory authority in recusal proceedings, because the ultra vires exception to sovereign immunity allows for prospective injunctive relief

against state officials whose unauthorized conduct threatens federally protected rights, such as due process.

2. A federal court suit is even more strongly warranted here because the repeated, unauthorized involvement of the court coordinator in recusal proceedings is compounded by grave due process violations—such as removal from the home and children without a hearing, the rendition of unsigned and unreviewed orders, and persistent judicial errors—demonstrating a pattern of *ultra vires* conduct that threatens the fundamental federal rights of the Respondent. These circumstances elevate the case from a mere procedural irregularity to a situation where federal intervention is necessary to protect constitutional guarantees and the integrity of the judicial process.

3. Federal intervention is justified not only because the court coordinator's repeated involvement in recusal proceedings is unauthorized under Texas law, but also because the cumulative effect of the described judicial and administrative misconduct—including removal from the home without a hearing, enforcement of defective orders, and disregard for due process—amounts to a substantial and ongoing deprivation of constitutional rights. The *ultra vires* exception to sovereign immunity, as recognized in Texas and federal law, allows for prospective injunctive relief against state officials whose actions are wholly unauthorized and result in a

real or imminent threat to federally protected rights, such as the right to due process and family integrity.

4. Given the exhaustion of state remedies, the lack of meaningful judicial response, and the presence of additional factors such as alleged racketeering and harm to children caused by the Petitioner, Morgan Michelle Myers, the case presents a compelling scenario for federal court intervention. The coordinator's actions, administrative and not protected by quasi-judicial immunity, and the broader pattern of judicial irregularities, together create an urgent need for federal relief to restore the rule of law and protect the respondent's constitutional interests.

## **II. Background and Relevant Law**

### **A. Legislative and Regulatory Framework**

5. Texas law is explicit in reserving the authority to handle recusal motions to the presiding judge of the administrative judicial region. Section 25.00255 of the Texas Government Code provides that only the presiding judge may hear or assign a judge to hear a referred motion for recusal or disqualification, and the statute is silent as to any role for a court coordinator in this process. This omission is significant, as it means that any involvement by a court coordinator in recusal proceedings is not authorized and is therefore ultra vires—beyond the scope of their lawful authority (Tex. Gov't. Code § 25.00255).

6. The Texas Administrative Code further requires that a motion to recuse be verified, state particular grounds, and be based on personal knowledge, and only upon the filing of such a motion do the procedural requirements for recusal arise (1 Tex. Admin. Code § 155.152). Again, there is no provision for a court coordinator to act in this context.

7. Court coordinators' duties are defined by local administrative rules and are intended to support the efficient administration of justice, but the statute does not grant them authority to participate in judicial functions such as recusal proceedings (Tex. Gov't. Code § 74.102).

8. Federal law, specifically 42 U.S.C. § 1983, allows for suits against state officials who, under color of state law, deprive individuals of federal rights. Judges and certain judicial functionaries enjoy absolute immunity for judicial acts, but only qualified immunity for administrative acts (Claims Under 42 U.S.C. Section 1983 (2016)). Quasi-judicial immunity may extend to court staff if their actions are integral to the judicial process, but not if their conduct is purely administrative and unauthorized (*B.K. v. Cox*, 116 S.W.3d 351 (Tex. App. 2003)).

### **III. Analysis**

#### **B. The Ultra Vires Exception and Exhaustion of State Remedies**

9. The ultra vires doctrine provides a clear pathway for challenging the actions of state officials who act outside their legal authority. Texas courts have

repeatedly held that sovereign immunity does not bar suits seeking prospective injunctive relief against officials whose conduct is unauthorized (*City of El Paso v. Heinrich*, 284 S.W.3d 366 (Tex. 2009); *Matzen v. McLane*, 659 S.W.3d 381 (Tex. 2021); *PermiaCare v. L.R.H.*, 600 S.W.3d 431 (Tex. App. 2020)). The key requirement is that the plaintiff must allege and ultimately prove that the official acted without legal authority or failed to perform a purely ministerial act (*Shamrock Psychiatric Clinic, P.A. v. Tex. Dep't of Health & Human Servs.*, 540 S.W.3d 553 (Tex. 2018)).

10. Here, the coordinator's repeated involvement in the recusal process, despite the absence of statutory authority, is a textbook example of *ultra vires* conduct. The Texas Government Code and case law make clear that only judges, not coordinators, have authority in recusal matters (Tex. Gov't. Code § 25.00255; *In re Alpert*, 276 S.W.3d 592 (Tex. App. 2008)). The coordinator's actions are not a matter of discretion, but a clear departure from statutory limits.

11. The exhaustion of state remedies, including multiple unsuccessful mandamus petitions, further supports the appropriateness of federal intervention. While mandamus is an extraordinary remedy available only when there is a clear right to relief and no other adequate legal remedy (see *In re McAllen Medical Center, Inc.*, 275 S.W.3d 458 (Tex. 2008)), the repeated denial of such relief does not preclude a federal suit if a federal right is at stake.

### **C. Judicial and Quasi-Judicial Immunity**

12. A significant obstacle to federal relief is the doctrine of judicial and quasi-judicial immunity. Judges are absolutely immune from suit for judicial acts, except when acting in the clear absence of all jurisdiction. See *Luttrell v. El Paso Cnty.*, 555 S.W.3d 812 (Tex. App. 2018). This immunity extends to court staff, including coordinators, when their actions are integral to the judicial process. *Sledd v. Garrett*, 123 S.W.3d 592 (Tex. App. 2003).

### **D. Requirements for Federal Relief**

13. To succeed in federal court, the Respondent must show:

- i. The coordinator's actions are not protected by absolute or quasi-judicial immunity (i.e., they are administrative, not judicial, and not integral to the judicial process).
- ii. The actions are ultra vires—wholly unauthorized by law.
- iii. The actions have caused or threaten to cause deprivation of a federally protected right (e.g., due process under the Fourteenth Amendment).

### **IV. Why Federal Action Is Warranted**

14. The appropriateness and urgency of federal intervention are heightened by the following circumstances:

## **E. Removal from Home and Children Without a Hearing**

15. The respondent's removal from his home and children's lives without a hearing on January 16, 2024, is a direct violation of fundamental due process rights. The Fourteenth Amendment's Due Process Clause provides heightened protection against government interference with a parent's fundamental liberty interest in the care, custody, and control of their children (*Brice v. The Tex. Dep't of Family & Protective Servs.*, 14-20-00506-CV (Tex. App. May 03, 2022)). Due process requires notice and an opportunity to be heard before such drastic measures are taken (*Schmitt v. Dep't of Veterans Affairs*, 121222 MSPB, SF-0714-18-0121-I-1). The absence of a hearing before removal is a paradigmatic due process violation, and when state courts fail to remedy such a violation, federal intervention is not only appropriate but necessary to protect constitutional rights.

## **F. Rendition of Unsigned, Defective Orders and Judicial Inaction**

16. After being removed from his home on January 16, 2024, the case was kicked to a different judge, who compounded the issues when he compelled the Respondent to agree to the situation despite his consent not being present, and despite having unopposed facts that clearly highlight that the Petitioner, Morgan Michelle Myers, fabricated her initial pleadings – including her divorce application, protective order application, and affidavit of indigency.

17. After being unlawfully removed from his home, the associate judge rendered into effect orders that do not bear the respondent's signature, coupled with the court's refusal to vacate facially defective orders or issue findings, further compounding the due process violations. The Texas Supreme Court has made clear that procedural rules cannot abridge, enlarge, or modify the substantive rights of a litigant (Tex. Gov't. Code § 22.004). The failure to provide a meaningful opportunity to challenge defective orders, and the court's refusal to address these defects, deprives the respondent of both procedural and substantive rights, justifying federal injunctive relief.

#### **G. Allegations of Racketeering and Broader Judicial Misconduct**

18. Because this Court has not provided the Respondent with a forum to adjudicate the important issues, the Respondent has opened concurrent litigation in the Western District of Oklahoma under the RICO act to pursue damages caused by this situation.

19. The assertion that the divorce suit is part of a pattern of racketeering activity being pursued in federal court in Oklahoma, while not directly adjudicated here, underscores the seriousness and potential systemic nature of the misconduct. Because the state court process is being used as an instrument of ongoing racketeering or fraud, and state remedies have proven ineffective, federal courts

have a heightened responsibility to intervene to prevent further abuse of process and protect federal rights.

## **H. Ongoing Judicial Errors and Harm to Children**

20. The continued errors by multiple judges, including the regional presiding judge, and the direct harm caused to a child, further support the need for federal intervention. The legitimacy of the judicial process is based on public confidence that the system settles controversies impartially and fairly (*Sun Exploration and Production Co. v. Jackson*, 783 S.W.2d 202 (Tex. 1989)). When judicial errors result in actual harm to children and the affected party is denied any meaningful remedy, the case for federal relief is compelling.

## **I. Sua Sponte Setting of Final Trial Amidst Unresolved Issues**

21. Finally, despite numerous issues, objections, and despite virtually no participation from the opposing side, the Court continues to show a one-sided favoritism towards them.

22. The court's decision to set the case for final trial sua sponte, despite unresolved due process and procedural violations, further demonstrates a disregard for the respondent's rights and the integrity of the judicial process. This action, in the context of the other irregularities, suggests a pattern of conduct that is not

merely erroneous but fundamentally unfair and constitutionally suspect (*Ex parte Lewis* (Tex. Crim. App. May 8, 2024)).

## **V. Conclusion**

23. Federal court intervention is not only appropriate but urgently warranted in this case, given the repeated, unauthorized actions of the court coordinator, the respondent's removal from his home and children without a hearing, the enforcement of unsigned and defective orders, the court's refusal to address these defects, and the ongoing pattern of judicial errors and harm. The *ultra vires* exception to sovereign immunity, as recognized in both Texas and federal law, allows for prospective injunctive relief against state officials whose actions are wholly unauthorized and result in a real or imminent deprivation of federally protected rights. The cumulative effect of these procedural and constitutional violations, especially after exhaustion of state remedies, compels federal intervention to restore the rule of law and protect the respondent's due process and family integrity rights.

24. A federal action will be initiated in 10 business days if these issues are not promptly addressed.

Respectfully submitted,

*/s/ Charles Dustin Myers*  
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