

**NO. 322-744263-23**

**IN THE MATTER OF  
THE MARRIAGE OF**

**MORGAN MYERS  
AND  
CHARLES MYERS**

**AND IN THE INTEREST OF  
MARA MYERS AND CAROLINE  
MYERS, CHILDREN**

**§ IN THE DISTRICT COURT**

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**322ND JUDICIAL DISTRICT**

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**§ TARRANT COUNTY, TEXAS**

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**PETITIONER'S RESPONSE TO RESPONDENT'S  
MOTION FOR NO-EVIDENCE SUMMARY JUDGMENT**

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TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Petitioner, Morgan Myers, (hereinafter referred to as "Mother") and files this, her Response to Respondent's Motion for No-Evidence Summary Judgment. Petitioner will show unto this honorable Court that Respondent's Motion for No-Evidence Summary Judgment should be denied for the reasons stated herein:

**I.**

**SUMMARY OF FACTS**

On December 18, 2023, Mother filed her Original Petition for Divorce as a pro se litigant in the above referenced cause number. At that time, she also filed an Application for a Protective Order in cause number 322-744538-23. A Motion for Temporary Restraining Order, Temporary Injunctions, and Temporary Orders was also filed by Petitioner on December 27, 2023 which was set for January 15, 2024.

On January 2, 2024, Respondent (hereinafter referred to as "Movant Father") filed a pro se Original Answer and a subsequent Motion to Consolidate the divorce proceeding and the

Protective Order proceeding, which was later granted. An Original Counterpetition was filed by Movant Father on January 16, 2024.

The parties appeared for a hearing on January 16, 2024 and the case was reset by Judge Mumford for January 22, 2024. In the interim, Judge Mumford ordered that Movant Father was to vacate the marital home until the hearing date.

On January 23, 2024, a request for continuance to hear the Temporary Orders and Application for Protective Order was granted.

On January 31, 2024, Mother obtained counsel Cooper L. Carter who filed a First Amended Petition for Divorce and Movant Father filed a First Amended Counterpetition for Divorce via Daniel R. Bacalis, his hired counsel.

On February 1, 2024, the parties attended a hearing for Temporary Orders and Application for Protective Order. At the hearing, both parties had legal representation and were able to come to an agreement as evidenced by the Agreed Associate Judge's Report for Temporary Orders that was signed by all parties, attorneys, and the Court. Additionally, Temporary Orders were drafted in this proceeding based on the Agreed Associate Judge's Report for Temporary Orders and were signed by the Court. These Temporary Orders contained orders regarding conservatorship, possession and access, child support, medical support, and temporary division of property and debt, as well as mutual injunctions. Thereafter, Movant Father terminated Mr. Bacalis as his attorney of record and began to represent himself throughout the rest of the litigation proceeding.

On March 14, 2024, the Court heard Movant Father's Motion to Vacate Temporary Orders and the request was denied by the Court.

On April 24, 2024, Mtoher's counsel filed a Motion for Pretrial Conference so as to move the case forward and request a Final Trial date. An objection to this motion was filed by pro se

Movant Father on the same day.

On June 28, 2024, The Office of the Attorney General filed an Intervention into this case and on July 1, 2024, Movant Father filed an objection to their intervention.

Thereafter, this case history becomes extensive. Movant Father has filed numerous motions for Petitions for Writs of Mandamus, Motions for Temporary Orders, briefs regarding various claims, Motions for Recusal, Motions in Limine, Notices of Intent to Remove the proceeding to federal court, Motion for Dismiss for Want of Prosecution, Motions to Dismiss for Lack of Jurisdiction, etc.

Now, Movant Father has filed a Motion for No-Evidence Summary Judgment and has set it for a hearing on December 2, 2025 under the incorrect presumption that there is no evidence of Mother's claims in her Second Amended Petition for Divorce. Movant Father's requested relief in his Motion for No-Evidence Summary Judgment should be denied in its totality.

## II.

### **SUMMARY JUDGEMENT EVIDENCE**

Movant Father's Motion should be denied because the entirety of his Motion is not competent summary judgment evidence (insomuch as it is not support by required filings consistent with the Texas Rules of Civil Procedure).

In the event the Court deems that Movant Father's summary judgment "evidence" is competent, which is it not, Movant Father's summary judgment evidence and request is limited in this respect as it does not take into account the significant questions of fact that both Mother and Movant Father's allege in their respective pleadings.

First, this is not a marriage that solely requires property division. This marriage contains two children that are subject to this suit. In Mother's current pleadings, Mother alleges that the

appointment of Joint Managing Conservators would not be in the best interest of the children and that she should be appointed as sole managing conservator of the children the subject of the suit upon final orders due to, in part, Movant Father's history or battery of family violence, child abuse, and/or child neglect and that supervised visitation is required in order to protect the children the subject of this suit. These are genuine issues of material fact that require the Court to hear the matters at hand to make decisions regarding the best interest of the children.

The best interest of the children shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to a child. Texas Family Code Section 153.002. Additionally, the Texas Family Code requires the court to consider evidence of intentional use of abusive physical force, or evidence of sexual abuse committed within a two-year period preceding the filing of the suit or during the suit when making decisions regarding sole or joint conservatorship. Tex. Fam. Code Section 153.004(a).

Regardless, these are genuine questions of material fact involving this proceeding and evidence of this may be shown in the attached exhibits, Mother's Affidavit attached herein, as well as Mother's testimony that she plans to give at trial.

Second, there are issues regarding child support and medical support as well as the confirmation of child support arrears that have accumulated during the pendency of this proceeding that are questions of fact needing litigation to decide alongside the Office of the Attorney General.

Third, Mother is also requesting a disproportionate share of property division for various reasons that also raise a question of material facts in this litigation. Mother is requesting a disproportionate share of the property due to the following reasons:

- a. Fault in the breakup of the marriage;
- b. Benefits the innocent spouse may have derived from the continuation of the marriage;

- c. Disparity of earning power of the spouses;
- d. Health of the spouses;
- e. Spouse to whom conservatorship is granted;
- f. Needs of the children of the marriage;
- g. Education and future employability of the spouses;
- h. Community indebtedness and liabilities;
- i. Ages of the spouses;
- j. Earning power, business opportunities, capacities, and abilities of the spouses;
- k. Need for future support;
- l. Nature of the property involved in the division; and
- m. Attorneys fees to be paid.

The Movant Father's Motion should be denied because the evidence of these allegations establishes a genuine issue of material facts that should be litigated at trial.

### **III.**

#### **STANDARD OF REVIEW AND ARGUMENT**

The Court's judgment shall be rendered forthwith if 1. The deposition transcripts, interrogatory answers, and other discovery responses referenced or set forth in the motion or response, and 2. The pleadings, admissions, affidavits, stipulations of the parties and authenticated or certified public records, if any, on file at the time of the hearing, or filed thereafter and before judgment with permission of the court, show that, except as to the amount of damages, there is no genuine issue as to any material fact. Texas Rules of Civil Procedure 166(c).

In regards to no-evidence summary judgments, a court cannot grant a no-evidence motion for summary judgment if the responding party produces summary judgment evidence that raises a

genuine issue of material fact. TRCP 166(i). This statute is strictly enforced, and courts have held that a no-evidence motion that lists each element of the plaintiff's claim and then asserts that the plaintiff has no evidence to support "one or more" or "any of" those elements is insufficient to support summary judgment because this language does not clearly identify which elements, whether some or all, are challenged. *Community Health Sys. V. Prof'l Servs. V. Hansen*, 525 S.W.3d 671, 695-96(Tex.2017).

In this case, Movant Father has failed to specifically name the claims and elements that Petitioner has supposedly no evidence to support. He simply lists family violence, the existence of a protective order, financial indigence, and temporary orders as the claims that he is asserting. Petitioner has no evidence of. However, these listed claims do not match the claims that are asserted by Mother and are not the entirety of Mother's claims asserted in her First or Second Amended Petition for Divorce.

When a motion for no-evidence summary judgment is filed, the burden does shift to the responding party to present evidence that raises a genuine issue of material fact to the elements specified in the motion. *Mack Trucks, Inc. v. Tamez*, 206 S.W.3d 572, 581-82 (Tex.2006). This evidence is then reviewed in light favorable to the responding party and against the party bringing the summary judgement. *Id.* The responding party is required to provide more than a scintilla of evidence in their response for a no-evidence motion for summary judgment to be denied. *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751 (Tex. 2003).

In this case, there is extensive evidence to prove that there are genuine issues of material fact regarding all issues asserted by the Mother in her pleadings, including but not limited to her claim that joint managing conservatorship would not be in the best interest of the children and that she should be appointed as sole managing conservator, that Movant Father should pay guideline

child support and medical support and what that amount would be, whether Movant Father committed family violence, child abuse, and/or child neglect, that Mother should be awarded her separate property and what that property is, that Mother should be awarded a disproportionate share of community property, that Mother's information should remain confidential, and that Mother should be awarded reasonable attorney's fees and that previous fees and support should be confirmed at final trial.

Evidence of these claims can be found attached to this response herein and includes, but is not limited to:

1. Pleadings on file in this case;
2. Communication between parties during the course of this litigation showing threats that Movant Father has made to Mother;
3. Communication between parties showing Movant Father's inability to exercise his possession of the children during his possession time;
4. Communication between parties showing Movant Father's inability to keep discussions regarding the children solely on AppClose;
5. Communication between parties showing Movant Father's continued harassment of Mother that shows a pattern of this treatment throughout the litigation;
6. Mother's Affidavit; and
7. Mother's Financial Statement of Income and Expenses.

The amount of evidence provided shows more than a scintilla of evidence to prove these claims because it does more than create a mere suspicion of an existence of fact. This evidence shows patterns of conduct from Movant Father's that are concerning for the safety of the children the subject of the suit, safety for the Mother, and is proof that Mother's claims and requested relief

should be granted at Final Trial.

#### **IV.**

#### **CONCLUSION**

Movant Father's Motion for No-Evidence Summary Judgment should be denied because he does not accurately state a Motion for No-Evidence Summary Judgment claim.

Movant Father does not properly assert the elements that he claims Petitioner does not have evidence to support.

Movant Father's Motion should also be denied because he alleges that there is no genuine issue of material fact, even though both pleadings support an issue of material fact, and Mother in this Response provides more than a scintilla of evidence to show that there is a material issue of fact regarding conservatorship of the children, child support, medical support, property division, and attorney's fees regarding this case.

Additionally, Mother should be awarded reasonable attorney's fees in this case as it was in the children's best interest and Mother's best interest to respond to Movant's Motion in length and detail.

## **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.

Roderick Marx on behalf of Cooper Carter

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Filing Code Description: Motion (No Fee)

Filing Description: RESPONSE TO MOTION FOR NO-EVIDENCE

SUMMARY JUDGMENT (PART 2)

Status as of 11/26/2025 12:28 PM CST

### Case Contacts

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