

DKT (94)



**NOTICE OF FILING ORIGINAL PROCEEDING/MOTION
FOR TEMP RELIEF**

FILED ON: 04/03/2024

FEE: \$0.00

FILER/REQUESTOR: CHARLES DUSTIN MYERS

322-744263-23

FILED
TARRANT COUNTY
4/3/2024 10:32 AM
THOMAS A. WILDER
DISTRICT CLERK

IN THE 322nd DISTRICT COURT
OF TARRANT COUNTY
FORT WORTH, TEXAS

No. 322-744263-23 (consolidated)¹

Morgan Michelle Myers,

Petitioner,

v.

Charles Dustin Myers,

Respondent

April 3rd, 2024

NOTICE OF FILING ORIGINAL
PROCEEDING AND MOTION FOR
TEMPORARY RELIEF

TO THE HONORABLE COURT:

Charles Dustin Myers respectfully files this Notice of Original Proceeding and Motion for Temporary Relief. These documents are being finalized and will be submitted to the Second Court of Appeals by April 8thth, 2024. A copy of the original proceeding is attached as EXHIBIT 1, and an amended notice containing the motion will be filed by April 5th, 2024. The Texas Rules of Appellate Procedure require service of these documents to the Presiding Judge(s) of this court. Rule 52.10 requires that the realtor “notify or make diligent effort to notify all parties by expedited means that a motion for temporary relief has been or will be filed and must certify to the court that the realtor has complied with this paragraph before temporary relief will be granted.” This notice is filed with this Court to comply with requirements of appellate rules.

¹ 322-744538-23 - Protective Order filed December 22nd, 2023, | Consolidated with cause# 322-744263-23 on January 16th, 2024.

Respectfully submitted,

CHARLES DUSTIN MYERS

/s/ CHARLES DUSTIN MYERS

PRO-SE

Chuckdustin12@gmail.com

Tel.: 817-607-6562

Certificate of Service

I certify that a true copy of this Notice for Emergency Relief was served in accordance with Rule 21a of the Texas Rules of Civil Procedure on the following on **04-03-2024**:

Cooper L. Carter by EMAIL/ESERVE at COOPERCARTER@MAJADMIN@COM

Morgan Michelle Myers by EMAIL/ESERVE at MORGANMW02@GMAIL.COM

Hon James B. Munford by ELECTRONIC SERVICE

Presiding District Judge, 322nd District Court of Tarrant County
200 E Weatherford St, Fort Worth, TX 76102

Hon Jeffrey N. Kaitcer by ELECTRONIC SERVICE

Presiding Associate Judge, 322nd District Court of Tarrant County
200 E Weatherford St, Fort Worth, TX 76102

/s/ Charles Dustin Myers
Charles Dustin Myers

Pro Se



DKT(96)

02-24-00149-CV

MANDAMUS

04.04.24

No. _____ -CV

IN THE
SECOND JUDICIAL DISTRICT COURT OF APPEALS
AT FORT WORTH, TEXAS

IN RE: C.D.M., *REALTOR*.

Original Proceeding Arising Out of
the 322ND Judicial District Court of Tarrant County
Cause No. 322-744263-23 (consolidated)
Honorable James B. Munford, District Judge Presiding
Honorable Jeffrey N. Kaitcer, Associate Judge Presiding

PETITION FOR WRIT OF MANDAMUS

Respectfully submitted by:

Charles Dustin Myers
chuckdustin12@gmail.com

██████████ ██████████
██
Tel.: 817-507-6562

PRO-SE LITIGANT

Emergency Relief Requested

IDENTITY OF PARTIES AND COUNSEL

Realtor certifies that the following is a list of all parties and all counsel who have appeared in this matter:

REALTOR:

C.D.M.

RESPONDENTS

The Honorable James Munford
The Honorable Jeffrey Kaitcer
322nd Judicial District Court
200 E Weatherford St
Fort Worth, Texas 76102

REALTOR'S PRIOR COUNSEL

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Hurst, TX 76053
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REAL PARTIES OF INTEREST:

M.M.M.(Respondent Mother)

COUNSEL FOR REAL PARTY OF INTEREST:

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 DJ Respondent erred in rendering temporary orders affecting the parent-child relationship and for the preservation of the property without notice and hearing and did not consider the Children’s best interests.

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 AJ Respondent clearly abused his discretion when rendering temporary orders on January 22nd, 2024, for the temporary conservatorship of the Children and preservation of property without notice and hearing, naming Mother primary joint conservator of the Children and awarding Mother the

sole use of the residency despite no factual basis existing to do so.

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Both Respondents abused their discretion by playing their respective parts in drafting and then upholding temporary orders that have no basis in fact or law and have taken no consideration to the Children’s best interests, which resulted in turning the only life the Children had ever known on its’ head.

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ABBREVIATIONS AND APPENDIX REFERENCES

Abbreviations:

1. Relator C.D.M. will be referred to as **“Father”** or **“Relator”**.
2. Respondent, the Honorable James Munford, district judge presiding, will be referred to as **“DJ Respondent”**.
3. Respondent, the Honorable Jeffrey Kaitcer, associate judge presiding, will be referred to as **“AJ Respondent”**.
4. Father’s children with Mother will be referred to as **“Children”** or **“the Children”**.
5. Real Party in Interest M.M.M., the Mother of the Children, will be referred to as **“Mother”** or **“Petitioner”**.

Record References:

6. The appendix filed with this Petition for Writ of Mandamus will be referred to as **“App.”** and will be cited by page number(s) as appropriate. **App. ____-____.**
7. The supplemental appendix filed with this Petition for Writ of Mandamus will be referred to as **“SApp.”** And will be cited by item number(s) as appropriate. **SApp. ____-____.**
7. A comprehensive court record is not available for this case. This is due to the absence of a court reporter at the hearings presided over by both the DJ Respondent and the AJ Respondent. This document relies on the available written records and filings, including the appended documents, for all references and citations.

STATEMENT OF THE CASE

Nature of the Case: The underlying suit is a divorce proceeding overseen by two separate Judges initiated by Mother which waived the 60-day waiting period due to an alleged active order of protection against the Father **App. 11** and was consolidated with a protective order claiming harassment and sexual harassment from the Realtor. **App. 21.**

Respondents: Respondents are Hon. James Munford, presiding District Judge & Hon. Jeffrey N. Kaitcer, presiding Associate Judge of the 322nd District Court of Tarrant County, Texas.

Respondents' actions: DJ Respondent ordered the Realtor to vacate his home and place of business at the initial show cause hearing on January 16th, 2024, effectively removing one parent from the Children's lives abruptly, without notice or hearing, and despite granting a continuance for the parties to obtain legal counsel. **App. 70.** AJ Respondent presided over the case beginning on the first reset date of January 22nd, 2024, where Mother failed to acquire Counsel until just minutes before the hearing, delaying the proceedings until February 1st, 2024, **App. 72** where the Father was advised to sign an agreed order with no alternative option available at the time. **App. 81-86.** Father terminated his counsel and filed for reconsideration on February 8th, 2024, which AJ Respondent heard on March 14th, 2024. **App. 177.**

Statement of Jurisdiction

This Honorable Court has jurisdiction to issue a writ of mandamus under Section 22.221(b) of the Texas Government Code.

Issues Presented

Issue No. 1: DJ Respondent erred in rendering temporary orders affecting the parent-child relationship and for the preservation of the property on January 16th, 2024, without notice and hearing despite granting both parties a continuance to obtain legal counsel, effectively removing a parent from the Children's lives without any reasonable justification.

Issue No. 2: AJ Respondent clearly abused his discretion when rendering temporary orders on January 22nd, 2024, for the temporary conservatorship of the Children and preservation of property without notice and hearing, naming Mother primary joint conservator of the Children and awarding Mother the sole use of the residency despite no factual basis existing to do so after she failed to obtain legal Counsel in time for the hearing.

Issue No. 3: The AJ Respondent further demonstrated an abuse of discretion by issuing temporary orders effective until the final divorce decree on March 26th, 2024. These orders were predicated on an agreed associate judge's report that was substantively void, failing to fulfill the procedural standards which the AJ Respondent had previously ratified, and that had no foundational basis in law or fact and egregiously overlooked the welfare and best interests of the Children.

PETITION FOR WRIT OF MANDAMUS

TO THE HONORABLE JUSTICES OF THE SECOND COURT OF APPEALS:

Relator C.D.M., (“Father”) submits this Petition for Writ of Mandamus, and as grounds, therefore, would show as follows:

I.

STATEMENT OF FACTS

A. Between December 14th, 2023, and December 27th, 2023, the Mother filed for two protective orders, a divorce, and influenced an eviction suit - each of them claiming family violence.

On December 14th, 2023, Mother requested an emergency ex-parte order of protection from DJ Respondent.¹

On December 17th, 2023, the Mother’s grandmother served the Realtor with an eviction notice citing a yet to be filed divorce petition and protective order. On December 18th, 2024, the Mother wrote “VOID” on the notice in black ink and physically tore it in half.App 1-2.

¹ This reference can be found in the Original Petition for Divorce, page 7 under 9B. See *App. 9*.

On December 18th, 2023, The Mother filed for divorce waiving the 60-day waiting period claiming that an active order of protection was active against the Father. **App. 11.**

On December 22nd, 2023, the Mother filed for a Protective Order against the Father despite getting denied an emergency protective order on December 14th, 2024. **App. 15-21.**

On December 27th, 2023, The ex-parte protective order was filed with the Court against the Father, indicating a denial based on the “Xs” marked over the pages. **App. 22-25.**

On December 28th, 2023, the Father was served with the Eviction suit initiated by the Mother’s grandparents. **App. 26.** A third ex-parte protective order was filed with the Court also containing “Xs” marked across the pages. **App. 27-30.**

B. Between January 2nd, 2024, and the initial Show Cause hearing scheduled for January 16th, 2024, the Father prepared his defense to address the baseless allegations of family violence made against him.²

² At the time of this filing, not one document has been filed corroborating the claims made by the Mother or her Counsel regarding family violence.

On January 2nd, 2024, Father filed his answer to the protective order. **App. 31-35.** The answer was accompanied by the Father's criminal record from the Texas Department of Public Safety, marked as EXHIBIT B. **App. 36-37.**

On January 3rd, 2024, Father filed a motion to consolidate for judicial efficiency. **App. 38-41.** Father's motion to consolidate was accompanied by his Background Report for Case Consolidation. **App. 42-43.**

On January 8th, 2024, the Father filed a motion for continuance. **App. 44-46.** The Father's motion for continuance was filed with a brief attached, explaining that he had been focusing on the Children's holidays and school vacation while simultaneously battling concurrent litigation by the Mother and landlords, and was requesting the continuance to allow more time to prepare given these circumstances. **App. 47-49.**

C. On January 16th, 2024, the Father was ordered to vacate the family home and place of business on four hours' notice, and full custody was awarded to the Mother.

On January 16th, 2024, the Father was ordered to vacate his home without due process, and despite the Father's motion for

continuance being granted alongside his motion for consolidation, this decision was made without any witnesses being called and before the Father could obtain legal Counsel and the hearing was re-scheduled for January 22nd, 2024.**App. 50-51.**

On the evening of January 16th, 2024, Father filed his Counterpetition for Divorce**App. 52-61,** accompanied by a comprehensive statement of context to provide insights into the case, detailing the situation, and outline the evidence the Father would present at the reset hearing on January 22nd, 2024.**App. 62-67.** Father also filed an unsworn declaration to shed light on the conspiratorial nature of the collective actions taken against him by the Mother and her family.**App. 68-71.**

D. After being removed from his home, the Father attended the eviction hearing and prevailed on January 17th, 2024.

On January 17th, 2024, less than 24 hours after being ordered to vacate the residence, the Father attended the eviction hearing at Justice of the Peace 1 in Fort Worth, Texas, where he prevailed for lack of jurisdiction.**App. 72.**

On January 19th, 2024, Father retained Counsel.

On January 19th, 2024, Father retained Counsel to advocate on his Children's behalf and represent his interests. **SApp. 2.**

E. Mother's failure to acquire counsel in time for the reset hearing resulted in further delays on January 22nd, 2024, due to AJ Respondent granting her continuance.

On January 22nd, 2024, after Father acquired Counsel and attending the reset hearing, Mother failed to acquire representation until minutes before the hearing started to which a continuance was requested and subsequently granted, causing further delays in the proceedings, and prompting yet another reset for February 1st, 2024. App. 73-74.

F. At the next hearing on February 1st, 2024, Father's Counsel drafted an Associate Judge's Agreed Report, and part of this agreement, Mother dropped the protective order suit against the Father while granting him temporary relief until March 1st.

On February 1st, 2024, the hearing was usurped by Father's Counsel and was suddenly focused on the drafting of an Associate Judge's Report **App. 75-80** with the addition of temporary child support to be paid by the Father **App. 76** rather than holding a hearing to discuss the issues that were directly communicated via email leading up to the hearing. **SApp 3-7**. The last page of the orders had specific procedural requirements that were part of the order that stated:

"A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by **Dan Bacalis**³. Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There are no ten (10) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from the signing of this Report." **App. 79**.

The agreement allowed the Father back into the family home so he could work and regain his active role in his Children's lives until March 1st **App. 77** while simultaneously removing the Children from their own home until the same date and dropping the protective order suit initiated by the Mother which had been the

³ Dan Bacalis was terminated on February 5th, 2024, by the Father, making these procedural stipulations outlined in the order arguably impossible to satisfy without modification.

basis for every decision leading up to this point in the case. **App. 77.**

G. Father terminated the services of his legal Counsel on February 5th, 2024.

On February 5th, 2024, Father's Counsel was terminated due to ineffective representation, and a notice was promptly filed with the Court. **App. 81-83. SApp. 8.**

On February 6th, 2024, an agreed motion for withdrawal of attorney was signed by the Father and his Counsel and filed with the Court. **App. 84-87.**

H. On February 9th, 2024, Father filed his emergency motion to reconsider / vacate temporary orders.

The Father filed his motion to reconsider evidence and vacate temporary orders **App. 88-90**, accompanied by a detailed brief which aimed to challenge the overall foundation of the case and bring to light the procedural missteps and re-focus the case on the Children's best interests. **App. 91-98.**

I. The Order for Withdrawal of Attorney was rendered and served to all parties on February 12th, 2024.

On February 12th, 2024, the Order for Withdrawal of Attorney was filed with the Clerk containing AJ Respondent's signature dated February 8th, 2024, which stated that the Court found no pending settings or deadlines within the case. **App. 99-101.**

J. On February 13th, 2024, Father communicated with Mother's Counsel regarding the scheduling of the reconsideration motion.

On February 13th, 2024, Father reached out via email to Mother's counsel regarding the scheduling of the reconsideration motion, where she claimed that she would have availability nearly a month later, and also claimed that she would be filing a counter-motion.⁴ **SApp 15.**

K. The Father moved for a Partial Summary Judgement on February 22nd, 2024.

On February 22nd, 2024, Father filed a Motion for Partial Summary Judgement after no counter-motion was filed by Mother's Counsel with an accompanying brief to argue that the evidence and procedural history presented in the case clearly favor his position, demonstrating that the actions taken against him were not supported by the substantive facts of the case or in the best interest of the children, eliminating the need for a hearing regarding the reconsideration motion. **App. 102-111.** The Father's proposed parenting plan was attached to the motion as EXHIBIT D. **App. 112-115.**

⁴ This counter motion was never filed.

L. On February 27th, a Notice of Hearing was served regarding Father's Reconsideration Motion.

On February 27th, a Notice of Hearing was served on all Parties scheduled for March 14th, 2024, on Father's reconsideration Motion.App. 116-117.

M. Father filed an Unsworn Declaration with the Court on March 3rd, 2024.

On March 3rd, 2024, Father filed a Notice and unsworn declaration with the Court explaining he would be unable to vacate the home by March 1st, as the Mother's employment had changed, and that it would not be in the Children's best interest.App.118-121.

N. Father and Mother attended the reconsideration hearing on March 14th, 2024.

On March 14th, 2024, Minutes before the hearing, Mother's Counsel hands the Father the agreed orders reduced to writing in the Courtroom, which differed from the original agreed orders signed on February 1st, 2024, such as the Father requiring to vacate the home by March 20th, rather than March 1st, and the Mother and Children being allowed to return on the 30th, not the 1st, which left a 10-day gap where neither party would be occupying the

residence.**SApp. 16.** Father's reconsideration motion was denied.**App. 122.**

0. Father filed a Notice of Judicial Review With the Court on March 26th, 2024.

On March 26th, 2024, Father filed his Second Amended Notice of Judicial Review**App. 123-171** that contains familial background history.**App.132** as well as employment history and family dynamics.**App. 133-140.** This review also contains a statement of facts with several linked documents embedded within the filing that reiterate many facts brought forth within this mandamus petition.**App.141-150.** Most critically, the Respondent's Parental Index within the document highlights the Father's pivotal role in the Children's lives throughout these proceedings.**App.151-154.**
SApp. 17-55.

This document also contains sworn statements from the Father's business clients that was offered at the hearing on March 14th, 2024, corroborating the Father's active involvement in the Children's lives, work ethic, and history working out of the family residence.**App.172-187.**

P. On March 26th, 2024, the Agreed Associate Judge's Report was reduced to writing and became Temporary Orders, and was served on the parties.

On March 26th, 2024, the judgement and denial of Father's reconsideration motion was filed with the Clerk and served on the parties, rendering the current temporary orders App. 188-226 effective until the signing of the final decree of divorce. App 224.

II.

SUMMARY OF THE ARGUMENT

DJ Respondent abused his discretion when naming the Mother primary managing conservator of the children before any witnesses could be called or any evidence could be presented by the Father, disregarding *TEX FAM. CODE 105.001(b)* which clearly states, "*an order may not be rendered under Subsection (a)(1), (2), or (5) except after notice and a hearing.*". In light of these facts, by DJ Respondent naming the Mother primary managing conservator of the Children, which falls under *TEX. FAM CODE 105.001(a)(1)*, he clearly abused his discretion.

AJ Respondent abused his discretion on January 22nd, 2024, when DJ Respondent's orders expired, and AJ Respondent rendered temporary orders for the temporary conservatorship of the Children and excluding the Father from the residence without notice and hearing due to the Mother's inability to hire counsel until just minutes prior to the reset hearing. "[A]n order may not be rendered under Subsection (a)(1), (2), or (5) except after notice and a hearing.". *TEX FAM. CODE 105.001(b)*

AJ Respondent also clearly abused his discretion when signing the Agreed Associate Judge's Report on February 1st, 2024, drafted by Father's attorney for "the temporary conservatorship of the children" *FAM CODE § 105.001(a)(1)* , and "for the temporary support of the children" *TEX. FAM CODE § 105.001(a)(2)* when such an order "*may not be rendered...before notice and hearing.*" *TEX FAM. CODE 105.001(b)*

Furthermore, AJ Respondent abused his discretion when entering the temporary orders after notice and hearing despite them failing to meet the procedural requirements ordered in the Agreed Associate Judge's Report that he previously signed. The Report was reduced to writing by Mother's Counsel just minutes before the reconsideration hearing on March 14th, 2024, and were filed as Temporary Orders with the Clerk of the court on March

26th, 2024. The only witness called in this case was the Mother during the reconsideration hearing for the purpose of obtaining legal fees. The documents filed within this case will show that both Respondent's determinations are made on no factual basis and the Children's best interests have been ignored outright, and hinge on a misapplication of law.

III.

ARGUMENT

A. AVAILABILITY OF MANDAMUS RELIEF

Mandamus is an appropriate remedy for a parent to attack the issuance of temporary orders in a custody proceeding, since such orders are not subject to interlocutory appeal. *Dancy v. Daggett*, 815 S.W.2d 548, 549 (Tex. 1991) (*per curiam*).

A writ of mandamus is the correct recourse when the trial court exhibits an abuse of discretion and there is no other adequate legal remedy available, such as an appeal. *In re Prudential Insurance Company of America*, 148 S.W.3d 124, 135-36 (Tex. 2004)

Furthermore, conservatorship determinations made after a bench trial are "subject to review only for abuse of discretion and may

be reversed only if the decision is arbitrary and unreasonable." *In re J.A.J.*, 243 S.W.3d 611, 616 (Tex. 2007) quoting *Gillespie v. Gillespie*, 644 S.W.2d 449, 451 (Tex. 1982)

B. Issue No. 1

DJ Respondent erred in rendering temporary orders affecting the parent-child relationship and for the preservation of the property without notice and hearing and did not consider the Children's best interests.

The *Texas Family Code* provides that "after notice and hearing, the court may render an appropriate order, including the granting of a temporary injunction for the preservation of the property and protection of the parties as deemed necessary and equitable." *Id* § 6.502(a).

DJ Respondent abused his discretion by awarding the mother temporary primary conservatorship of the Children and sole occupancy of the residency before any witnesses were called or evidence presented, despite granting a continuance for the parties to acquire legal representation and resetting the case for January 22nd, 2024. **App. 77.**

1. The initial child custody determinations did not consider the children's best interests.

On January 16th, 2024, this significant decision was made, effectively removing one parent from the Children's lives, and introducing instability without any consideration of the Children's best interests when "the best interest[s] of the child[ren] shall always be the primary consideration in determining conservatorship, possession of, and access to the child[ren]." *Id.* § 153.002. The fact that the Father requires the residency for his at-home business, and given that such a business would take time to transition to an alternative residency, the DJ Respondent erred in not taking these facts into consideration when "[s]uits affecting the parent-child relationship are 'intensely fact-driven' and require courts to balance many factors." *Billisits v. Billisits*, No. 03-21-00358-CV, 2023 WL 2191330, at *2 (Tex. App.-Austin Feb. 24, 2023, no pet.) (mem. op.).

C. Issue No. 2

AJ Respondent abused his discretion when rendering temporary orders affecting the parent-child relationship without notice and hearing.

On January 22nd, DJ Respondent's orders reset, and when Father and Mother made their appearance, the Mother failed to acquire legal representation until just minutes before the scheduled hearing, which delayed the proceedings until February 1st, 2024.**App. 79.** This resulted in an Associate Judge's Report being rendered that awarded the mother primary conservatorship of the Children and sole use of the residency once again without any witnesses being called, or evidence being presented by the parties, and once again overlooking the Children's best interests. The Father was in direct communication with his Counsel and wanted to reiterate key points and concerns prior to the next hearing which were never addressed.**SApp 3-7.**

D. Issue No. 3

AJ Respondent abused his discretion further when approving the reduction of an Agreed Associate Judge's Report to writing despite the orders not meeting their procedural requirements and not being in the Children's best interests.

On February 1st, 2024, the parties attended the second reset hearing, where Counsel began negotiations and drafted an Agreed Associate Judge's Report giving father temporary relief back into the family home until March 1st, 2024**App. 120**, but keeping the

mother as the primary conservator.**App. 118.** This outcome raised significant questions about the adequacy of Father's Counsel's advocacy on behalf of the children, especially considering no additional facts were presented by the Mother to justify the decision rendered in the Agreed Report.**App. 122.** Given that temporary relief was given to the Father, he signed the agreement and subsequently terminated his legal representation on February 5th, 2024**SApp. 8** and filed a notice with the court for ineffective representation.**App. 111-112.**

1. After terminating his representation, Father filed for a motion to reconsider challenging the foundational basis for the agreed report signed on February 1st, 2024.

On February 9th, Father filed an emergency motion to reconsider evidence and to vacate temporary orders.**App. 127-130.** Attached with this motion was a brief and exhibits explaining the issues.**App. 131-156.** A hearing was not set on this motion until over a month later on March 14th, 2024**App. 189,** as opposing Counsel stated that was her only available timeframe despite not filing any response, objections, or conducting any due diligence between February 9th, 2024 and March 14th, 2024.**SApp. 15.**

2. Father's motion to reconsider evidence and vacate temporary orders was denied by AJ Respondent and evidence was not allowed to be admitted.

On March 14th, 2024, AJ Respondent denied Father's motion for reconsideration after only one witness was called (the Mother) who testified for the sole purpose of collecting attorney's fees, and while providing no evidence or testimony providing any insight into the Children's well-being or best interests.**App. 245.** The Father offered several affidavits from his business clients corroborating his claims about needing residency to work from home, which were not admitted into evidence which would have shown his dedication to his work, and Children.**App. 246-261.**

3. Father added the refused affidavits to the clerk's record via a notice of judicial review.

The Father filed these affidavits in accordance with his Second Amended Preparatory Notice for Judicial Review filed on March 26, 2024.**App. 196,** which contains familial background**App. 205,** family dynamics and employment history**App. 206-213,** the "Respondent's Parental Index" with links showing Father's close relationship with the Children leading up to

court intervention and during the proceedings **App. 224-227**, and his efforts in these matters regarding the zealous advocacy for the best interests of his Children. **App. 228-230**.

4. On March 26th, 2024, AJ Respondent rendered Temporary Orders that would remain until the final decree of divorce was signed.

The agreement, executed by all parties and their Counsel on February 1st, 2024, outlined specific obligations. **App. 122**. The failure to meet the agreement's requirements was prominently addressed during the oral argument on March 14th.⁵ Despite this, the orders, hastily reduced to writing that same day and not conforming to the agreed-upon requirements, were not issued until March 26th, 2024—significantly later than the 20-days stipulated **App 122**. This resulted in the final orders being issued without the necessary signatures from the Father or his preceding Counsel and still failing to be based on any pertinent facts related to the Children's best interests. **App. 299**.

⁵ No court reporter was available for the hearing, so no transcript was made of the oral arguments.

5. The Children's best interests have been starkly overlooked by all parties in the case outside of the Father.

Had just one of the eight factors outlined in the long-dated case of *Holly v. Adams* 544 S.W.2d 367 (1976) been applied to the decisions made within this case, the trial court would have not erroneously severed an active and loving father from his Children's lives and would not have removed the Father from his residency that he needs to provide for the Children without notice and hearing on multiple occasions.

Throughout these proceedings - the clerk's record will clearly show continuous efforts from the Father to advocate for his Children's best interests, and the lack thereof by Counsel and both Respondents, entitling the Father to immediate relief via mandamus, as his burden to show an abuse of discretion, which is to "show that the trial court acted in an arbitrary or unreasonable manner, or without regard to guiding principles of law." *Billisits v. Billisits*, No. 03-21-00358-CV, 2023 WL 2191330 (Tex. App.-Austin Feb. 24, 2023) (*mem. op.*), can be met by simply looking at the face of the clerk's record.

IV.

CONCLUSION

The initial decision by DJ Respondent laid a flawed foundation, affecting all later decisions and disregarding the children's best interests. AJ Respondent's actions of exacerbating and the drafting of an agreed order by incompetent counsel merely perpetuated these errors, using the father's pursuit of relief as leverage. This process effectively excluded a dedicated parent from his children's lives, only to conditionally re-admit him, while simultaneously allowing the Mother to temporarily remove them from their own home. This cascade of decisions represents a stark abuse of judicial discretion and a failure of legal duty, highlighting the urgent need for rectification to uphold the integrity of the family law system and protect the children's welfare. The benefits of the Father's restoration to the family home and place of business, and the restoration to his daughter's lives outweighs the effects put on the Mother, as her actions have disregarded the Children's best interests and have casted a long shadow on their future as the current situation stands.

PRAYER

Due to the reasons outlined above, the realtor respectfully requests that this writ of mandamus be granted by the Realtor, alongside the temporary relief sought. Restoring the status quo ante and refocusing the case on the best interest of the Children.

Respectfully submitted,

Charles Dustin Myers

/s/ Charles Dustin Myers

Pro-Se Litigant

chuckdustin12@gmail.com

[REDACTED]

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CERTIFICATE OF REALTOR REGARDING WORD COUNT

Pursuant to rule 9 of the Texas Rules of Appellate Procedure, I certify that the word count in this Petition for Writ of Mandamus, excluding the caption and introductory matters, signature, proof of service, certification, certificate of compliance, and appendix, totals 4126 words.

/s/ Charles Dustin Myers
Charles Dustin Myers

Certificate of Service

I certify that a true copy of this Notice for Emergency Relief was served in accordance with Rule 21a of the Texas Rules of Civil Procedure on the following on **04-03-2024**:

Cooper L. Carter by EMAIL/ESERVE at COOPERCARTER@MAJADMIN@COM

Morgan Michelle Myers by EMAIL/ESERVE at MORGANMW02@GMAIL.COM

Hon James B. Munford by ELECTRONIC SERVICE

Presiding District Judge, 322nd District Court of Tarrant County
200 E Weatherford St, Fort Worth, TX 76102

Hon Jeffrey N. Kaitcer by ELECTRONIC SERVICE

Presiding Associate Judge, 322nd District Court of Tarrant County
200 E Weatherford St, Fort Worth, TX 76102

/s/ Charles Dustin Myers
Charles Dustin Myers

Pro Se

No _____-CV

IN THE COURT OF APPEALS FOR THE SECOND JUDICIAL DISTRICT
FORT WORTH, TEXAS

IN RE: C.D.M, *Relator*

Original Proceeding Arising Out of
the 322nd District Court, Tarrant County
Cause No. 322-744263-23(consolidated)
(Honorable James B. Munford, District Judge Presiding
Honorable Jeffrey N. Kaitcer, Associate Judge Presiding)

Appendix

In support of this petition, Relator submits this Appendix in
compliance with Rule 52.3(j) of the Texas Rules of Appellate
Procedure:

A. Affidavit of Charles Dustin Myers

1. Ex-Parte Temporary Order.....12.14.2023
2. Original Petition for Divorce.....12.18.2023
3. Application for Protective Order.....12.22.2023
4. Ex-Parte Temporary Order.....12.27.2023
5. Ex-Parte Temporary Order.....12.28.2023
6. Answer to Protective Order.....01.02.2024

7. Motion to Consolidate.....	01.03.2024
8. Cases Background For Consolidation.....	01.03.2024
9. Motion of Continuance.....	01.06.2024
10. Motion of Continuance Brief.....	01.06.2024
11. COMPREHENSIVE STATEMENT OF CONTEXT.....	01.06.2024
12. Unsworn Declaration - General (1).....	01.07.2024
13. Initial temporary orders.....	01.17.2024
14. Second temporary orders.....	01.23.2024
17. NOTICE OF TERMINATION OF LEGAL COUNSEL.....	02.05.2024
18. Agreed Motion for Withdrawal of Attorney.....	02.06.2024
19. Agreed Associate Judge's Report.....	02.08.2024
21. MOTION TO VACATE TEMPORARY ORDERS.....	02.09.2024
22. ORDER FOR WITHDRAWAL OF ATTORNEY.....	02.12.2024
23. MOTION FOR SUMMARY JUDGEMENT - BRIEF.....	02.22.2024
24. EXHIBIT D -PROPOSED PARENTING PLAN.....	02.22.2024
25. NOTICE OF HEARING FOR 03/14.....	02.27.2024
26. NOTICE_UNSWORN_DECLARATION.....	03.03.2024
27. NOTICE FOR JUDICIAL REVIEW.....	03.23.2024
28. ORDER ON RECONSIDERATION MOTION.....	03.23.2024
29. DANNY SLADE AFFIDAVIT.....	03.23.2024
30. AARON WATSON AFFIDAVIT.....	03.23.2024
31. LUZ_OBLE_AFFIDAVIT.....	03.23.2024
32. JOHN VALERA AFFIDAVIT.....	03.23.2024
33. BRIANNA GALBO AFFIDAVIT.....	03.23.2024
34. CHRISTIAN VROOM AFFIDAVIT.....	03.23.2024
35. MORVAN AFFIDAVIT.....	03.23.2024

- 36. Current Temporary Orders.....03.26.2024
- 37. TEX. FAM. CODE § 105.001(b)
- 38. TEX. FAM. CODE § 105.001(a)(1)
- 39. TEX. FAM. CODE § 153.002

Relator notes the absence of a court-reported record for this case, significantly hindering the ability to provide a verbatim transcript of proceedings crucial to this mandamus action. Notably, the only witness called during these proceedings was the mother, primarily for securing legal fees for the March 14th motion for reconsideration. This unique circumstance, compounded by the lack of a court reporter, accentuates the need for the Court's detailed review of the attached appendix. This appendix, containing all relevant documents filed in compliance with statutory requirements and unopposed to date, forms the core evidence for the Court's consideration. Despite these procedural anomalies, the Relator believes the submitted documents will sufficiently support the Petition for Writ of Mandamus.

No _____-CV

IN THE COURT OF APPEALS FOR THE SECOND JUDICIAL DISTRICT
FORT WORTH, TEXAS

IN RE: C.D.M, *Relator*

Original Proceeding Arising Out of
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Cause No. 322-744263-23(consolidated)
(Honorable James B. Munford, District Judge Presiding
Honorable Jeffrey N. Kaitcer, Associate Judge Presiding)

Supplemental Electronic Appendix

In support of this petition, Relator submits this Supplemental Electronic Appendix corresponding with embedded links found within the Second Amended Notice for Judicial Review filed with the Court on March 23rd, 2024, that are not included in the **Appendix**, and are referenced in the order that they appear in the Second Amended Notice for Judicial Review:

1. [image]Father and Mother's residence.

<https://www.dropbox.com/scl/fi/mcfrdicfkz1o10j3bo7ch/Screenshot-2024-03-19-123046.png?rlkey=uctxj79hda1bq3o49harehv5l&dl=0>

2. [image]Father's retainment of Counsel Receipt.

https://www.dropbox.com/scl/fi/4bzqegwzn2azn8dtd5c6x/dan_receipt_retained.png?rlkey=xvfdjgu1r3a3toz45gjdt2esv&dl=0...01.19.2024

3. [email]Father Communicating Critical Key Points to Counsel.

https://www.dropbox.com/scl/fi/vgd3qffnvxj2t37nd4s56/dan_email_jan_19th.pdf?rlkey=nx0o7yzmjryjmx14yjppuv5iw&dl=0.....01.19.2024

4. [email]Father communicating concerns to Counsel.

https://www.dropbox.com/scl/fi/tpw3rnn1ckcd6rumvn6bn/dan_email_1_jan_23.pdf?rlkey=64ctn4zaiah6w2zbge4tavbl&dl=0.....01.23.2024

5. [email]Father communicating the attorney-client relationship is at risk due to inattentiveness issues with his Counsel.

<https://www.dropbox.com/scl/fi/sjese5edp8baeoddxsp1f/Gmail-Attorney-Client-Relationship.pdf?rlkey=81u25rjzkjazap8pydgdf4nzn&dl=0>...01.25.2024

6. [email]Father communicating regarding the amended petition for divorce filed by Mother's Counsel.

<https://www.dropbox.com/scl/fi/msmj3bm3ms3kvezdt8wb/Dan-new-filing.pdf?rlkey=i7n7i49l1feb9a9m3a01lcjrm&dl=0>.....01.31.2024

7. [email]Father communicating with his Counsel reiterating his desires for the hearing scheduled for February 1st, 2024.

https://www.dropbox.com/scl/fi/6w3qojkuki5va2c5aatdt/dan_daughter_crying_jan_31st.pdf?rlkey=410alpm8ekm72oua6hojg5xv1&dl=0.....

.....01.31.2024

8. [email]Father's termination of his Counsel due to inadequate and ineffective representation.

<https://www.dropbox.com/scl/fi/g7v2yrogkjo1bqm9eoanb/Gmail-Termination-of-Services.pdf?rlkey=rtoxhp6eu7ef5elsu74kr9niu&dl=0>

.....02.05.2024

9. [text message] Father's communication with Mother's family showing that she moved money to herself prior to filing for divorce under an affidavit of inability to pay costs.

https://www.dropbox.com/scl/fi/ezjrfgb95n5zna4vnsked/Screenshot_20240320_220003_Messages.png?rlkey=edciighqkajy7wy59o9htuheu&dl=0.....12.16.2023

10. [text message] Father's communication with Mother where she invites him to a school field trip after filing for an emergency ex-parte order against him the same day.

https://www.dropbox.com/scl/fi/4fyfaf93tc0nlgh614cdj/Screenshot_20240320_140118_Messages.png?rlkey=djzl2j02h3r5bn1mmnf51rigo&dl=0.....12.14.2023

11. [text message] Mother's correspondence with Father informing him of her intention to talk with her grandparents and landlords.

https://www.dropbox.com/scl/fi/v8198vqxspajxljio3l9j/Screenshot_20240320_215900_Messages.png?rlkey=pjyw0n78ao1c7l02xp28cl4lx&dl=0.....12.13.2023

12. [text message] An image taken by Father showing the family cohabiting on the same day Mother files for an order of protection against him.

https://www.dropbox.com/scl/fi/gc8yd1rzo6nx9bbg021bc/Screenshot_20240320_140052_Messages.png?rlkey=t9sm4fyq6epvklsce5th62a5&dl=0.....12.22.2023

13. [text message] Father's communication with Mother's family showing that she had influence in filing the divorce and protective order paperwork.

https://www.dropbox.com/scl/fi/98e2stganwbbpgoirsata/Screenshot_20240320_220031_Messages.png?rlkey=1esot1ck5ionegs0dqa8jowfo&dl=0.....12.16.2023

14. [text message] Father's communication with Mother's family showing that he referred to himself as Mother's client when having no license to practice law in the state of Texas.

https://www.dropbox.com/scl/fi/98e2stganwbbpgoirsata/Screenshot_20240320_220031_Messages.png?rlkey=1esot1ck5ionegs0dqa8jowfo&dl=0.....12.19.2023

15. [email] Father's communication with Mother's Counsel regarding the scheduling of the reconsideration motion.

<https://www.dropbox.com/scl/fi/1fssy47mfyg1d615cf2gy/CORRESPONDENCE-WITH-COUNSEL-REGARDING-RECONSIDERATION.pdf?rlkey=v0cj8lkyzkia0lth46t7aaf93&dl=0>.2.13.2024

16. [text message] Father's message informing Mother that the agreed orders contain several clerical mistakes.

https://www.dropbox.com/scl/fi/793e5afoj9sfz2rvi8kx0/Screenshot_20240320_220749_AppClose.png?rlkey=l3llj40z225jzyarczndwxuh&dl=0.....03.18.2024

17. [video]Trampoline / Dance / Light Show

<https://www.dropbox.com/scl/fi/weabz7ly6xq47zslahv3l/Highlight0023.mp4?rlkey=uomroomdbzv14de3xov1pkhcg&dl=0>.....12.02.2023

18. [video]CiCi's Pizza Arcade
<https://www.dropbox.com/scl/fi/pl7pkr2tke24vcysp9m34/Highlight0025.mp4?rlkey=knv7qgc2zry70o8la978qm7eo&dl=0>.....12.04.2023
19. [video]Dinner / Nap Time
<https://www.dropbox.com/scl/fi/mayxueene4i0utylbjcy6/Highlight0026.mp4?rlkey=zaqppgyazw55n76sqby5eytlu&dl=0>.....12.05.2023
20. [video]Scootering Home
<https://www.dropbox.com/scl/fi/z6qxrk5d9lo042nzkgkg6/Highlight0013.mp4?rlkey=6ef3hvizjmsfm9hk0gr2t7jih&dl=0>.....12.06.2023
21. [video]Fun at the Park
<https://www.dropbox.com/scl/fi/1kytbncs8p5srryclxaz0/Highlight0024.mp4?rlkey=abj9xf27whdxm7omv5r46ch8t&dl=0>.....12.10.2023
22. [video]Goofing Around in the House
<https://www.dropbox.com/scl/fi/z9bobw2ionqdfs9kdmo1/Highlight0027.mp4?rlkey=nzsvcev5b269g01kvpcfvgtgin&dl=0>.....12.12.2023
23. [video]Fun at the Park / Elf Costumes
<https://www.dropbox.com/scl/fi/65ng8qup7accvxz5q8cpf/Highlight0028.mp4?rlkey=y4l9v4ukxnb4ktykblws20hb&dl=0>.....12.13.2023
24. [video]Play Time with the Children
<https://www.dropbox.com/scl/fi/e584ffpmacfwh16hq9vzl/Movie006.mp4?rlkey=b2zx79f890crukexny0ki5ofz&dl=0>.....12.14.2023
25. [video]School Pick-up

<https://www.dropbox.com/scl/fi/413iksv5yr9eorz76p2eo/Movie007.mp4?rlkey=dpdpnnr88rl3rqgp335ig1h58&dl=0>.....12.15.2023

26. [video]Hair Salon / Eviction / Mace

<https://www.dropbox.com/scl/fi/3eaufb8a1s473i34g7cs3/Highlight0029.mp4?rlkey=pgj4ar4bh6plintvdm5p6gmsv&dl=0>.....12.17.2023

27. [video]Fun With Bubbles / Playing

<https://www.dropbox.com/scl/fi/fyit5teizsfzc9vfluw3n/Highlight0030.mp4?rlkey=n64su1ya9g959631ts0oq4mw5&dl=0>.....12.20.2023

28. [video]Santa Game Early / Arcade

<https://www.dropbox.com/scl/fi/d0ay54wq36seewi0pz0uf/Highlight0031.mp4?rlkey=lldzo0k3vrckfbjfn444g8ce2&dl=0>.....12.24.2023

29. [video]Christmas Day

<https://www.dropbox.com/scl/fi/5aqukbjlf1j83ot9drndn/Highlight0032.mp4?rlkey=39412z3xh0dx32xqm62e2313v&dl=0>.....12.25.2023

30. [video]Gaylord with Grandpa

<https://www.dropbox.com/scl/fi/mwggyaq8ysj2hcks0inao/Highlight0033.mp4?rlkey=tbhxjr16tl56tgc9oelfpah9&dl=0>.....12.28.2023

31. [video]Skating with MEM

<https://www.dropbox.com/scl/fi/zteoqx71ysttij3nq0k0i/Highlight0035.mp4?rlkey=6xerhi60op8on5h5e2x9ezunc&dl=0>.....01.04.2024

32. [video]Skating Round 2

<https://www.dropbox.com/scl/fi/b00w94dv5zzdkla59cuvs/Highlight0036.mp4?rlkey=mmrj7k7uc5oskjc3ygbbzem1f&dl=0>.....01.05.2024

33. [video]Pretend Dance Recital / Bowling
<https://www.dropbox.com/scl/fi/zkbqyv1th2p9f4hr679uq/Highlight0037.mp4?rlkey=ndmjk59v7jabr2kvmhxd6gfdc&dl=0>.....01.07.2024
34. [video]Gingerbread Houses / Bedtime
<https://www.dropbox.com/scl/fi/tqeh9nhoyk3lv10411v91/Highlight0038.mp4?rlkey=6epm4kyg8h5v2ksivfc3jj15i&dl=0>.....01.08.2024
35. [image]Snow Day / Hair
https://www.dropbox.com/scl/fi/z8dft7zeve5domk9bsdmj/20240320_164949.jpg?rlkey=gsplehdhevn51lw8h44vz2zqw&dl=0.....01.15.2024
36. [video]Grandpa's House
<https://www.dropbox.com/scl/fi/4tz4e13uydqefu17v7v1g/Highlight0040.mp4?rlkey=2clzyo2jlfh87t6def9aqvb09&dl=0>.....01.16.2024
37. [video]2024-01-27
<https://www.dropbox.com/scl/fi/uzsre4mmh1ddg0vu4mr5d/Highlight0041.mp4?rlkey=rkyq6m9wl8kvm89791g2ahmzc&dl=0>.....01.27.2024
38. [video]2024-01-28
<https://www.dropbox.com/scl/fi/vj8al0i3nvpncyu55ki4r/Highlight0042.mp4?rlkey=3pr1bw9hbyfxb9iyl4xuyvu04&dl=0>.....01.28.2024
39. [video]2024-02-01
<https://www.dropbox.com/scl/fi/o734ls1bkacd3vvo1nqxy/Highlight0043.mp4?rlkey=dp5ue65e1yho5c6yb4h4j7q54&dl=0>.....02.01.2024
40. [video]2024-02-02

<https://www.dropbox.com/scl/fi/zdqrr2o8mf2pws090lsfl/Highlight0044.mp4?rlkey=nttispyx8ckpz3pv243pup1o8&dl=0>02.02.2024

41. [video]2024-02-04

<https://www.dropbox.com/scl/fi/94hbmpngbhdsbvtmqvuv6/Highlight0045.mp4?rlkey=a8uiyxdy4sdmd1pdrri5b0a3&dl=0>02.04.2024

42. [video]2024-02-05

<https://www.dropbox.com/scl/fi/zsfdg8gulcf6dkv8go38k/Highlight0046.mp4?rlkey=8si6lkeojano2q0hjp7vvfjoe&dl=0>02.05.2024

43. [video]2024-02-06

<https://www.dropbox.com/scl/fi/z4zs77jhuy71iiytpz8h6/Highlight0047.mp4?rlkey=e7y8rcne9fpowhixcwc dhbye3&dl=0>02.06.2024

44. [video]Playing / Drawing

<https://www.dropbox.com/scl/fi/z4zs77jhuy71iiytpz8h6/Highlight0047.mp4?rlkey=e7y8rcne9fpowhixcwc dhbye3&dl=0>02.07.2024

45. [video]Family Dance

<https://www.dropbox.com/scl/fi/5b972lgv9t9on6uxge52v/Highlight0050.mp4?rlkey=yes1iqjpnanzw0msi9t2m2d5&dl=0>02.10.2024

46. [video]Valentine's Lunch

<https://www.dropbox.com/scl/fi/m92ax19dy4vx7lqoioedr/Highlight0052.mp4?rlkey=8hzyggmvkyfb5db3odayvr7h6&dl=0>02.14.2024

47. [video]2024-02-15

<https://www.dropbox.com/scl/fi/qb7mi0gil0f8uadpohehg/Highlight0053.mp4?rlkey=6eavjzobq0l3ln0behve6886s&dl=0>02.15.2024

48. [video]Park
<https://www.dropbox.com/scl/fi/qb7mi0gil0f8uadpohehg/Highlight0053.mp4?rlkey=6eavjzobq0l3ln0behve6886s&dl=0>.....02.18.2024
49. [video]Ninja Kids
<https://www.dropbox.com/scl/fi/xwf9jjucelt10m9k9pxog/Highlight0054.mp4?rlkey=dycvtsbksee0s38imimjvhqmk&dl=0>.....02.18.2024
50. [video]Putt-putt
<https://www.dropbox.com/scl/fi/e47d3lg250zif7kosch0r/Highlight0056.mp4?rlkey=ckns8602lb779q9ee8sn56zwp&dl=0>.....02.19.2024
51. [video]Riding to School
<https://www.dropbox.com/scl/fi/d6f9tri2k2wrj2ensknrv/Highlight0057.mp4?rlkey=apv63i4gz86gdp4mwdejcw5ew&dl=0>.....02.23.2024
52. [video]Snow cones
<https://www.dropbox.com/scl/fi/mkt1oryww5pdoszlrjag0/Highlight0058.mp4?rlkey=5i72afditrdytnpl7y6pp5khw&dl=0>.....02.26.2024
53. [video]Reading and Writing
<https://www.dropbox.com/scl/fi/s7eg2g2y732eezbvqawjb/Highlight0059.mp4?rlkey=pfn0jpf4krsrp005zfk78tiqf&dl=0>.....03.01.2024
54. [video]2024-03-02
<https://www.dropbox.com/scl/fi/kuzbfovegnfyz5ksh7ily/Highlight0061.mp4?rlkey=9upugrl9jsrpzz23fpeg7qish&dl=0>.....03.02.2024
55. [video]2024-03-06

<https://www.dropbox.com/scl/fi/q9ywcotmy8nwdeb1o2abt/Movie009.mp4?rlkey=eqcbh6h3m379tzyvj22x8svvx&dl=0>.....03.06.2024

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Associated Case Party: MORGANMICHELLEMYERS

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MORGAN MICHELLEMYERS		morganmw02@gmail.com	4/3/2024 10:32:30 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/3/2024 10:32:30 AM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/3/2024 10:32:30 AM	SENT