

**322-744623-23**

**DOMINANT  
JURISDICTION**

**ANALYSIS**

**04.15.25**

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 THOMAS A. WILDER  
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IN THE 322<sup>nd</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS**ITMOMO**

*(AITIO M.E.M., C.R.M., two children)*  
**MORGAN MICHELLE MYERS**

Petitioner,

**CHARLES DUSTIN MYERS,**

Respondent.

2025-04-15

DOMINANT JURISDICTION ANALYSIS

**TO THE HONORABLE COURT:**

Under Texas law, the doctrine of dominant jurisdiction dictates that when two suits involving the same parties and subject matter are filed in courts of concurrent jurisdiction, the court where the suit was first filed typically acquires exclusive control. However, this presumption can be overcome by showing that the first suit was initiated in bad faith or for the purpose of delay. Texas courts, following the rule established in *Wyatt v. Shaw Plumbing Co.*, recognize exceptions where the first suit was filed merely to establish procedural priority, in anticipation of subsequent litigation, or to stall the opposing party's legitimate claims. These principles provide a vital check against strategic abuse of court processes and ensure jurisdictional fairness when forum manipulation is evident.

This analysis looks into the circumstances surrounding this matter, and is presented in a good-faith effort to provide insight to the court.

## **Dominant Jurisdiction Analysis with Bad Faith Focus**

### **I. Legal Framework for Dominant Jurisdiction**

#### **A. General Principles**

Under Texas law, the doctrine of dominant jurisdiction provides that when two suits are pending in courts of concurrent jurisdiction involving the same parties and subject matter, the court in which the suit was first filed acquires dominant jurisdiction to the exclusion of the other court. This doctrine is established in the seminal case of *Curtis v. Gibbs*, 511 S.W.2d 263 (Tex. 1974), where the Texas Supreme Court held that any subsequent suit involving the same parties and controversy must be dismissed if a party to that suit calls the second court's attention to the pendency of the prior suit.

#### **B. Bad Faith Exception**

However, Texas courts recognize an important exception to the dominant jurisdiction doctrine: when the first-filed suit was brought in bad faith or for the purpose of delay. As established in *Wyatt v. Shaw Plumbing Co.*, 760 S.W.2d 245, 248 (Tex. 1988), the first court's dominant jurisdiction can be defeated by showing that the first suit was filed:

1. As a mere pretext to establish priority;
2. In anticipation of the second suit;
3. For the purpose of delay; or
4. In bad faith.

When this exception applies, the second court may proceed with its case despite the pendency of the first-filed suit.

## **II. Evidence of Bad Faith in the Initial Suit**

### A. Chronology Demonstrating Premeditated Legal Strategy

#### **1. Pre-Filing Coordination with Dan Branhoover (December 14-17, 2023)**

- Morgan exchanged 92 text messages with Dan Branhoover on December 14, 2023
- Dan persuaded Charles to allow Morgan to bring children to his residence under false pretenses
- While at Dan's residence, Morgan prepared divorce papers with his assistance
- Dan purchased a second phone for Morgan and pepper spray mace

#### **2. Financial Misconduct Prior to Filing (December 15-16, 2023)**

- Morgan transferred \$1,576 from joint account to Dan's PayPal account
- When confronted, Dan falsely claimed Morgan transferred money to her own account
- Morgan then claimed to be indigent in her divorce filing despite having just transferred these funds

#### **3. False Claims in Initial Filings (December 18-22, 2023)**

- Morgan filed for divorce on December 18, 2023, claiming to be indigent
- She falsely claimed an active protection order already existed

- She falsely claimed family violence had occurred during the marriage to waive the 60-day waiting period
- She falsely claimed financial responsibility for bills that Charles paid
- Despite claiming an active protective order already existed, she filed for another one on December 22, 2023

## **B. Misrepresentations to the Court**

### **1. False Allegations of Family Violence**

- No evidence of family violence was ever presented
- Morgan claimed family violence occurred on December 18, 2023, which was demonstrably false
- These allegations were strategically included to waive the 60-day waiting period for divorce

### **2. False Financial Affidavits**

- Morgan claimed indigent status immediately after transferring \$1,576 from joint account
- She misrepresented financial responsibilities, claiming to make both car payments
- She falsely claimed to have no money despite the recent transfer

### **3. Fabricated Protective Order Status**

- Morgan's grandmother served an eviction notice claiming a protective order had been filed when none existed

- Initial divorce filing claimed an active protective order existed when none did
- These misrepresentations were designed to prejudice the court against Charles

### **C. Procedural Manipulation**

#### **1. Strategic Delays and Attorney Changes**

- At the January 22, 2024 hearing, Morgan appeared without counsel
- She hired Cooper L. Carter on the spot in the courtroom lobby to cause further delay
- This tactic successfully delayed the case until February 1, further prejudicing Charles

#### **2. Self-Help Tactics Outside Legal Process**

- On March 6, 2024, Morgan illegally locked Charles outside the home
- This occurred after Charles had filed notice with the court that he would not leave until after the hearing
- This demonstrated willingness to circumvent legal process

#### **3. Systematic Non-Prosecution**

- After securing favorable temporary orders, Morgan's counsel ceased prosecuting the case
- Last action in the divorce matter was April 24, 2024, nearly one year ago

- This pattern suggests the initial filing was not intended to resolve the dispute but to secure tactical advantages

### **III. Application of Bad Faith Exception to Current Case**

#### **A. Legal Analysis**

The facts of this case align precisely with the bad faith exception outlined in *Wyatt v. Shaw Plumbing Co.* The initial divorce filing shows clear evidence of being:

1. **A mere pretext to establish priority:** The coordinated preparation of documents with Dan Branhoover before any legitimate attempt at reconciliation or mediation demonstrates the filing was pretextual.
2. **Filed in anticipation of potential action by Charles:** The timing of the filing after Charles discovered evidence of an affair suggests anticipatory filing to gain tactical advantage.
3. **For the purpose of delay:** The systematic non-prosecution of the case for nearly a year after securing favorable temporary orders demonstrates the purpose was not resolution but delay.
4. **In bad faith:** The numerous false statements in court filings, including claims about protective orders, family violence, and financial status, constitute clear bad faith.

#### **B. Case Law Support**

1. **In re Henry**, 274 S.W.3d 185, 193 (Tex. App.—Houston [1st Dist.] 2008, pet. denied)

- Court held that "filing a lawsuit for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation, is sanctionable conduct."
    - The pattern of behavior in the initial divorce filing aligns with this standard.
2. **Perry v. Del Rio**, 66 S.W.3d 239, 252 (Tex. 2001)
- The Texas Supreme Court recognized that "the first-filed rule should not be applied inflexibly or when doing so would reward gamesmanship or ill motive."
  - Morgan's coordinated preparation of divorce filings while misleading Charles about her intentions constitutes precisely the kind of gamesmanship courts should not reward.
3. **Gonzalez v. Reliant Energy, Inc.**, 159 S.W.3d 615, 622 (Tex. 2005)
- Court held that dominant jurisdiction does not apply when the first suit is filed "in anticipation of the second suit and in an effort to subvert the second action."
  - The timing and coordination with Dan Branhoover suggest the divorce was filed in anticipation of potential action by Charles after discovering the affair.

### C. Family Law Context

In family law matters, courts have been particularly vigilant about bad faith filings due to their impact on children and families:

1. **In re Marriage of Allen**, 593 S.W.3d 133, 137 (Tex. 2019)

- The Texas Supreme Court emphasized that in family law matters, courts must be particularly vigilant about procedural gamesmanship that affects children's welfare.
  - The false allegations of family violence and protective orders directly implicate this concern.
2. **In re Sims**, 88 S.W.3d 297, 303-04 (Tex. App.—San Antonio 2002, orig. proceeding)
- Court held that in SAPCR cases, the best interest of the child can override strict application of dominant jurisdiction.
  - The systematic non-prosecution of the case has prevented resolution, contrary to the children's best interests.

#### **IV. Implications for Current Proceedings**

##### **A. Legal Consequences of Bad Faith Finding**

If the court determines the initial divorce filing was made in bad faith, several significant legal consequences follow:

1. **Dominant Jurisdiction Defeated:** The 233rd District Court would not be bound by the dominant jurisdiction of the 322nd District Court where the divorce was filed.
2. **Consolidation Order Invalidated:** The consolidation order would be invalid not only for procedural defects but also because it erroneously applied dominant jurisdiction principles to a bad faith filing.
3. **Independent Proceeding Permitted:** Charles's SAPCR filing in the 233rd District Court could proceed independently, unaffected by the prior divorce filing.

4. **Potential for Sanctions:** The court could consider sanctions against Morgan and/or her counsel for the bad faith filing and misrepresentations to the court.

## **B. Strategic Approach for Rehearing Motion**

In the motion for rehearing, the bad faith analysis should be presented as an independent, alternative ground for mandamus relief:

1. **Primary Argument:** The consolidation order should be vacated due to procedural defects (lack of notice, hearing, proper transfer).
2. **Alternative Argument:** Even if procedurally proper, consolidation was improper because the first-filed suit's dominant jurisdiction was defeated by bad faith.
3. **Relief Requested:** The court should:
  - Vacate the consolidation order
  - Recognize the 233rd District Court's authority to proceed independently with the SAPCR
  - Order the trial court to hear Charles's emergency TRO on its merits

## **V. Conclusion**

The doctrine of dominant jurisdiction is not an absolute rule but a principle of judicial efficiency that yields when its application would reward bad faith or procedural gamesmanship. The extensive evidence of coordination before filing, false statements in court documents, and systematic non-prosecution after securing favorable orders demonstrates that the initial divorce filing was made in bad faith.

Under Texas law, this bad faith defeats any claim of dominant jurisdiction by the 322nd District Court. Consequently, the consolidation order was not only procedurally defective but substantively erroneous in its application of dominant jurisdiction principles. The Court of Appeals should grant rehearing and issue mandamus relief to prevent the trial court from rewarding this bad faith through improper consolidation.

**CERTIFICATE OF SERVICE**

Relator certifies that on April 15, 2025, a true and correct copy of the foregoing DOMINANT JURISDICTION ANALYSIS was served on all parties and counsel of record as follows:

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