



322-744263-23

REQUEST FOR
RULING

02.28.25

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

Morgan Michelle Myers,

Petitioner,

v.

Charles Dustin Myers,

Respondent

REQUEST FOR RULING

2025-02-28

TO THE HONORABLE JUDGE OF THE 322ND DISTRICT COURT OF TARRANT
COUNTY:

I. INTRODUCTION

1. Movant respectfully submits this formal request for immediate rulings on multiple pending motions and matters in the above-captioned case. These matters have been fully submitted and have languished without action well beyond any reasonable timeframe. Each delay is causing significant prejudice to Movant's rights. Texas law makes clear that a court has a duty to rule on properly filed motions within a reasonable time, and that *justice delayed is justice denied*.

Pending Matters Without Timely Rulings

2. Ex Parte Emergency Motion for Contempt, Sanctions, Access to Residence, and Custody filed 02/10/2025. This motion was filed *ex parte* over two weeks ago, alleging immediate harm and requesting urgent relief (enforcement of court orders via contempt, restoration of access to the marital residence, and emergency custody orders). Despite the emergency nature of this motion, no hearing has been set and no ruling or temporary order has issued to date. The lack of action has left Movant without access to the home and children, and the other party's alleged contemptuous conduct (violating prior court orders, fraud, negligence) remains unaddressed, to the detriment of the children's welfare and Movant's rights. Opposing counsel was served a copy of this motion and has chosen not to reply or argue against the relief sought.

3. Unopposed Motion for Summary Judgment (Filed on February 26, 2024). Sitting on the docket now for *over a year*, the opposing party failed to file any response or opposing evidence by the deadline. Thus, the motion is unopposed and the material facts presented are undisputed. **Despite the passage of the hearing/submission date and the absence of any contest, the Court has not ruled on the motion.** The case cannot progress to final resolution even though no genuine fact issues exist, due to the absence of a ruling.

4. Unanswered Requests for Admissions (Served on 09/17/2024) and Motion to Compel Discovery filed 11/15/2024. The opposing party did not answer or produce the requested discovery by the due date, greatly hampering Movant's ability to prepare this case. Movant filed a Motion to Compel on [date], seeking an order forcing compliance with the overdue discovery and appropriate sanctions. **To date, the Court has neither set a hearing nor ruled on the motion to compel.** The discovery period continues to elapse (or may have closed) without

Movant receiving the basic information needed, and without the Court enforcing the rules. The lack of a ruling effectively rewards the other party's non-compliance and prejudices Movant.

II. LEGAL ANALYSIS

5. It is well-settled under Texas law that a trial court has a duty to consider and rule on motions that have been properly filed and brought to its attention. Once a motion is properly filed and pending, "the trial court's act of considering the motion and ruling on it is *ministerial*", not discretionary. *See Eli Lilly & Co. v. Marshall*, [829 S.W.2d 157, 158](#) (Tex. 1992) (orig. proceeding) (per curiam).

6. Texas Supreme Court has held that a trial court *abuses its discretion* and may be mandamus if it fails or refuses to rule on a pending motion within a reasonable time after a proper request. *See O'Connor v. First Court of Appeals*, [837 S.W.2d 94, 97](#) (Tex. 1992) (orig. proceeding).

7. This is a formal request to the court by Movant to issue a ruling on the above mentioned motions. In *Eli Lilly & Co. v. Marshall*, the Supreme Court made clear that a court can be compelled by mandamus to issue a ruling when it fails to do so in a timely manner. *Id.*

8. What constitutes a "reasonable time" depends on the circumstances of the case, however. However, when delays are extreme or unjustified, courts have not hesitated to find a denial of justice. For example, the Corpus Christi Court of Appeals recently **granted mandamus relief against a trial judge who waited three years** to rule on pending summary judgment motions, calling the delay "clearly" unreasonable. [*In re America First Lloyd's Insurance Company*](#) (No. 13-24-00059-CV; February 22, 2024).

III. ARGUMENT

9. In the present case, each of the pending matters has been left unresolved beyond any reasonable time:

i. The ex parte emergency motion has been pending for over two weeks with no action, despite its urgent subject matter. In context, a two-week delay for an emergency child custody/home access issue is extraordinary – far more delay than is reasonable when immediate relief was requested and when no opposition has been filed.

ii. The **summary judgment motion** has been ripe and unopposed since 02/26/2024. Given that no opposition was filed, there is no reason for prolonged advisement – the motion could have been decided promptly after the submission date.

iii. The **unanswered admissions** were automatically admitted by rule 30 days after service. *See* Tex. R. Civ. P. 198.2. Thus, they eliminated any factual dispute on those points as of that date. No further delay is needed or justified regarding matters that the rules deem conclusively established.

iv. The **motion to compel discovery** has been awaiting a decision effectively permitting the opposing party to remain silent while damage accrues.

v. The **Rule 91a motion to dismiss** has a built-in 45-day decision deadline which, given the failure of the opposing side to reply thus far in the case, this deadline will not be met, and the case will need to be dismissed outright as a matter of law.

IV. CONCLUSION

10. Because these delays have become unreasonable, the Court's duty to issue prompt rulings is invoked. Movant has taken appropriate steps to alert the Court of the need for action (via filings, communications, and this Request) in compliance with the procedure outlined in cases like *In re Dong Sheng Huang*, 491 S.W.3d 383, 385 (Tex. App.—Houston [1st Dist.] 2016, orig. proc.) (simply filing a motion may not be enough; the party must set it for hearing or otherwise ensure the judge is aware of it)

11. This Request itself is a formal call to action. There can be no doubt that these matters are now squarely before the Court and awaiting immediate disposition.

V. PRAYER FOR RELIEF AND JUDGEMENT

WHEREFORE, Movant, CHARLES DUSTIN MYERS, respectfully requests the follow relief from the court:

1. Enter an order **ruling on the Ex Parte Motion for Contempt, Sanctions, Access to House at [REDACTED], and Custody orders naming Movant the primary conservator immediately.** Movant asks that the Court **grant the requested relief** in that motion (order the prompt return of the children to Movant's custody as requested, grant Movant immediate access to the residence, and set the enforcement (contempt) issues for hearing or otherwise enforce them).
2. Rule on Movant's Motion for Summary Judgment without further delay. Movant requests that the Court GRANT the motion, given that it is unopposed and supported by competent evidence (including deemed admissions), and enter a summary judgment in Movant's favor on the claims at issue. If the Court for any reason

declines to grant it, Movant requests an order denying the motion now, so that Movant may pursue appropriate next appellate steps.

3. **Deemed Admissions** – Issue an order confirming that the Requests for Admissions served on 09/17/2024 are **deemed admitted** by the opposing party pursuant to Tex. R. Civ. P. 198.2(c)
4. Movant requests that the Court deem each matter admitted (to the extent a formal order is deemed necessary) and acknowledge that those admissions are conclusively established for purposes of this case.
5. Movant also **prays for such other and further relief** to which Movant may be justly entitled, at law or in equity, including any orders necessary to effectuate the prompt handling of these matters and to protect Movant's rights. Movant emphasizes that time is of the essence. The Texas Constitution guarantees that our courts shall be open and that litigants shall have remedy by due course of law without unreasonable delay. Movant simply asks that this Court uphold that guarantee by **administering prompt justice in this case** and removing the cloud of uncertainty caused by the outstanding motions.

Respectfully submitted,

/s/ Charles Dustin Myers
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Pro-se

CERTIFICATE OF SERVICE

Respondent, Charles Dustin Myers, hereby certifies that a true and correct copy of the foregoing request for ruling 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 28th 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
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