

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF TEXAS FORT WORTH DIVISION

**Morgan Michelle Myers,**

Plaintiff,

v.

Civil Action Number:

322-744263-23

**Charles Dustin Myers,**

Defendant

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGE OF THE NORTHERN DISTRICT OF  
TEXAS:**

Defendant, CHARLES DUSTIN MYERS, respectfully removes civil action number 322-744263-23 arising from the 322<sup>nd</sup> District Court of Tarrant County, Texas, to the United States District Court for the Northern District from Texas, Fort Worth division, and in support thereof, shows the following:

## **I. INTRODUCTION**

This case transcends traditional domestic disputes, presenting significant constitutional and procedural violations that require federal intervention. Between December 14 and December 29th, 2023, the Defendant discovered over 16,500 text messages dating from October 2022 to January 2024 between the Plaintiff and two third parties, Damen Kazlauskas and Debbie Price. (See DKT 53). In response, Plaintiff Morgan Michelle Myers initiated a flurry of lawsuits, including multiple ex-parte attempts, the quantity of which remains unknown. (See DKT 1, page 7; see also DKT 2, 27, 8, 29, 31, 32, 33, 12, 42, and 44). While Defendant was home with the Children preparing for the Christmas holiday, Plaintiff was filing pleading after pleading in an effort to have the Defendant removed from the family residence.

On January 16, 2024, these efforts manifested, and Defendant was ordered to vacate the family residency within four hours' notice. The court effectively called the Defendant before it to present his best defense only to then be denied that very opportunity. (DKT 53) Subsequent proceedings were further weaponized by Plaintiff these unconstitutional orders, leading to their reduction and entry over the Defendant's objections during a hearing ostensibly convened to address his challenges (DKT 52, DKT 78). What began as procedural violations has escalated into a sustained deprivation of the Defendant's constitutional rights.

To date, all pleadings filed by the Defendant remain un-opposed. No final trial has been scheduled, and the Defendant's pursuit of relief through state remedies has yielded no results. Intervention by this Court is crucial to restore procedural integrity and ensure the Defendant's fundamental rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment are rightfully restored. This removal is filed in good faith, and all statements made herein are accurate and true to the best of the Defendant's knowledge.

Justice requires that this court step in and restore integrity to these proceedings.

## **II. GROUNDS FOR REMOVAL**

The undersigned requests that the court assume jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because this case raises substantial federal questions involving violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment and the State's total failure to uphold these fundamental safeguards. Plaintiff's actions, combined with the state court's initial decision based on those actions, deprived Defendant of his home, business, and custody of his children at the outset of the litigation without the federally guaranteed protections of due process nor the evidentiary findings required by law at the conclusion of a show cause hearing brought under Title 4 of the Texas Family Code. (See *Sec. 85.001*, Tex. Fam. Code, stating "[a]t the close of a hearing on an application for a protective order, the court shall find whether family violence has occurred.").

Here, no formal findings were entered, which remains the case to date. The record, as reflected in DKT. 19, shows that the Defendant was ordered to vacate his residence only after a continuance had been granted to both parties by the court—an agreement made with the intent of gathering additional evidence and ensuring procedural fairness. This continuance was particularly significant as it provided a crucial opportunity for both parties to adequately prepare their respective cases. However, the subsequent decision to evict the Defendant undermined the procedural fairness that the delay was intended to afford. Notably, this initial ruling was issued before either party had secured legal representation and was rendered on the only day in 2024 that the 322nd District Court of Tarrant County was officially closed due to inclement weather. See <https://www.facebook.com/p/Tarrant-County-District-Courts-100092554647052/>

This initial decision has proven to be procedurally fatal, as nearly 365 days after the case was filed, it remains unadjudicated, unprosecuted, and the case's posture provides insight into

legal doctrines often used as a bar to federal subject matter jurisdiction that could be of wide interest to the federal courts. The facts of this case can provide valuable insights and analysis into how protective orders are being utilized as weapons that undermine judicial integrity rather than provide for genuine protection to the party requesting it.

### **III. JURISDICTION**

This court should use its discretion and retain jurisdiction over this matter pursuant to 28 U.S.C. § 1331 for the extraordinary circumstances presented and which necessitate federal intervention to address grave constitutional violations under the 14th Amendment.

In compliance with due process, a state seeking to interfere with a parent's fundamental right to child custody must provide the parent notice and an opportunity to be heard in a meaningful time and manner. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (“[D]ue process is flexible and calls for such procedural protections as the particular situation demands.”). In instances where a child is properly cared for by his or her parent, and that parent is unexpectedly and suddenly discarded from the child’s life, what duty does the federal government have to rectify such a situation to prevent further psychological and developmental harm to the child?

Although the Petitioner’s complaint doesn’t necessarily raise a federal question on its’ face, Defendant argues that her initial pleading was fatally and procedurally defective, which was not only intentional but directly responsible for the deprivation of his fundamental rights prior to adjudication. The petition falsely claimed an active protective order that should have, under Texas Family Code § 6.405(b), statutorily barred any

hearing until the order was presented to the court. Notwithstanding the federal guarantee of due process and equal protection that was disregarded, the state court has also failed to abide by its own laws when it disregarded this safeguard.

The Defendant doesn't ask this court to review a final state court decision or interfere with state court proceedings, but rather asks of this court to either dissolve or declare void a fundamentally and procedurally defective order which was procured by extrinsic fraud, and which was prosecuted by an attorney who has no authority to do so. Only until this happens can the case move forward, which has remained stagnant since February 1<sup>st</sup>, 2024.

If the entire State system fails to properly adjudicate because it chose to adopt fraud over fact, will this court step in and restore justice? Typically, there are many procedural hurdles to federal jurisdiction which the Defendant turns to address.

#### **IV. THE YOUNGER ABSTENTION**

In general, the Younger doctrine requires that federal courts decline to exercise jurisdiction over lawsuits “when three conditions are met: (1) the federal proceeding would interfere with an ‘ongoing state judicial proceeding’; (2) the state has an important interest in regulating the subject matter of the claim; and (3) the [defendant] has ‘an adequate opportunity in the state proceedings to raise constitutional challenges.’” *Bice v. La. Pub. Def. Bd.*, 677 F.3d 712, 716 (5th Cir. 2012) (quoting *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432, (1982)). If these “three prerequisites are satisfied, then a federal court can assert jurisdiction only if ‘certain narrowly delimited exceptions to the abstention doctrine apply.’” *Id.* (quoting *Tex. Ass’n of Bus. v. Earle*, 388 F.3d 515, 519 (5th Cir. 2004)). In the present case, the

third prong of the younger abstention doesn't apply. Defendant has exhausted all state remedies, including administrative remedies, to no avail and without any explanation outside of the latest denial. (DKT 251). But even here, much like the outset of the case, this denial highlights a one-sided favoritism benefiting the Plaintiff. (See DKT 48) The state court has made it clear that it refuses to address the core issues surrounding this matter.

Even if the Defendant did have an adequate forum to vindicate his federally protected rights in the State courts, the suit leading to the deprivation of his rights was brought in bad faith by Plaintiff, and if relief is not granted, the extraordinary circumstances of this case will cause further 'irreparable loss [that] is both great and immediate.', as each day that these issues remain dormant adds to the irreparable loss caused by the Petitioner's false claims and the State's actions based on those claims. See *Gates v. Strain*, 885 F.3d 874, 880 (5th Cir. 2018) (quoting *Younger v. Harris*, 401 U.S. 37, 45, 53-54 (1971)). The harm to the children's emotional development is immeasurable and requires intervention. The current orders are not a final state court judgement, and the Defendant is not a state court loser. The appellate process yielded no opinion and no results, and the Defendant does not seek this court's appellate jurisdiction, but only its' duty to uphold the law where the other forum has failed.

#### **V. THE ROOKER-FELDMAN DOCTRINE**

The Supreme Court has repeatedly noted that the Rooker-Feldman doctrine is a narrow jurisdictional bar. *Lance v. Dennis*, 546 U.S. 459, 464 (2006) (per curiam); *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. at 283 (2005). The doctrine is designed to prevent lower federal courts from exercising jurisdiction over matters that are exclusively reserved for Supreme Court review under 28 U.S.C. § 1257. *Lance*, 546 U.S. at 463. Accordingly, this 5<sup>th</sup> Circuit has limited the application of Rooker-Feldman to those cases in which "a party suffered

an adverse final judgment rendered by a state's court of last resort." *Ill. Cent. R. Co. v. Guy*, 682 F.3d 381, 390 (5th Cir. 2012). Because the Defendant is not asking this court to review a final judgement rendered by a state court of last resort, the Rooker-Feldman doctrine should not bar federal jurisdiction over this removal.

The orders in question were rendered as an agreement between the parties. To see the fraud upon the court, one needs to look no further than DKT 92, page 1, as it claims the parties agree to the terms of the order ‘as evidenced by the signatures below’, and that the parties ‘appeared on February 1, 2024, to hear Petitioner’s motion for temporary orders. However, when looking at the docket sheet, the only appearance made by the Plaintiff in this matter occurred on January 16<sup>th</sup>, 2024, when she was awarded on all issues and Defendant was deprived of those same issues prior to any adjudication taking place, and his signature on the document is not present. This has left the Defendant seeking relief throughout the State system to no avail to the point where he has exhausted all state remedies to vindicate his constitutionally protected rights despite receiving no response or opposition from the other side.

## **VI. EXHAUSTION OF STATE REMEDIES**

From the outset of the case, Defendant has diligently been pursuing answers regarding the procedural posture of this case. How can both parties agree to a continuance, and only one of those parties be deprived of substantial interests without any findings being entered into the record? How can the Plaintiff file multiple frivolous lawsuits to damage Defendant, and when that effort comes to fruition, leverage the Defendant’s deprivation against him? When the basis for the settlement is challenged on reconsideration, how can the court refuse to re-visit the initial decision made in the case and order him to sign an agreement he doesn’t consent to? (DKT 78). These questions were presented to the second court of appeals and the Texas Supreme Court,

who declined to take the case, necessitating this court's oversight. The state's failure to adjudicate this matter should be unacceptable in the eyes of the law, especially given that the Plaintiff has raised no defenses against any claims brought forth against her, nor argued against any relief sought by the Defendant.

## **VII. UNAUTHORIZED PROSECUTION**

This case presents an anomalous scenario wherein the party originally deprived of their rights at the outset remains the sole actor actively engaged in the litigation. The docket is entirely composed of unopposed motions filed by the Defendant, none of which have garnered any response from either the court or the Plaintiff. Notably, this includes a motion for partial summary judgment filed on February 26, 2024 (DKT 68), as well as a request for discovery and admissions (DKT 249). The complete lack of engagement from the opposing party throughout the appellate process further exacerbates the procedural stagnation, raising grave concerns about due process and judicial oversight.

The Plaintiff's only discernible effort to advance their position emerged through a motion for a pre-trial conference filed on April 24, 2024 (DKT 206), which was promptly contested by the Defendant (DKT 207). Both the motion and the corresponding objection remain unaddressed by the court, leaving the case mired in procedural ambiguity. Moreover, the Texas Office of the Attorney General (OAG) sought to intervene in the proceedings on June 28, 2024 (DKT 216), which was also immediately objected to by the Defendant (DKT 217). To date, neither the intervention motion nor the subsequent objection has been resolved by the court, and the OAG has since ceased all participation, limiting its involvement to the initial filing.

The Plaintiff's representation itself remains shrouded in uncertainty. Of the few substantive filings from the Plaintiff, the legitimacy of representation is in serious question.



Specifically, two filings beyond the initial pleadings were submitted ostensibly "on behalf of Cooper Carter by Roderick Marx" (DKT 21, DKT 206). This circumstance is troubling, as publicly accessible information from Cooper L. Carter's LinkedIn and Facebook profiles indicate her departure from the law firm Marx, Altman, & Johnson in 2022. This discrepancy between her professed employment status and her purported role in the current litigation gives rise to serious concerns regarding the legitimacy and propriety of the representation.

The matter of Ms. Carter's authority was properly challenged on September 20, 2024 (DKT 222). This issue is of paramount importance, particularly given that Ms. Carter prepared the current orders which were rendered as an agreement at a hearing meant to challenge them. These orders reference another hearing held on February 1<sup>st</sup> which never occurred, a motion that was never served on the Defendant, and claims to be agreed with only the signatures of one party appearing on the document. Pursuant to Rule 12 of the Texas Rules of Civil Procedure, if her authority cannot be substantiated, the State court is mandated to bar unauthorized counsel from participating in the matter. Furthermore, the court must strike any pleadings submitted without proper authorization if no duly authorized representative appears to prosecute or defend the action. The implications of unauthorized counsel drafting orders integral to these proceedings are profound, directly undermining the validity of the ongoing litigation.

A further perplexing element in this case is the abrupt cessation of involvement by the Texas OAG. This development warrants rigorous scrutiny, particularly in light of the fact that Holly Hayes, the attorney who signed on behalf of the OAG, publicly announced her departure from the agency in 2018 via Facebook. Furthermore, her LinkedIn profile indicates her current employment as a General Attorney with the Small Business Administration (SBA) in Irving, Texas. These inconsistencies suggest either a fraudulent intervention filing or recognition by the

OAG that it was pursuing relief based on a void and legally ineffective order. Additionally, and perhaps most perplexing, is the fact that the almighty Texas OAG has stopped pursuing relief to establish, enforce, and collect child support.

### **VIII. TIMELINESS OF REMOVAL**

The timeliness of removal is a procedural rather than a jurisdictional issue and, accordingly, may be waived by an untimely objection. See *Hartford Accident Indem. Co. v. Costa Lines Cargo Servs., Inc.*, 903 F.2d 352, 359-60 (5th Cir. 1990). Defendant reserves his argument for timelines if an objection is filed by Plaintiff's counsel, which would be the first documented response filed thus far in the matter.

### **IX. CONCLUSION**

Defendant, Charles Dustin Myers, respectfully submits that this case exemplifies the kind of extraordinary circumstances necessitating federal intervention to avert further irreparable harm and to restore fundamental constitutional safeguards. The procedural irregularities, fraudulent misrepresentations, and deprivation of Defendant's core constitutional rights have rendered the state proceedings fundamentally inequitable and incapable of achieving justice. The state court's failure to address unopposed motions, rectify procedural defects, and enforce its own regulations has effectively deprived the Defendant of any adequate remedy at the state level.

Federal oversight is imperative to protect Defendant's rights to due process and equal protection under the law, while also reinstating procedural integrity in the underlying divorce action. Intervention by this Court is crucial to address egregious constitutional violations, establish a precedent for procedural fairness, and ensure that state courts operate within the confines of both state and federal law, particularly when adjudicating matters that directly impact the litigant's livelihood and, by extension, the welfare of minor children.

The Defendant's business has been destroyed because of the current orders (DKT 215, at 19), and his relationship with his children has suffered irrevocable damage. Defendant simply requests that this Court permit him to return to the home from which he was unjustly expelled without any legitimate basis, and remand the remaining issues back to the State so that it may properly adjudicate the divorce matters in accordance with legal standards. At present, the case lacks a clear trajectory, is not being actively prosecuted, and the facts and assertions stated herein remain uncontested and apparent from the docket. This is not how divorce proceedings should be managed by our State courts. The inadvertent victims of these deficiencies are the children, whose future is fundamentally tied to the well-being of this nation. Their best interests should command more consideration than what has been afforded in this matter, and the Plaintiff's actions should not be taken lightly given she has made no defense to any claims made against her while the Defendant has fought vigorously to restore stability to his Children's lives.

#### **X. PRAYER FOR EXPEDITED RELIEF**

WHEREFORE, Defendant respectfully petitions this Honorable Court as follows:

1. To assume jurisdiction over this matter pursuant to 28 U.S.C. § 1331, in recognition of the significant federal issues and extraordinary constitutional violations implicated herein;
2. To declare void ab initio the orders rendered in this matter, which were procured through procedural defects, fraudulent misrepresentations, and egregious violations of Defendant's fundamental rights under the Fourteenth Amendment;
3. To issue a preliminary injunction:

- i. Restoring Defendant's right to reside in the marital home, thereby stabilizing his living conditions and the financial stability of the marital estate through explicit written court order;
4. To remand the case to state court with explicit instructions:
  - i. To allow time for Defendant to re-establish the status quo and recover from the effects the current orders have had on his livelihood;
5. To grant expedited relief to prevent further irreparable harm to Defendant;
6. To grant any additional relief that the Court deems equitable and just, consistent with the exigent circumstances presented herein.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS  
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## **CERTIFICATE OF SERVICE**

Defendant, CHARLES DUSTIN MYERS, hereby certifies that on 12/02/2024 a true and accurate copy of **the Notice of Removal and Exhibit 1** containing all filed and served pleadings, services, and other papers in this matter was served on the following parties via email and the Texas Supreme Court-approved electronic filing manager (EFM):

**Cooper L. Carter (Counsel for Plaintiff)**

Email: [COOPERCARTER@MAJADMIN@COM](mailto:COOPERCARTER@MAJADMIN@COM)

**Morgan Michelle Myers (Plaintiff)**

Email: [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**Holly L. Hayes, Texas Office of the Attorney General**

Email: [914-filer@texas.oag.gov](mailto:914-filer@texas.oag.gov)

Respectfully submitted,

/s/ Charles Dustin Myers

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF TEXAS FORT WORTH DIVISION

**Morgan Michelle Myers,**

Plaintiff,

v.

Civil Action Number:

322-744263-23

**Charles Dustin Myers,**

Defendant

REQUEST FOR ELECTRONIC FILING ACCESS

**TO THE HONORABLE JUDGE OF THE NORTHERN DISTRICT OF  
TEXAS:**

Defendant, CHARLES DUSTIN MYERS, respectfully requests permission of the court to access the electronic filing manager in the interest of judicial economy to file and serve future documents related to this matter.

Respectfully submitted,

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