

NO. 322-744263-23
IN THE 322ND DISTRICT COURT OF TARRANT COUNTY, TEXAS

Morgan Michelle Myers,

Petitioner,

v.

MOTION TO SIGN

Charles Dustin Myers,

Respondent

2025-02-20

TO THE HONORABLE JUDGE OF THIS COURT:

As of today, February 20th, 2025, there exists before the court an unopposed Summary Judgement Motion filed on February 26, 2024, a request for discovery and admissions alongside a motion to compel which have gone unanswered, an unopposed motion for temporary orders seeking emergency relief filed in September of 2024 that remains unanswered , a rule 12 motion filed to compel opposing counsel **Cooper L. Carter** served on September 20, 2024, an un-answered motion to dismiss filed on January 13, 2025, an emergency motion for custody, sole use of the marital residence, sanctions, and contempt which remains unopposed, and the case is indefinitely stalled due to the opposing counsel's inability to file the certified copy of the notice of remand from the Northern District of Texas.

For the reasons outlined below, and in accordance with Texas laws, the Petitioner has no legal avenue to prevail on the merits of this case, and the clerks of the court should deliver this motion and the accompanying order for signature immediately upon receipt of this motion to sign. Respondent's efforts have been in accordance with Texas laws, his intent has been in the best interests of his children, and all efforts to communicate with the court have been in an attempt to bring the truth of the matter before it.

For the forthcoming reasons, the Respondent shows that, without question, the attached orders should be signed and served upon all parties:

I. INTRODUCTION

Procedural Posture

1. This case cannot proceed further on a lawful basis due to multiple procedural violations by Petitioner's counsel, **fraud on the court**, and the total lack of opposition to Respondent's key motions. Petitioner and her counsel have failed to respond to or contest critical filings, leaving the case in a legally untenable posture.

Immediate Relief Sought

2. Respondent **urgently requests** that the Court restore his parental rights and immediately reinstate his exclusive possession of the marital residence. He further seeks an **injunction** to restrain Petitioner from any continued interference or dissipation of assets, and asks the Court to **dismiss this action or, alternatively, to rule on all of Respondent's pending motions that stand unopposed**. Only such

immediate relief will halt the ongoing harm caused by the improper orders now in place which claim consent where none was given.

Counsel Misconduct Invalidate Orders

3. The standing orders in this case are **tainted by misconduct** and should not be allowed to stand. Petitioner's counsel has **failed to comply with mandatory e-filing and e-service rules**, has been unable to file required procedural documents (such as the Notice of Remand that currently has this case grid-locked) to move the case forward, and obtained prior "agreed" orders through **misrepresentation of Respondent's consent**. These fundamental defects **invalidate the temporary orders** presently governing this case. Respondent respectfully moves the Court to **vacate those orders** immediately and grant the relief outlined herein, as supported by Texas Law

II. LEGAL ANALYSIS

A. MANDATORY E-FILING REQUIREMENTS VIOLATED

E-File and E-Service Required

4. Under Texas law, attorneys must utilize the electronic filing system in jurisdictions where e-filing is mandated. Texas Rule of Civil Procedure 21(f)(1) provides that, except for limited exceptions, "**attorneys must electronically file documents in courts where electronic filing has been mandated.**" Likewise, Rule 21a(a)(1) requires that any document electronically filed "**must be served electronically**

through the electronic filing manager if the email address of the party or attorney to be served is on file” which is the case here. These rules make e-filing and e-service **mandatory** in Tarrant County District Court proceedings.

Counsel’s Non-Compliance

5. Petitioner’s counsel has blatantly violated these requirements. She has **failed to properly e-file pleadings** in this case and has not e-served Respondent with filings as required. In fact, when counsel attempted to amend Petitioner’s pleadings on January 30, 2024, the document was **not filed by counsel herself** at all – it had to be filed on her behalf by her self-reported formal employer – Marx, Altman, & Johnson.
6. This indicates that counsel’s Electronic Filing Manager (EFM) account or setup was not in order, and she was **not in compliance** with the e-filing mandate .

B. OPPOSING COUNSEL CANNOT LEGALLY FILE OR PROSECUTE CASE

Counsel’s Filing Disability

7. Petitioner’s counsel has demonstrated that she is **procedurally incapable** of prosecuting this case. As noted, her EFM account is apparently still tied to her prior law firm, registered under the email of COOPERCARTER@CANTEYHANGAR.COM, as evidenced by *Exhibit 1* below, preventing her from independently e-filing documents on this Court’s docket. The record reflects that counsel’s Amended Petition had to be filed by a third-party attorney from her former firm, rather than by counsel of record herself. (See the Amended Petition for Divorce filed 01/30/2024,

the Motion for Pre-Trial Conference filed in June of 2024, and take note that there was never a reduced ‘agreed’ temporary orders served prior to their rendition.

8. This irregularity suggests that counsel **lacks the ability to file pleadings** in her own name in the e-filing system. An attorney who cannot even file pleadings properly cannot litigate a case in compliance with Texas procedure.

No Notice of Remand – Case Stalled

9. The case’s posture further illustrates counsel’s inability to move the matter forward. Respondent removed this case to federal court on December 12, 2024; the federal court remanded it back to state court on December 17, 2024. Upon remand, Texas law, specifically rule 237a of the Texas Rules of Civil Procedure, which states that the “plaintiff **shall** file a certified copy of the order of remand with the clerk of the state court and shall forthwith give written notice of such filing to the attorneys of record for all adverse parties.”
10. To date, **no Notice of Remand has been filed** by Petitioner or her counsel, meaning this case has never been officially re-docketed post-remand. In Respondent’s words, “*the case is now procedurally check-mated because the opposing party can’t file the mandatory notice of remand with the clerk*” – which was his exact strategic intent in removing the case.
11. In other words, due to opposing counsel’s filing incapacity, the case cannot progress on the state court’s docket. This procedural limbo has prejudiced Respondent and left the case in a state of suspension for over two months.

Incapable of Further Representation

12. Given these circumstances, Respondent submits that Petitioner's counsel is **procedurally disqualified** from further representation in this matter. She has not properly appeared or filed anything since the remand, and her earlier attempts were non-compliant. Texas courts cannot countenance a case languishing because an attorney is unable to perform the basic act of filing pleadings. Respondent requests an order recognizing that Petitioner's counsel, by virtue of her inability to file and serve documents as required, **cannot continue to represent Petitioner** in this action. At this juncture, the only appropriate remedies are to **dismiss the case outright** or to immediately proceed to rule on Respondent's unopposed dispositive motions (which would effectively resolve the contested matters of the case). In either event, the Court's intervention is needed to break the procedural logjam caused by counsel's inaction mixed with the Petitioner, MORGAN MICHELLE MYERS, deceptive actions.

C. UNOPPOSED MOTIONS REQUIRE IMMEDIATE RULING

Failure to Oppose = Consent to Grant

13. Under Texas law, when a party fails to respond to a motion, the court may consider the motion **unopposed** and grant it as a matter of course. This principle is especially true for dispositive motions and those involving discovery sanctions. Petitioner and her counsel have **wholly failed to respond or object** to multiple motions that Respondent filed, thereby conceding the merits of those motions. The Court should

immediately grant each of the following motions, all of which have been on file for months without any response from Petitioner.

No-Evidence Motion for Summary Judgment (filed Feb. 26, 2024)

14. Respondent moved for summary judgment on the ground that Petitioner produced no evidence to support her claims (and notably, Petitioner also never answered Respondent's earlier emergency motion). Petitioner filed **no response or summary judgment evidence** whatsoever. Pursuant to Texas Rule of Civil Procedure 166a:

"[t]he judgment sought shall be rendered forthwith if (i) the deposition transcripts, interrogatory answers, and other discovery responses referenced or set forth in the motion or response, and (ii) 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 and the moving party is entitled to judgment as a matter of law on the issues expressly set out in the motion or in an answer or any other response."

15. Because Petitioner (the non-movant) failed to produce any evidence or response, Respondent's summary judgment motion **must be granted** as a matter of law. There are no fact issues preventing judgment in Respondent's favor on the pending claims, and the only genuine issue that remains is the amount of damages. This fits squarely with Texas Law and entitles Respondent a judgement in his favor.

Rule 12 Motion to Show Authority (filed Sept. 20, 2024)

16. Respondent filed a sworn Rule 12 motion challenging the authority of Petitioner's attorney, as by that point counsel had not filed a single substantive pleading on the record. Petitioner's counsel **never responded** to the Rule 12 motion and never

appeared to prove her authority to act. Texas Rule of Civil Procedure 12 places the burden on the challenged attorney to “**show sufficient authority to prosecute or defend the suit on behalf of**” her client, and if the attorney fails, “the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears.”

17. Here, counsel has not met her burden or even attempted to show authority. The Rule 12 motion is unopposed and should be **granted by default**.

Request for Admissions and Production of Documents (filed Sept. 17, 2024)

18. Respondent moved to provide written admissions and production of certain documents, and later a motion compel Petitioner’s responses to discovery after Petitioner failed to answer written discovery requests. Petitioner has **never served any discovery responses** to Respondent’s admissions, requests for production, or other requests, nor did she respond to the motion to compel. By failing to answer discovery or oppose the motion, Petitioner has waived all objections and left Respondent with no recourse except court intervention. The motion to compel is unopposed and should be **granted immediately**, ordering Petitioner to fully respond to all outstanding discovery requests. Moreover, because Petitioner’s failure to respond is without justification, the Court should impose **sanctions for discovery abuse** under Tex. R. Civ. P. 215.2(b). The range of sanctions available includes matters being deemed established, exclusion of evidence, or even striking Petitioner’s pleadings or dismissal of her claims.

19. Under Tex. R. Civ. P. 198.2(c), if a party fails to timely answer or object to requests for admissions, the requests are automatically deemed admitted “**without a court order.**” Because Petitioner’s responses were due in October 2024 and none were served, **each request is deemed admitted by operation of law.** These deemed admissions conclusively establish the truth of the matters asked, including (upon information and belief) admissions that support Respondent’s position (such as admissions that Petitioner agreed to certain facts, that no family violence occurred as alleged, that \$1,576 was taken from the joint marital account, etc.). Petitioner’s failure to answer means she **cannot dispute those facts.** The Court should deem the admissions **conclusively established** and take them as true for all purposes in this case.

Grant All Unopposed Relief

20. In light of Petitioner’s total failure to oppose the motions above, Respondent is entitled to rulings granting all the relief sought in each motion. Texas law favors granting unopposed motions, and there is no reason to delay. Each of these motions has been on file well beyond the response period (some for nearly a year) with **no answer or request for extension** by Petitioner. By granting these motions, the Court will effectively resolve the core issues of the case: the summary judgment and deemed admissions establish Respondent’s right to judgment; the Rule 12 motion removes an unauthorized attorney; and the motion to compel will either be mooted by case dismissal or ensure that Respondent belatedly gets discovery if the case somehow proceeds. Respondent urges the Court to **immediately rule on and grant**

all pending unopposed motions at once, rather than allow further prejudice from continued delay.

D. FRAUDULENT ORDERS AND LACK OF CONSENT

Orders Procured by Fraud/Misrepresentation

21. Respondent further moves to vacate and hold for naught the Temporary Orders currently in place (signed on March 14, 2024), on the basis that those orders were procured by fraud, misrepresentation, and without Respondent's actual consent. Texas law is clear that **any court order obtained through fraud upon the court or based on false representations is invalid** and unenforceable. In this case, the Temporary Orders were presented to the Associate Judge as an "Agreed" Order, when in fact Respondent **never agreed** to their terms. The record reflects that the Temporary Orders were drafted by Petitioner's counsel and contained a recital that Respondent agreed – but Respondent objected and refused to sign them. At the March 14, 2024 hearing, Judge Kaitcer ordered Respondent to sign the proposed temporary orders "**that claimed he agreed to them**", which Respondent flatly refused to do. Despite Respondent's lack of consent, the court proceeded to sign the order, effectively adopting counsel's false representation of an agreement that did not exist, and where the terms differed from the earlier signed agreement which was clearly contested by Respondent.

Violation of Rule 11 – No Enforceable Agreement

22. The imposition of these so-called agreed orders violates Texas Rule of Civil Procedure 11. Rule 11 mandates that “**no agreement between attorneys or parties touching any suit pending will be enforced unless it be in writing, signed and filed with the papers as part of the record, or unless it be made in open court and entered of record.**”

23. Here, there was **no written agreement filed** that was signed by Respondent, nor any agreement stated on the record in open court with Respondent’s consent. In other words, the only “agreement” was an outline read into the Associate Judge’s Report on February 1, 2024, which Respondent’s prior attorney pressured him to sign under duress (and which Respondent repudiated by firing that attorney days later). Even that report set specific conditions (e.g. a written order to be drafted by Respondent’s prior counsel, and within a certain timeframe, which were **never fulfilled**). Thus, by the time Petitioner’s counsel drafted the Temporary Orders in March 2024, there was no valid agreement in effect – and certainly not one that met Rule 11’s requirements. The assertion that the orders were “agreed” is false. Enforcing an order that recites a nonexistent agreement **directly contravenes Rule 11** and fundamental contract principles. The missing signature from the orders from both the Respondent and his prior counsel drives home this point.

Void and Must Be Set Aside

24. Because Respondent never truly agreed to the current Temporary Orders, those orders were **procured by misrepresentation** and should be considered void or voidable. Respondent did not consent to the drastic terms that removed him from

his home and children, and any suggestion otherwise is a fraud upon the Court. Texas courts have long held that judgments and orders obtained by fraud have no force and should be set aside to prevent manifest injustice. Respondent respectfully asks this Court to **vacate the Temporary Orders entered on March 14, 2024**, and any related orders, due to the lack of a valid Rule 11 agreement and the fraud inherent in presenting them as agreed. The Court should not reward or enforce Petitioner's counsel's deceptive tactics. Instead, the Court should restore the status quo that existed before those fraudulent orders — specifically, Respondent should be immediately reinstated as a primary managing conservator with full rights and returned to his residence (as addressed in the Prayer below).

E. SEVERE FINANCIAL DAMAGES REQUIRE EMERGENCY RELIEF

Irreparable Financial Harm

25. Respondent has suffered **extreme financial losses** as a direct result of being wrongfully excluded from his home, business, and children for over a year under the current orders. The damages exceed **\$100,000** and continue to climb. Respondent's ability to earn a living and manage his business interests has been severely impaired because he was removed from the marital residence (which also served as the base of his business operations). He has lost substantial income and business opportunities that **cannot be recovered** after the fact. Petitioner's ongoing control of the residence and marital assets further threatens irreparable injury — for example, Petitioner has had unfettered access to Respondent's personal property,

financial instruments, and business equipment, and she has shown a willingness to dissipate or misuse those assets. Every day that passes is causing Respondent **irreparable financial harm** that money damages cannot adequately redress later.

Legal Basis for Injunctive Relief

26. Texas law expressly recognizes that injunctive relief is appropriate to prevent irreparable harm to property or financial interests. Section 65.011 of the Texas Civil Practice and Remedies Code provides general grounds for injunctions. Notably, **§65.011(5)** permits a writ of injunction when “*irreparable injury to real or personal property is threatened irrespective of any remedy at law.*” Here, that standard is met. Respondent’s exclusion from the marital residence and business has placed real and personal property at risk: the marital home (real property) is in jeopardy of waste or loss, and Respondent’s personal property (including business assets, confidential records, and equipment located at the residence) is being controlled or and disposed of by Petitioner. This presents a **threat of irreparable injury** because once property is sold, lost, or the business is destroyed, Respondent cannot be made whole by monetary compensation alone.

Need for Immediate Injunction

27. Given these circumstances, the Court should issue immediate injunctive relief to protect Respondent’s property and financial interests. Respondent requests a **Temporary Restraining Order and temporary injunction** prohibiting Petitioner from: (a) selling, transferring, encumbering, or destroying any property belonging to

Respondent (including business assets, vehicles, bank accounts, and the marital residence); (b) interfering with Respondent's business operations or contacts; and (c) taking any action that would further deplete the marital estate or Respondent's separate estate. Respondent also seeks an order immediately restoring him to the marital residence so that he can secure his property and resume his business activities. The ongoing harm is **urgent** and cannot wait for a final trial setting. By statute and equity, Respondent is entitled to injunctive relief to prevent any further irreparable damage to his property rights and financial stability.

The Court's prompt intervention will preserve the status quo and ensure that Respondent's livelihood is not destroyed before this case can be resolved on the merits.

III. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Respondent **Charles Dustin Myers** prays that this Court grant the following relief immediately:

1. **Restoration of Parental Rights and Residence:** Issue an order **reinstating Respondent's parental rights and possession** effective immediately, including, naming Respondent as the primary conservator of the two minor children in this matter, and **grant Respondent exclusive use and possession of the marital residence** at 6641 Anne Court, Watauga, Texas, forthwith while the case is pending.
2. **Vacate Fraudulently Obtained Orders:** **Vacate and set aside** the Temporary Orders signed on or about March 14, 2024 (and any other orders based on the purported "agreement" of February 1, 2024), on the grounds of lack of consent and

fraud. Those orders should be declared null, void, and of no effect, and the Court should enter new temporary orders as needed to reflect Respondent's restored rights so that child support may be established for the sake of the children to be paid by the Petitioner.

3. **Dismissal / Judgment on Unopposed Motions:** Dismiss this case in its entirety, with prejudice, due to Petitioner's failure to prosecute and the procedural incapacity of her counsel – or alternatively, enter **immediate judgment** in favor of Respondent on all pending claims by: (a) granting Respondent's No-Evidence Motion for Summary Judgment, and (b) dismissing or striking Petitioner's pleadings pursuant to Rule 12 and/or as a discovery sanction. In either event, the outcome should be that Petitioner's claims are terminated and Respondent is granted appropriate relief on his counterclaims (if any were filed) as unopposed.
4. **Temporary Restraining Order and Injunction:** Issue a **Temporary Restraining Order (TRO)** immediately (to be effective forthwith, without further notice) restraining Petitioner from interfering with Respondent's property, business, or parental rights. Specifically, Petitioner should be enjoined from: removing the children from Tarrant County or from Respondent's possession once returned to him; disposing of, encumbering, or damaging any property owned wholly or in part by Respondent; withdrawing or spending funds from any accounts containing Respondent's assets; and harassing or coming within a certain distance of Respondent. Set this matter for a Temporary Injunction hearing within 14 days as

required, and upon hearing, issue a **temporary injunction** maintaining these restraints for the pendency of this case.

5. **General Relief:** Grant such other and further relief, at law or in equity, to which Respondent is justly entitled. This includes but is not limited to court costs, reasonable attorney's fees as sanctions or as may be allowed by law, and any other orders necessary to **undo the harm** caused to Respondent and his children by the improper orders and to **protect the best interests of the children** going forward.

Respondent respectfully requests that the Court **act on an emergency basis** given the ongoing irreparable harm described above. Time is of the essence to correct the course of this case and to prevent any further injustice.

Though the original Judge presiding over this matter has been divested of jurisdiction, Texas Law permits intervention in circumstances such as these by said Judge, and likewise for the Regional Presiding Judge, David L. Evans, "may issue interim or ancillary orders in the pending case as justice may require."

In the instant case, justice does require such immediate action.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
PRO-SE
6641 Anne Court
Watauga, Texas 76148
Email: ChuckDustin12@gmail.com
Phone: 817-546-3693

CERTIFICATE OF SERVICE

Respondent, Charles Dustin Myers, hereby certifies that a true and correct copy of the foregoing motion was served on Petitioner's counsel of record, **Cooper L. Carter**, via the via email to **clcarter@example.com** (email address on file) on this 20th day of February, 2025, in accordance with the Texas Rules of Civil Procedure and to Petitioner, **MORGAN MICHELLE MYERS**, through the Electronic Filing Manger in accordance with Texas Rules of Civil Procedure 21a.

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
PRO-SE
6641 Anne Court
Watauga, Texas 76148
Email: ChuckDustin12@gmail.com
Phone: 817-546-3693
Pro Se Respondent

EXHIBIT 1

**COOPER L. CARTER'S
EFM IMPROPERLY
REGISTERED**



Confirm You Are This Attorney

Name: Cooper Carter

Attorney Number: 24121530

Email: cc**er@canteyhanger.com

Click "Send Confirmation Email" to have an email sent to your State Bar of Texas preferred email address.

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