



**25-0378**

**25-0367**

**25-0378**

**FIRST AMENDED MOTION TO CONSOLIDATE  
MANDAMUSES**

**05.08.25**

25-0361 & 25-0368 & 25-0371  
IN THE SUPREME COURT  
OF TEXAS

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*IN RE: CHARLES DUSTIN MYERS*, RELATOR.

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On Petition for Writ of Mandamus

to the 322<sup>nd</sup> Judicial District Court, Tarrant County

322-744263-23 & 322-744538-23 & 233-765358-25

On Mandamus Review from case numbers:

02-25-00164, 02-25-00166, 02-25-00171-CV

in the Second District Court of Appeals, Fort Worth, Texas

Hon. Kate Stone, Hon. Jeff Kaitcer, Hon. Kenneth Newell Presiding

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FIRST AMENDED  
MOTION TO CONSOLIDATE

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Respectfully submitted by:

*Charles Dustin Myers, Relator*

Emergency Stay Requested by May 16<sup>th</sup>, 2025

**TO THE HONORABLE SUPREME COURT OF TEXAS:**

Relator, Charles Dustin Myers, respectfully requests that this Honorable Court consolidate three pending mandamus petitions. These petitions challenge: an order by the Honorable Kenneth Newell of the 233rd District Court consolidating cases (arising from Cause No. 233-765358-25, on mandamus review from Cause No. 02-25-00171-CV); the refusal by the Honorable Kate Stone, Associate Judge of the 233rd District Court, to hear an emergency Temporary Restraining Order (TRO) (arising from Cause No. 233-765358-25, on mandamus review from Cause No. 02-25-00164-CV); and orders by the Honorable Jeff Kaitcer, Associate Judge of the 322nd District Court (arising from Cause No. 322-744263-23, on mandamus review from Cause No. 02-25-00166-CV).

Consolidation of these petitions is appropriate and necessary for judicial economy, a comprehensive review of the interconnected issues, and to address the systemic denial of Relator's fundamental parental rights and due process across these related proceedings. The petitions, while arising from distinct orders and involving different respondent judges, are inextricably linked by common parties, overlapping factual circumstances, a consistent pattern of alleged judicial overreach and procedural irregularities, and the profound impact on Relator's relationship with his children. All parties have been notified of this motion related to these petitions, and no response was received. For the foregoing reasons, Relator urges this court to act:

### **Statement of Facts**

Relator, CHARLES DUSTIN MYERS, is referred to herein as “Father.” Real Party in Interest, MORGAN MICHELLE MYERS, is referred to herein as “Mother”. Each record citation marked with **(R. X-X)** is linked directly to the reference to promote judicial efficiency.

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#### **A. The Precipitating Event and Background Facts**

The events giving rise to these proceedings began on December 12, 2023, when the father discovered a series of text message exchanges between the mother and two individuals outside the marriage—identified in the record as Damen Kazlauskas and Debbie Price **(R. 228–686)**. This discovery occurred shortly after the mother’s abrupt announcement of her intent to divorce and raised concerns regarding the children’s well-being and emotional environment. In an effort to address the matter constructively, the father contacted the mother’s grandfather—who resides next door to the marital home—via text message to request a family meeting to discuss the situation **(R. 692–695)**.

The following day, however, when Father confronted Mother with the discovery—presenting his concerns in the form of data visualizations **(R. 230–232)**—she began distancing herself, starting by redirecting the planned family conversation into a private meeting solely between herself and her grandparents **(R. 1691)**. On December 14, 2023, Mother initiated text communication with her

stepfather, Dan Branthoover, who resides in Yukon, Oklahoma (**R. 249–253**). Mr. Branthoover then contacted Father via text message, stating that he wanted to help both parties and requested a phone conversation (**R. 1680**). That conversation resulted in an arrangement for Mother to travel to Mr. Branthoover’s residence over the weekend beginning December 15, 2023, where Mr. Branthoover later acknowledged that he would be assisting with the divorce paperwork (**R. 1686**).

During this same period, Mother also sought an ex parte emergency protective order against Father from the 322nd District Court of Tarrant County, as referenced in her divorce petition (**R. 54**).

### **B. Travel, Influence and Conversion of Marital Assets**

While en route to, or upon arrival at, Mr. Branthoover’s residence, Mother withdrew the entirety of the funds from the joint marital bank account, totaling \$1,576 (**R. 698; 1691–1692**). The transaction was facilitated by Mr. Branthoover, who used his PayPal account—identified as “dmb575” (**R. 1683**)—as an intermediary to transfer the funds. This identifier corresponds to the relevant December 2023 bank statement (**R. 1682**). Both Mr. Branthoover and Mother later admitted that the transaction had occurred (**R. 705, 1691**).

As a result, on December 16, 2023, Father was notified that the joint account had been overdrawn, which caused the suspension of his business’s advertising services due to a failed payment (**R. 701–702**). Father subsequently contacted Mr.

Branthoover in writing to request the return of the funds, explaining that the money was needed to cover essential family expenses and to purchase Christmas presents for the children (**R. 703–704**). During this exchange, Mr. Branthoover explicitly informed Father that Mother’s visit was for the purpose of receiving assistance with the preparation of divorce paperwork (**R. 705**).

### **C. The Eviction**

The situation escalated further on December 17, 2023, when Father was served with an eviction notice by Mother’s grandmother, Margie Wilson. The notice cited a protective order and a divorce petition as the basis for eviction, despite those documents not having been formally filed at the time (**R. 710**). The case was later heard by the Honorable Judge Swearingin Jr. and was dismissed for lack of subject matter jurisdiction (**R. 711–712**) on January 17, 2024.

### **D. The Divorce Petition**

On December 18, 2023, Mother formally filed for divorce (**R. 47–57**) and requested an “Uncontested Cases” form from the court (**R. 77**). In her petition, she claimed that the parties had stopped living together as spouses on or around December 1, 2023 (**R. 50**). She also asserted financial indigence, stating that she had only \$21 in her bank account (**R. 67**) while being responsible for \$1,610 in monthly expenses (**R. 68**). Contradicting the timeline established by the eviction notice served the previous day, the petition further alleged that an active protective

order was already in place against Father, and that a finding of family violence had been made during the marriage—thereby waiving the statutory 60-day waiting period (**R. 54**).

Mother further claimed that the marital property would be divided by agreement, yet designated both family vehicles as her separate property (**R. 55**). She requested joint managing conservatorship (**R. 51**) and sought standard visitation rights for Father (**R. 52**), while simultaneously alleging that she and the children could face abuse or serious harm if Father were provided with her contact information (**R. 57**).

#### **E. The Protective Order**

Four days after filing for divorce, on December 22, 2023, Mother filed an application for a protective order (**R. 78–84**). In supporting documents, including an affidavit (**R. 83**) and an unsworn declaration, she alleged that family violence occurred on December 18, 2023—the same day she filed for divorce (**R. 84**). However, evidence indicates that on that same day, Mother was present at the family home with Father, exhibiting no signs of being in a state of emergency (**R. 1692**). Mother continued to cohabit with Father intermittently following these filings, as evidenced by her presence at the family home on December 29, 2023, participating in a typical evening with Father and the children (**R. 1711**). Father

was formally served with the protective order suit on December 27, 2023 (**R. 92–93**).

Within the protective order application, Mother requested that Father be prohibited from approaching within 200 feet of the children’s school, that he cease all communication with her, and that he complete a battering intervention and prevention program (**R. 80**). She acknowledged the joint ownership of the matrimonial residence but nonetheless requested spousal support, child support, and Father’s immediate removal from the home (**R. 80**). Adding another layer to the situation, the day after the divorce was filed—on December 19, 2023—Mr. Branthoover contacted Father via text message, claiming to represent Mother in the legal proceedings (**R. 1688–1689**). Despite these filings and allegations, Father continued to cohabit with Mother leading up to the first scheduled legal proceeding: a show cause hearing set for January 16, 2024. During this interim period, Father prioritized the children and spent time with them during their holiday break (**R. 801–804**).

### **F. Father Prepares His Defense**

In response to the series of legal actions initiated by Mother, Father waited until after the children’s Christmas holiday to formally begin preparing his defense. He first filed an original answer to the protective order application, denying all allegations of family violence (**R. 104–108**). In his answer, Father raised the



affirmative defenses of fraud, illegality, and duress, asserting that Mother was attempting to misuse the legal process (**R. 106**). To support his position, Father attached two exhibits: the first was a copy of his Texas Department of Public Safety (TxDPS) record, demonstrating no history of violence (**R. 109–111**); the second highlighted inconsistencies within Mother’s divorce petition (**R. 112–115**). Subsequently, on January 3, 2024, Father filed a motion to consolidate the protective order proceedings with the divorce case (**R. 117–120**). He also submitted a background report intended to provide the court with context regarding the children’s familial circumstances (**R. 121–123**). Father later filed a motion for continuance to obtain legal representation (**R. 124–126**), accompanied by additional documentation related to the family situation (**R. 127–130**), including text message evidence from Mr. Branthoover intended to refute Mother’s claim of indigency (**R. 136–139**). Finally, on January 13, 2024, Father submitted an unsworn declaration detailing the sequence of events leading up to that point (**R. 150–154**).

### **G. Setting #1 – Show Cause**

The first court hearing was scheduled for January 16, 2024 (**R. 93**). The parties appeared but announced they were not ready to proceed (**R. 155–156**). Due to inclement weather conditions, the Honorable James Munford presided over the matter temporarily. Judge Munford granted a continuance but also ordered Father

to vacate the family residence effective immediately—**without conducting an evidentiary hearing, making specific findings, or considering Father’s submitted pleadings**. This resulted in a de facto temporary termination of Father’s custodial rights. The case was reset for January 22, 2024, to be heard by the Honorable Jeffrey Kaitcer (**R. 157–158**).

Faced with the sudden loss of his residence and access to his children, Father sought legal representation immediately and retained attorney Daniel R. Bacalis on January 19, 2024—just three days before the rescheduled hearing (**R. 793**). Father promptly briefed Mr. Bacalis on the situation, providing insights into the family dynamics through a comprehensive statement of context (**R. 143–149**).

#### **H. Reset #1 – Show Cause**

On the rescheduled date of January 22, 2024, the parties appeared at the courthouse for the second setting. Mother initially appeared without legal counsel but retained attorney Cooper L. Carter in the courthouse lobby just prior to the hearing. This prompted a further delay, as the Honorable Judge Kaitcer granted a continuance *sua sponte*, resetting the case once more to February 1, 2024 (**R. 160–161**).

In the period between settings, both Mr. Bacalis, representing Father, and Mr. Carter, representing Mother, filed amended pleadings in the divorce proceedings (**R. 163, 183**).

### **I. Reset #2 – Show Cause**

At the third scheduled setting on February 1, 2024, both parties arrived with their respective counsel and announced they were ready to proceed (**R. 768**).<sup>1</sup> However, instead of the matter being heard by Honorable Jeffrey Kaitcer, father's counsel, Mr. Bacalis, drafted an "Agreed Associate Judge's Report" which was presented to father in the hallway outside the courtroom. (**R. 203-208**). This proposed agreement included terms to non-suit (dismiss) the protective order application, grant father residency in the family home only until March 1, 2024, and outline the division of financial responsibilities (**R. 206-207**).

Father expressed significant reservations and initially refused to sign the agreed order, stating his desire to proceed to trial to address mother's allegations directly and hold her accountable, where he was told by his counsel, "I know the judge, this is the best we can get," and felt pressured into signing the agreement as the only presented option, which was corroborated by father's witness in an affidavit (**R. 1343-1345**). Feeling frustrated by this outcome, father paid particular attention to the procedural requirements highlighted in bold text within the agreement signed on February 1, 2024 (**R. 208**). The Father then realized that if he terminated his attorney, he wouldn't be able to prepare the written order and made the decision to represent himself moving forward.

<sup>1</sup> No recorded appearance from either party can be found in the record on this date.

### **J. Father Proceeds Pro Se**

Shortly after the court setting, Father terminated the services of his attorney, Dan Bacalis, and notified the court (**R. 195–197**). An agreed motion for withdrawal of counsel was subsequently filed (**R. 198–202**).

On February 8, 2024, the associate judge’s report dated February 1, 2024, was filed into the record (**R. 203–209**). Around the same time, an agreed order of consolidation was entered—consolidating the protective order suit with the divorce matter—without Father’s knowledge or signature (**R. 210–213**).

In response, Father prepared an Emergency Motion to Vacate, which he filed the following day (**R. 214–218**). The motion included a supporting brief summarizing the procedural history and outlining what Father described as Mother’s unlawful campaign against him (**R. 219–227**). The exhibits accompanying the motion included text message evidence and data visualizations involving Mother, Damen Kazlauskas, and Debbie Price, originally discovered on December 12, 2023 (**R. 228–689**); text messages between Father and Mother’s grandfather indicating the divorce was unexpected (**R. 690–695**); evidence of marital asset conversion between Mother and Daniel Branthoover (**R. 696–698**); documentation of the overdrawn joint bank account and related communications from Branthoover (**R. 699–702, R. 703–706**); a copy of the eviction notice served by Margie Wilson, which Mother later tore in half and marked “VOID” (**R. 708**);

and the judgment of dismissal in the eviction proceeding, entered on January 17, 2024—the day after Father was removed from the residence (**R. 711–712**).

A few days later, the court issued the order granting Attorney Bacalis’s withdrawal (**R. 713–716**). Father then prepared and filed a Motion for Partial Summary Judgment, accompanied by a supporting brief (**R. 732–742**). He attached a Proposed Parenting Plan as Exhibit D to the motion (**R. 743–747**) and a proposed order (**R. 748–749**). No response was ever provided to these pleadings by the opposing party.

#### **K. Events Preceding the March 14 Hearing**

On February 22, 2024, the parties received notice that a hearing on Father’s Emergency Motion was scheduled for March 14, 2024 (**R. 752**). Father subsequently filed a notice stating his intention to remain in the marital residence due to work requirements and childcare responsibilities (**R. 756–760**). He then provided initial disclosures to the parties (**R. 761–767**) and received no response to his emergency motion.

Two days later, while Father was taking the children to school, Mother locked him out of the marital residence and left a sign on the door declaring that “You should have been out by Saturday you are now locked out.” (**R. 1723–1724**). To avoid unnecessary conflict, Father temporarily stayed in Flower Mound, Texas, with his own father while awaiting the hearing.

#### **L. Setting #4 – Emergency Motion to Vacate and Reconsider Evidence**

Father appeared for the scheduled hearing on his Emergency Motion (**R. 768**). Upon entering the courtroom, he was handed a document titled “Temporary Orders,” which was a modified version of the February 1, 2024, agreement previously prepared by Father’s former counsel (**R. 862**). These orders were prepared by Cooper L. Carter after the 20-day deadline stipulated in the original agreement. No agreement had been reached, as evidenced by the parties’ presence in court to contest the matter, and no motion to sign had been set or filed—contrary to the judge’s prior directive (**R. 208**).

The proposed orders also claimed that a hearing had been held on February 1, 2024, for “Mother’s Motion for Temporary Orders,” and that all parties were in agreement with the terms “as evidenced by the signatures below” (**R. 863**). In reality, the February 1 setting resulted only in an associate judge’s report, drafted informally in the hallway by Father’s prior counsel. Despite this, the proposed order stated that the court “heard evidence and argument”—a statement Father asserts was inaccurate. At that time, the only other scheduled hearing was on Mother’s Application for Protective Order, which had been non-suited in the February 1 Associate Judge’s Report.

Once the hearing began, Father’s Emergency Motion was denied without explanation, and he was ordered to sign the very agreement he had appeared in

court to contest (**R. 770**). Notably, the order itself contained two distinct sets of handwriting, and Father refused to sign the document because he did not agree to its terms (**R. 900**).

Following the hearing, Father began exploring his appellate remedies and drafted a *Preparatory Notice for Judicial Review*, which he later amended twice (**R. 772–821**). The document provided a detailed account of the parties’ family background (**R. 782**), employment history, and household dynamics (**R. 783–790**). It included a statement of facts segmented into background facts (**R. 791–792**), procedural facts (**R. 792–796**), and undisputed evidentiary facts (**R. 797–800**). Appended to the filing were affidavits from Father’s business clients attesting to his need to remain in the marital residence for professional reasons (**R. 825–827, R. 828–830, R. 831–833, R. 834–836, R. 837–840, R. 841–843, R. 844–847**).

The disputed Temporary Orders were filed into the record by the clerk on March 26, 2024. Father promptly responded by filing a formal *Request for Findings of Fact and Conclusions of Law* regarding the March 14 decision (**R. 857–861**). He then filed a notice of his intent to seek mandamus relief by April 8, 2024 (**R. 902–905**).

### **M. The Appellate Proceedings**

In April 2024, Father prepared a Motion for Emergency Relief directed to the Second Court of Appeals (**R. 954–983**) and a Petition for Writ of Mandamus (**R.**

**906–953**). The Petition was accepted by the appellate court under cause number 02-24-00149-CV on April 8, 2024, and the trial court was notified of the filing that same day (**R. 984–985**).

Two days later, Father’s Motion for Emergency Relief and Petition for Writ of Mandamus were denied *per curiam* (**R. 986–987**). Father then submitted a Motion for Rehearing on April 18, 2024 (**R. 1003–1020**). Six days later, on April 24, 2024, Cooper L. Carter filed a Motion for Pre-Trial Conference (**R. 988–991**), to which Father promptly objected (**R. 992–998**). The following day, Father’s Motion for Rehearing was denied by the Second Court of Appeals (**R. 999–1001**).

Father moved for en banc reconsideration on April 26, 2024 (**R. 1027–1041**). On April 30, 2024, although Father continued to disagree with the Temporary Orders and the hardship they imposed, he abided by the court’s directives and filed a Notice of Completion regarding the court-ordered parenting class, which both parties were required to complete by May 1, 2024 (**R. 1021–1025**). The en banc reconsideration motion was denied the following day (**R. 1042**).

Father then prepared a second Petition for Writ of Mandamus before this Court, which was accepted under cause number [24-0395](#). The trial court was notified of the filing by postcard (**R. 1043–1048**).

On May 9, 2024, Cooper L. Carter emailed Father requesting his signature on an Income Withholding Order and still claimed that the orders were agreed (**R.**



1090). Father reviewed the proposed order, determined that it was defective (R. 1092–1096), and communicated his objections to Ms. Carter (R. 1091).

#### **N. Intervention From the Texas Attorney General’s Office**

Subsequently, an intervention pleading was filed by the Office of the Attorney General, seeking relief from the trial court regarding child support obligations (R. 1073–1079). Father objected to this intervention (R. 1080–1088). Notably, upon examining the pleading purportedly filed by “Holly Hayes,” Father observed that the signature line did not match the name of the listed attorney of record. Additionally, the font sizes in the document appeared inconsistent, suggesting that the signature may have been irregular (R. 1077). No further correspondence was filed by the Attorney General’s Office in this matter.

By July 2024, during Father’s designated month for visitation under the disputed orders, he stayed in an Airbnb near the marital home to maintain stability for the children and worked with the host to attempt to establish a source of business revenue (R. 1712–1722).

On August 30, 2024, this Court declined to hear Father’s mandamus petition, and the trial court was notified (R. 1132–1137). Immediately following the denial, Father prepared a Motion for Rehearing, which he submitted in mid-September (R. 1111–1131). The court was notified of the rehearing filing (R. 1138–1143). The

Petition for Writ of Mandamus was subsequently amended on September 16, 2024 (R. 1110–1131).

### **O. Challenge to Opposing Counsel’s Authority Under Rule 12**

After filing the Motion for Rehearing with this Court, Father served discovery requests on the opposing party, including Requests for Production of Documents (R. 1386–1387) and Requests for Admissions (R. 1387–1391). In addition, Father filed a motion under Texas Rule of Civil Procedure 12, challenging Cooper L. Carter’s authority to represent Mother in the trial court (R. 1144–1152).

This challenge was based on ambiguity surrounding Ms. Carter’s employment status and the fact that her pleadings were being filed by Roderick D. Marx—an individual who was not listed as counsel of record and not a party to the case (R. 194, R. 991).

### **P. Declining Resources and Exhaustion of Remedies**

Facing rapidly declining credit, reduced income (R. 1693–1694), and limited housing options, Father filed an Emergency Motion for Temporary Orders on September 24, 2024, requesting relief by October 1, 2024 (R. 1158–1170). When no relief was granted and no response was received from the opposing party, Father filed a motion seeking the joint recusal of Judge James Munford and Associate Judge Jeff Kaitcer. The motion asserted that the nature of Mother’s initial

allegations had created an appearance of bias that could undermine fairness in the proceedings (**R. 1171–1195**).

### **Q. The First Recusal – Procedural Abnormalities**

Two days after the recusal motion was filed, Judge James Munford declined to recuse himself without explanation and referred the matter to the Honorable David L. Evans, the 8th Administrative Regional Judge of Fort Worth (**R. 1196–1197**). Upon reviewing this referral, Father observed that the version of the motion submitted to Judge Evans differed significantly from the one he originally filed (**R. 1198–1218**). Father's original filing was a single, 20.21 MB hyperlinked PDF submitted via the re:SearchTX platform (**R. 1229**). The version transmitted to Judge Evans was missing exhibits and the supporting affidavit. Father notified the court coordinator of the discrepancy and noted that the file was approximately 18 MB smaller (**R. 1229–1230**). Receiving no response, Father filed a formal notice with the court outlining these procedural irregularities (**R. 1220–1227**).

The following day, Judge Munford issued an amended order of referral and again declined to recuse, without explanation (**R. 1256–1258**). This time, the recusal motion was divided into three separate files, with the court citing the "size of the motion" as justification (**R. 1332**). Father objected to the handling of the recusal process (**R. 1243–1249**), noting that the Tarrant County District Clerk's publicly available filing guidelines instruct litigants to compile all exhibits into a

single document (**R. 1247 at 9**). He also noted that his original 20.21 MB file was well within the platform's approximately 30 MB capacity and that fragmenting the submission contradicted the court's standard electronic filing protocol (**R. 1246 at 6–7**).

### **R. The First Recusal – the Appointment of Justice Lee Gabriel**

Activity paused until October 18, 2024, when the parties received postcard notification that Father's Supreme Court Motion for Rehearing had been denied (**R. 1268–1273**). Three days later, Judge David L. Evans issued an order setting a video conference regarding the recusal motion for October 30, 2024 (**R. 1274–1277**). On the day before the conference, Judge Evans appointed retired Justice Lee Gabriel to preside over the recusal matter (**R. 1281–1284**).

During the scheduled video conference, internet connectivity issues arose, and the hearing was rescheduled to November 7, 2024, to be held in person at the 322nd District Court. In anticipation of possible objections from opposing counsel—who had not filed a response to the recusal motion—Father filed a *Pre-Trial Motion in Limine* to prevent interruptions during his presentation and to reiterate key facts of the case (**R. 1285–1291**).

Two days later, Father submitted a *Request for Confirmation of Procedural Requirements*, respectfully asking the district clerk to provide a certified copy of

Justice Gabriel's oath of office, in an effort to ensure procedural transparency (R. 1295–1300).

### **S. The First Recusal – Dental Emergency**

On the morning of the rescheduled in-person hearing, November 7, 2024, Father awoke experiencing significant dental distress, which he promptly communicated to his father (R. 1367–1368), opposing counsel and the court coordinator via email (R. 1370), and to Mother directly (R. 1372). Opposing counsel agreed by email to reschedule the hearing due to the emergency (R. 1369).

Nonetheless, four days later, on November 11, 2024, the court coordinator disseminated via email an order signed by Justice Gabriel denying Father's recusal motion. The order specifically referenced Father's absence from the November 7 hearing but made no mention of the dental emergency (R. 1372). In response, Father filed a *Motion to Enter Judgment* on November 13, 2024, in which he articulated objections to the procedural irregularities surrounding the recusal proceedings (R. 1301–1326). This motion was supported by an affidavit elaborating upon those irregularities (R. 1322–1325).

Shortly thereafter, Father filed a *Notice of Intent to Remove* the case to federal court, citing exhaustion of state judicial remedies and setting forth jurisdictional grounds for removal to the U.S. District Court for the Northern District of Texas (R. 1347–1364).

On November 18, 2024, Father also submitted a *Motion to Compel Discovery* (R. 1374–1383) pertaining to discovery requests initially served on Mother on September 17, 2024, attached as Exhibit A (R. 1384–1394). He requested that the court deem the requested admissions conclusively established by operation of law due to Mother’s failure to respond (R. 1381).

The recusal proceedings concluded when the court formally documented and served the order denying Father’s recusal motion on November 19, 2024 (R. 1398–1400). At that point, the parties awaited formal confirmation of the termination of Justice Lee Gabriel’s assignment, as such termination would not effectuate “...until the undersigned Presiding Judge has terminated this assignment in writing.” (R. 1282.

#### **T. Federal Removal, Remand, and Initiation of Proceedings Against Daniel Kenneth Branthoover**

Following the denial of the recusal motion, Father spent the next two weeks compiling the necessary record in preparation for federal removal. On December 2, 2024, he filed a Notice of Removal with the state trial court (R. 1401–1420). Two days later, however, the United States District Court remanded the matter back to state court for lack of subject matter jurisdiction.

On December 14, 2024, Dan Branthoover sent Father a threatening text message (R. 1695–1696). At that point, Father’s financial losses had exceeded

\$75,000 (**R. 1435–1439**), prompting him to initiate separate federal litigation against Daniel Branthoover in the U.S. District Court for the Western District of Oklahoma. That action sought damages arising from Mr. Branthoover's involvement in the events underlying this case (**R. 1426–1440**).

Father provided notice of the related federal case to the state trial court on December 31, 2024 (**R. 1420–1425**). The federal complaint was filed pursuant to **28 U.S.C. § 1332(a)** (**R. 1428**), and its statement of facts closely mirrored those presented in the current matter (**R. 1428–1432**).

#### **U. Case Abandonment**

The divorce case remained largely inactive until January 16, 2025, when Father submitted a comprehensive *Case Memorandum* and served copies upon Judges James Munford and Jeff Kaitcer of the 322nd Judicial District Court, Visiting Retired Justice Lee Gabriel, Regional Judge David L. Evans, and opposing counsel Cooper L. Carter (**R. 1441–1495**). On January 26, 2025, Father filed a *Motion to Dismiss for Want of Prosecution*, citing the lack of activity in the case by the opposing party and the Court's time standards for divorce proceedings (**R. 1502–1508**).

On January 29, 2025, facing the imminent repossession of his primary vehicle, Father returned to the matrimonial residence to retrieve his secondary vehicle. Inside, he discovered numerous personal items that Mother had placed in

the vehicle. He temporarily relocated these items to the porch (**R. 1604–1606**). Upon returning the next day to collect the children for his scheduled possession, Father observed that Mother had moved the items from the porch to the curb (**R. 1607**).

No further docket activity occurred until February 25, 2025, when Father filed a *Notice of Loss of Employment*, notifying the court of a significant reduction in income (**R. 1496–1499**). At the same time, he submitted a *Motion to Sign*, requesting a ruling on his long-pending *Motion for Partial Summary Judgment*, which had remained unresolved since its original filing on February 22, 2024 (**R. 1612–1629**), and which the court acknowledged during the March 14, 2024, hearing (**R. 1345**). Father also filed an *Objection and Request for Judicial Notice*, recapping relevant procedural history and identifying pending matters requiring rulings (**R. 1635–1653**).

On February 28, 2025, Father filed a *Request for Ruling* on his outstanding motions (**R. 1654–1661**). On March 5, 2025, he submitted a *Notice of New Information*, documenting Watauga Police Department involvement regarding his personal property being placed at the curb by Mother (**R. 1662–1666**). On March 12, 2025, Father filed a *Notice of Continued Obstruction*, itemizing pending, unopposed motions and emphasizing the ongoing lack of response from opposing counsel (**R. 1905–1913**). He reinforced these concerns on March 14, 2025, through



a *Notice of Submission*, restating the uncontested factual background and the judicial inaction on multiple unresolved filings (**R. 1919–1931**).

By March 18, 2025, Father contacted the court coordinator via email, highlighting that neither Judge Munford nor Judge Kaitcer had been formally reinstated to preside over the case, despite Justice Gabriel’s denial of recusal being entered nearly four months earlier (**R. 2730**). In light of the continued judicial inactivity, and being confident in his understanding of dominant jurisdiction based on the extensive record, Father initiated a new *Original Suit Affecting the Parent-Child Relationship (SAPCR)* in the 233rd District Court of Tarrant County, submitting a cover letter explaining his need for immediate relief for himself and his minor children (**R. 2235–2252**).

#### **V. The SAPCR Suit and the Sudden Reappearance of Counsel**

On March 18, 2025, the 233rd District Court of Tarrant County accepted Father’s original SAPCR petition (**R. 2029–2040**). Concurrently filed was an *Emergency Application for Injunctive Relief*, which reiterated the facts of the matter to date (**R. 2606–2636**). The application included several exhibits: the affidavit of inability filed by Mother on December 18, 2023 (**R. 1640–1652**), materials reflecting the conversion of marital assets (**R. 2653–2657**), the original divorce petition (**R. 2658–2668**), the protective order application (**R. 2669–2674**), documentation of Dan Branthoover’s involvement (**R. 2675–2680**), the current

temporary orders which claimed consent but lacked Father's signature (**R. 2681–2720**), the eldest child's declining grades (**R. 2721–2722**), and evidence of the youngest child's untreated dental cavity (**R. 2723–2724**).

Shortly thereafter, Mother reappeared in the litigation and filed a general denial in response to the SAPCR petition (**R. 2254–2258**). This pleading was submitted on behalf of Cooper L. Carter by Roderick D. Marx (**R. 2258**). Mr. Marx subsequently filed a motion to consolidate the SAPCR matter back into the original divorce case in the 322nd District Court (**R. 2259–2262**), again purporting to act on Ms. Carter's behalf (**R. 2262**).

Father moved to strike both the general denial and the motion to consolidate (**R. 1932–1937**), and attached an exhibit showing that opposing counsel was registered under a different law firm than what appeared on her pleadings. (**R. 1938–1939**). Father also filed a second *Rule 12 Motion* challenging Cooper L. Carter's authority to represent Mother in the 233rd District Court, citing Ms. Carter's continued failure to formally appear and the repeated filings by Mr. Marx in her name (**R. 2267–2276**). As of the date of this filing, no response has been submitted to any of these pleadings.

### **W. The Emergency TRO**

On March 24, 2025, Father filed an **Objection to Consolidation** in the second-filed case (**R. 1856–1865**) and an **Emergency Motion for Temporary**

**Restraining Order (TRO**, seeking to prevent Mother from restricting his access to the family residence and to safeguard the children (**R. 2277–2307**). The TRO incorporated the same statement of facts that remains unopposed in multiple pleadings (**R. 2280–2288**). Father then coordinated with court staff to schedule the presentation of his emergency motion and documented all communications (**R. 2308–2341**).

In those communications, Father first inquired about the status of his request and informed the court that the opposing party had been notified of the substance of the relief sought (**R. 2314**). The clerk advised that in-person presentation was required, and Father requested to appear between 9 a.m. and 2 p.m. on March 28, 2025, again confirming that the opposing party had been served (**R. 2315**). Father delivered the intended materials to opposing counsel in advance of that presentation (**R. 2327**), and the clerk confirmed the scheduled time (**R. 2315**).

On March 28, 2025, Father appeared before the court coordinator, who assisted in securing opposing counsel’s agreement to set the TRO hearing for April 10, 2025, from among the available dates (**R. 2334**). The coordinator initialed the scheduling notice to reflect that agreement (**R. 2337**). Father then proceeded to present the motion to the Honorable Kate Stone, who summarily declined to hear it based solely on a prospective objection communicated by Mother’s counsel—who was not even present in court (**R. 2328**). Even the coordinator acknowledged that the

motion could have been heard on the spot, and noted that it could have been transferred after the emergency was addressed (**R. 2332**). Instead, the Associate Judge declined entirely to entertain the motion, ultimately triggering **cause** number 25-0367, now pending before this Honorable Court.

On April 1, 2025, Father filed a *Pre-Objection* in the 322<sup>nd</sup> court addressing opposing counsel's anticipated motion to consolidate (**R. 1865–1886**). He also submitted a Respondent's Statement in the 322nd District Court (**R. 1892–1895**) and a separate Petitioner's Statement in the 233rd District Court (**R. 1896–1904**). Father then filed a Petitioner's Notice in the 233rd, presenting a side-by-side analysis of the children's best interests and relevant procedural considerations (**R. 1971–1980**).

On April 3, 2025, Roderick Marx filed the *Motion to Consolidate* on behalf of Mother's counsel that had been used to block the emergency hearing in the 322nd District Court, which failed to acknowledge Father's prior objection (**R. 2342–2345**). In response, Father filed a *Pre-Objection to Transfer* in the 233rd District Court (**R. 2060–2063**) realizing that the case would need to be transferred at some point along with a *Notice of New Information* advising the court that Mother was now engaged to Damen Kazlauskas—the individual with whom she exchanged extensive messages at the outset of this case (**R. 1995–2000**). Father also submitted a *Comprehensive Legal Analysis in Support of Dismissal* in the

322nd District Court, setting forth grounds to dismiss the original divorce matter so that the SAPCR could proceed independently (**R. 1951–1970**).

### **X. The Dragon in Triplicate**

A few days later, Father filed a *Notice of Intent to File Mandamus* in the 233rd District Court (**R. 2041–2059**) and a *Notice of Intent to File Prohibition* in the 322nd District Court (**R. 1981–1994**). On April 10, 2025, Father filed an *Emergency Motion for Declaratory Relief* (**R. 1751–1760**) and a *Petition for Writ of Mandamus* in the Second Court of Appeals, naming the Honorable Kate Stone as Respondent under cause number [02-25-00164-CV](#) (“the SAPCR Mandamus”) (**R. 2001–2028**). Directly after this mandamus was submitted to the Second Court of Appeals, District Judge Kenneth Newell *sua sponte* granted Mother’s *Motion to Consolidate* in the 233<sup>rd</sup> District Court, and then filed it with the 322<sup>nd</sup> District Court. (**R. 2368–2371**). The following day, the first-filed petition (“the SAPCR mandamus”) was denied *per curiam*.

On April 15, 2025, Father filed a *Dominant Jurisdiction Analysis* in the 322nd District Court (**R. 2064–2076**), along with a second memorandum titled *Procedural Irregularities with Temporary Orders* realizing that he was dealing with three potential abuses of discretion from three separate judges (**R. 2148–2178**). That same day, Father filed a second *Petition for Writ of Mandamus* in the Second Court of Appeals, this time naming the Honorable Jeff Kaitcer as

Respondent under cause number 02-25-00166-CV (“the Void Order Mandamus”) (R. 2372–2402) and filed an *Emergency Motion for Stay* to halt the proceedings given the extraordinary circumstances of this matter. (R. 2082–2099). See [No. 02-25-00166-CV](#)

The following day, Father filed a third *Petition for Writ of Mandamus*, naming the Honorable Kenneth Newell as Respondent under cause number [02-25-00171-CV](#) (“the Consolidation Mandamus”) for his arbitrary grant of Mother’s contested motion without a hearing (R. 2199–2224). On the same day, Father’s second mandamus petition was denied *per curiam*. By April 17, 2025, all three mandamus petitions had been denied *per curiam*, and Father moved for reconsideration en banc in all three matters (R. 2424–2443; R. 2179–2193; R. 2131–2147), thus giving birth to the “Dragon in Triplicate” – three separate judges implicated in three distinct abuses of discretion within the same family law matter.

### **Y. The Sudden Move to Final Trial**

On April 23, 2025, with all three mandamus petitions pending, Father received a *Notice of Court Proceeding* scheduling a conference for April 29, 2025, purposed for setting the matter for final trial (R. 1748–1750). That same day, Father filed a formal objection to the setting (R. 2194–2198). The following day, Father’s first filed en banc motion for reconsideration (the “Void Order” mandamus) was denied *per curiam* by the appellate court.

To address the unresolved issues regarding subject-matter jurisdiction over these orders, Father filed a *Plea to the Jurisdiction* asking the Honorable James Munford to clarify the legal basis for the current orders (**R. 2444–2454**). In a further effort to protect his procedural rights, Father filed a *Second Motion to Recuse* Judge Munford on April 25, 2025 (**R. 1763–1784**). Later that same day, Mother notified Father that the emergency circumstance which had formed the original basis for Father’s urgent push for the Emergency TRO petition had now materialized (**R. 1742–1747**).

With this new development, Father filed a *Notice of Non-Appearence and Objection to Trial Setting* (**R. 2456–2462**) and amended his pending *Motion to Recuse* (**R. 2463–2501**). Despite the allegations and the procedural defects raised, Judge Munford declined to recuse himself for a second time without any substantive explanation (**R. 2585–2589**).

Separately, the Honorable Jeff Kaitcer—though not named in the recusal motion—filed a voluntary recusal from the case (**R. 2590–2594**). In response, Father filed an *Objection to Procedural Handling of the Recusal Proceedings*, explaining that Judge Kaitcer’s referral order was improper and specifically objected to the court coordinator managing the recusal process (**R. 2595–2601**).

On May 1, 2025, the appellate court denied Father’s two remaining en banc motions *per curiam* (**R. 2602–2603; 2604–2605**). That same day, Father filed his

second *Petition for Writ of Mandamus* before this Court under cause number [25-0361](#).<sup>2</sup> He filed a third petition the next day, May 2, 2025, under cause number [25-0367](#), followed by a fourth on May 7, 2025, under cause number [25-0378](#). There are now three concurrent mandamuses before this Honorable Court, but the risk of compounding error continues down below.

### **Z. Risk of Future Error**

An *Order of Assignment* was forwarded by the coordinator from the Honorable David L. Evans appointing Senior Chief Justice John Cayce to oversee the recusal matters on May 6, 2025 (**R. 2737-2739**). Because the Order of Assignment still incorrectly named the Honorable Jeffrey Kaitcer, Father filed a second objection (**R. 2740-2746**).

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Effortlessly divested of the things that mattered most at the outset, Father now returns—not in vengeance, but armed with a mountain of record, law, and resolve—to vindicate the rights denied from the beginning, to chart a lawful course that truly serves the best interests of his children, and through this motion, respectfully requests consolidation of cause numbers 25-0361, 25-0367, and 25-0378, collectively *In Re: Charles Dustin Myers*—and, in the continued absence of rebuttal or response, to grant his emergency stay by May 16, 2025.

<sup>2</sup> The first filed mandamus petition regarding the same subject matter was filed on April 8, 2024 under case number [24-0395](#).



## **Basis for Consolidation**

### **I. Interconnectedness of the Cases and Judicial Economy**

The Texas Rules of Civil Procedure grant trial courts broad discretion in consolidating cases involving common questions of law or fact. Tex. R. Civ. P. 41; *see also* Tex. R. Civ. P. 174(a) (regarding consolidation at the trial court level).

While these rules directly address trial court consolidation, the underlying principles of judicial economy and consistency are equally, if not more, pertinent at the appellate level, particularly in the context of original mandamus proceedings before this Court. The Supreme Court of Texas has inherent authority to manage its docket and ensure the efficient administration of justice. Consolidating these three petitions will prevent duplicative review of overlapping factual backgrounds and legal arguments, thereby conserving judicial resources and ensuring a consistent and holistic examination of the issues presented.

The three petitions before this court all stem from underlying family law disputes involving Relator Charles Dustin Myers and Real Party in Interest Morgan Michelle Myers, concerning their children and Father's abrupt removal from their lives. One petition challenges an order from the 233rd District Court consolidating a Suit Affecting the Parent-Child Relationship (SAPCR) initiated by Relator into a pre-existing divorce proceeding. Another petition challenges the refusal of an Associate Judge in that same SAPCR to hear Relator's emergency TRO

application, an action Relator contends was an abuse of discretion and left him without an adequate remedy. Finally, the third petition challenges orders entered by an Associate Judge in the divorce proceeding, which Relator argues were entered without authority and are void for want of consent and an overreach of statutory jurisdiction.

## **II. Prevention of Conflicting Rulings and Ensuring Comprehensive Relief**

Given the interconnectedness of the factual and legal issues, there is a potential for piecemeal or even conflicting adjudications if the petitions are considered in isolation. Consolidation will ensure that any relief granted is comprehensive and addresses the root causes of the alleged injustices. The Supreme Court's broad discretion in matters of consolidation and severance, as discussed in cases like *Pierce v. Reynolds*, 160 Tex. 198, 329 S.W.2d 76 (1959), and *Buttery v. Betts*, 422 S.W.2d 149 (Tex. 1967), while primarily addressing trial court actions, underscores the judiciary's power to manage proceedings in a manner that promotes fairness and efficiency. *Pierce* noted that while a single cause of action may not properly be divided, an order of severance, even if erroneous, effectively separates the controversy until set aside. *Id.* 329 S.W.2d at 78–79. Conversely, consolidation here would serve to unify the review of what Relator presents as a series of interconnected deprivations of his rights.

The alleged pattern of judicial actions and the assertion that the three petitions in totality spell out a complete failure of the courts below to provide an adequate forum can only be properly evaluated through a consolidated review.

### **III. Urgent Necessity for a Stay of Proceedings Pending Appellate Review**

Relator further urges this Court to grant the pending emergency stay absent a response or rebuttal from the judges below or opposing party. This Court has the authority to “grant any just relief pending the court’s action on the [mandamus] petition.” Tex. R. App. P. 52.10(b). Such relief serves the purpose of “preserv[ing] the parties’ rights” while the appellate process unfolds. *In re State*, No. 24-0325, 2024 WL 2979857, at \*2 (Tex. June 14, 2024) (per curiam) (discussing the analogous Tex. R. App. P. 29.3 and applying its principles to Rule 52.10 relief).

Without a stay, Relator faces the imminent risk of further undue delay and the perpetuation of the denial of his rights, constituting irreparable harm for which there is no adequate remedy by ordinary appeal. *See id.* (noting that considerations governing injunctive relief, including irreparable harm, generally apply).

### **IV. Proposed Framework for Review**

To maximize the efficiency and clarity of the Court’s review, Relator proposes that the three mandamus petitions be consolidated for record and briefing purposes but adjudicated separately on their merits. This structure preserves the

individualized scrutiny appropriate to each challenged judicial act while allowing the Court to assess the broader procedural failures in context.

Relator further suggests that the Court prioritize review of the mandamus petition concerning the void March 14, 2024, temporary orders. *See* 25-0361. Those orders form the foundation for the subsequent judicial actions challenged in the other proceedings. A ruling declaring the March 14, 2024 orders void ab initio could simplify or render moot aspects of the other petitions, thereby streamlining the Court's workload and expediting final resolution.

This framework—consolidated review with distinct rulings—balances the need for judicial economy with the necessity of individualized relief and reflects the Court's inherent authority to structure its docket to promote fairness and efficiency.

#### **V. Recusal Proceedings Below Further Necessitate a Stay to Prevent Further Error**

Notably, since the filing of his emergency stay, the trial court below has *sua sponte* attempted to move the case towards final trial rather than address the threshold matters or address the fraudulent foundation of these proceedings.

The only remaining active judge in the underlying matters is the very same judge who initiated the deprivation of his rights without cause on January 16, 2024. **(R. 157-158)** (emphasis added). This circumstance creates an untenable situation where the appearance of an adequate remedy at the trial court level is merely an

illusion, as the arbiter is the source of the ongoing grievance. A stay is therefore essential to prevent the continued erosion of Relator's parental rights and to ensure that the appellate process is not rendered moot by further adverse actions at the trial court level. This Court has recognized that appellate review must be available to shield parties from potentially erroneous interim orders that could cause irreparable harm. *See Harley Channelview Props., LLC v. Harley Marine Gulf, LLC*, No. 23-0078, slip op. at 2 (Tex. May 10, 2024) (reaffirming *Qwest Commc'ns Corp. v. AT&T Corp.*, 24 S.W.3d 334, 337 (Tex. 2000) (per curiam)).

The relief sought by Relator in these mandamus petitions has, to date, not been opposed by any party. Given the profound impact on fundamental rights, the clear procedural issues raised, and the likely merits of Relator's position that his rights are being violated, a stay is imperative to restore Relator's rights pending this Court's review. An urgent need exists for such protection to be in place by May 16th, to prevent further irreparable harm given the Relator's imminent risk of homelessness. A consolidation and a stay would give this court time to review this matter, and would immediately restore Relator's rights that have caused significant damage to his business, livelihood, and relationship with his Children.

All parties are aware of the relief being sought by the Relator, and have been for several months – yet no substantive Response has been provided. Relator's rights were so easily taken at the onset – they should be as easily vindicated here.

### **Conclusion**

For the foregoing reasons, the Relator respectfully submits that consolidation of the three pending mandamus petitions is not only appropriate but essential for a just and efficient resolution. Furthermore, an immediate stay of the underlying proceedings is urgently required to protect the Relator's rights. The interconnected factual and legal issues, the overarching concerns for Relator's parental rights and due process, the need for judicial economy, the prevention of potentially conflicting outcomes, and the risk of continued irreparable harm all strongly militate in favor of consolidation and the granting of a stay. Such actions will enable this Honorable Court to conduct a comprehensive review and provide meaningful relief if the alleged abuses of discretion are substantiated without further harm being sustained in the interim.

### **Prayer for Expedited Relief**

Wherefore, premises considered, Relator Charles Dustin Myers respectfully prays that this Honorable Court provide the following relief:

1. Grant this Motion to Consolidate the three original proceedings for writ of mandamus currently pending before the Court, as each arises from the same underlying family law controversy and involves overlapping factual and legal questions;

2. Immediately grant and issue the pending temporary stay of the underlying trial court proceedings pursuant to **Tex. R. App. P. 52.10(b)** to restore Relator's rights pending the outcome, prevent further irreparable harm, and ensure the effectiveness of any mandamus relief this Court may ultimately grant should no response be submitted by May 16, 2025;
3. Prioritize review of the mandamus petition challenging the void temporary orders entered by the Honorable Jeff Kaitcer on March 14, 2024, as such orders form the foundation for subsequent judicial actions challenged in the related proceedings;
4. Adopt the proposed framework for consolidated record consideration with distinct adjudication of the relief sought in each petition;
5. And for such other and further relief, at law or in equity, to which Relator may be justly entitled.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

817-546-3693

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

Pro se Relator

**Certificate of Compliance (Tex. R. App. P. 52.10(a))**

Pursuant to **Tex. R. App. P. 52.10(a)**, Relator certifies that on **May 6, 2025**, he made a diligent effort to notify all parties by expedited means of his intent to seek emergency relief in these consolidated appellate proceedings. Notification was provided via email correspondence entitled **“RE: Emergency Relief and Consolidation of Cause Numbers 25-0361, 25-0367, 25-TBA.”** No responses were received as of the time of filing.

/s/ Charles Dustin Myers  
**Charles Dustin Myers**

**Certificate of Conference (Tex. R. App. P. 10.1(a)(5))**

Pursuant to **Tex. R. App. P. 10.1(a)(5)**, Relator certifies that on **May 6, 2025**, he made a good faith attempt to confer with all parties across the three pending appellate proceedings by sending an email entitled **“RE: Emergency Relief and Consolidation of Cause Numbers 25-0361, 25-0367, 25-TBA.”** The nature of the relief sought was clearly stated in the communication. As of the time of this filing, **no party has responded**, and the motion is presumed to be **unopposed**.

/s/ Charles Dustin Myers  
**Charles Dustin Myers**



## **CERTIFICATE OF SERVICE**

Pursuant to Rule 9.5(d) of the Texas Rules of Appellate Procedure, this First Amended Motion to Consolidate has been served on all parties of record on May 9<sup>th</sup>, 2025.

***Real Party in Interest***

Morgan Michelle Myers

[morganmw02@gmail.com](mailto:morganmw02@gmail.com)

***Respondent***

Hon. Jeff Kaitcer (25-0361)

Associate Judge

322<sup>nd</sup> District Court,

Tarrant County, Texas

[LKBaker@tarrantcountytx.gov](mailto:LKBaker@tarrantcountytx.gov)

Tel.: 817-884-1427

200 E. Weatherford St. 4<sup>th</sup> Floor

Fort Worth, TX 76196-0227

Respondents (25-0367 & 25-0378)

Hon. Kenneth Newell

Hon. Kate Stone

District & Associate Judges

Tel.: 817-884-1794

233rd District Court,

Tarrant County, Texas

[adwierzicki@tarrantcountytx.gov](mailto:adwierzicki@tarrantcountytx.gov)

Tel.: 817-884-1794

200 E. Weatherford St. 5th Floor

Fort Worth, TX 76196-0227

***Counsel for Real Party in Interest***

Cooper L. Carter

[coopercarter@majadmin.com](mailto:coopercarter@majadmin.com)

Tel.: (817) 926-6211

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, TX 76116;

***Intervenors – Appellate Level (25-0361)***

Deterrean Gamble (Bar No. 24062194)

Nicole Loya (Bar No. 24082948)

Tel: (512) 460-6672

[deterrean.gamble@texasattorneygeneral.gov](mailto:deterrean.gamble@texasattorneygeneral.gov)

[nicole.loya@oag.texas.gov](mailto:nicole.loya@oag.texas.gov)

5500 East Oltorf

Austin, Texas 78741

Matthew Deal (Bar No. 24087397)

Tel: (512) 460-6132

[matthew.deal@texasattorneygeneral.gov](mailto:matthew.deal@texasattorneygeneral.gov)

314 West 11th Street

Austin, Texas 78701-2112

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

817-546-3693

CHUCKDUSTIN12@GMAIL.COM

PRO-SE RELATOR