

NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN THE INTEREST OF *M.E.M., C.R.M., two children*)
MORGAN MICHELLE MYERS

Petitioner,

CHARLES DUSTIN MYERS,

MOTION TO STRIKE THE INTERVENTION
OF THE OFFICE OF THE ATTORNEY
GENERAL

Respondent.

2025-05-22

TO THE HONORABLE COURT:

The Respondent in the above styled cause, CHARLES DUSTIN MYERS, (“the Respondent”) respectfully moves to STRIKE the involvement of the Office of the Attorney General, specifically the designated attorney of record, Holly L. Hayes, from the matter. This request is supported by the forthcoming reasons:

I. INTRODUCTION

The Office of the Attorney General (“the OAG”) filed an intervention pleading on June 28, 2025, designating “Holly Hayes” as the attorney of record. [¶](#)¹

¹  indicates an active link to a true and correct copy of the referenced document as maintained on the official re:SearchTX Electronic Filing Manager. Login may be required.

As clarified in *Guaranty Federal Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652 (Tex. 1990), "the party who opposed the intervention has the burden to challenge it by a motion to strike." Here, the Respondent is challenging the OAG's involvement in this matter and requests clarification on their role in the litigation. By following clearly established Texas precedent and utilizing the

II. LEGAL ANALYSIS

The right to intervene in Texas is governed primarily by Rule 60 of the Texas Rules of Civil Procedure. This rule provides that: "Any party may intervene by filing a pleading, subject to being stricken out by the court for sufficient cause on the motion of any party." *In re R.M.*, No. 05-18-01127-CV (Tex. App. May 24, 2019); *Smith v. City of Garland*, 523 S.W.3d 234 (Tex. App. 2017); *R. Hassell & Co. v. Springwoods Realty Co.*, NO. 01-17-00154-CV (Tex. App. Apr 19, 2018).

This rule establishes that while intervention is permitted as a matter of right, it is not absolute and remains subject to judicial oversight. The Texas Supreme Court has clarified that Rule 60 "authorizes a party with a justiciable interest in a pending suit to intervene in the suit as a matter of right." *In re Union Carbide Corp.*, 273 S.W.3d 152, 154 (Tex. 2008). However, this right is balanced against the court's obligation to ensure the efficient administration of justice.

A. The Justiciable Interest Requirement

For an intervention to be sustained, the intervenor must demonstrate a "justiciable interest" in the pending suit. This requirement serves as a threshold that must be met before a court will allow an outside party to join ongoing litigation. According to Texas courts, an intervenor has a justiciable interest in a lawsuit "when his interests will be affected by the litigation." *Brown v. Freed*, 03-21-00556-CV (Tex. App. May 10, 2023). This interest may be

"legal or equitable in nature." *Brown v. Freed* (Tex. App. Aug. 1, 2023) (citing *Mendez v. Brewer*, 626 S.W.2d 498, 499 (Tex. 1982)).

B. Procedure for Challenging an Intervention

An important procedural aspect of Rule 60 is that an intervenor is not required to secure the court's permission before intervening. Rather, "the party who opposed the intervention has the burden to challenge it by a motion to strike." *Guaranty Federal Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652 (Tex. 1990); *Musick v. Zamora*, 03-21-00555-CV (Tex. App. Apr 27, 2023) (citing *Guaranty Fed.*, 793 S.W.2d at 657).

Once a motion to strike is filed, "the burden shifts to the intervenor to show a justiciable interest in the lawsuit." *R. Hassell & Co. v. Springwoods Realty Co.*, NO. 01-17-00154-CV (Tex. App. Apr 19, 2018) (citing *Union Carbide*, 273 S.W.3d at 155); *In re R.M.*, No. 05-18-01127-CV (Tex. App. May 24, 2019) (citing *In re Union Carbide Corp.*, 273 S.W.3d 152, 155 (Tex. 2008)).

C. Burden on the OAG

Because a motion to strike has now been filed in this case, the burden would shift to the OAG to demonstrate a justiciable interest in the litigation sufficient to overcome concerns about delay or prejudice. As established in *In re R.M.*, No. 05-18-01127-CV (Tex. App. May 24, 2019) and *R. Hassell & Co. v. Springwoods Realty Co.*, NO. 01-17-00154-CV (Tex. App. Apr 19, 2018), "the intervenor bears the burden to demonstrate a justiciable interest in the pending suit."

Here, the OAG would need to articulate how its interests will be affected by the litigation and why its continued involvement is necessary despite its lack of action. If the OAG cannot demonstrate a sufficient justiciable interest, or if the court determines that any such interest is outweighed by the delay or prejudice being caused, the court would have grounds to strike the intervention.

III. APPLICATION

The three-pronged test established in *Guaranty Federal Savings Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 657 (Tex. 1990) provides a framework for this analysis. An intervenor must show that (1) it could have brought the same action, or any part thereof, in its own name, or if the action had been brought against it, it would be able to defeat recovery; (2) the intervention will not complicate the case by an excessive multiplication of the issues; and (3) the intervention is almost essential to effectively protect the intervenor's interest.

This framework should be applied within the instant matter in the court's determination of whether to strike the intervention of the Office of the Attorney General. In the interest of judicial economy, the Respondent objects to any settings on this matter until the Office of the Attorney General furnishes a written response.

CONCLUSION AND PRAYER

For all the reasons stated herein, the Respondent, CHARLES DUSTIN MYERS, respectfully requests that this Honorable Court:

1. Request a response from Holly Hayes, and request that she demonstrate a justiciable interest in this matter and clarify the undue delay lack of participation in the proceedings;
2. If a justiciable interest cannot be demonstrated or if a response is not filed by a future date deemed appropriate by the Court, order that the intervention pleading from the Office of the Attorney General naming Holly Hayes as counsel be stricken from the record;
3. Grant any other relief that the Court deems just and proper under the circumstances.

Respectfully submitted,

/s/ Charles Dustin Myers
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CERTIFICATE OF SERVICE

Pursuant to Rules 21a of the Teaxs Rules of Civil Procedure, a true and accurate copy of this MOTION TO STRIKE THE INTERVENTION OF THE OFFICE OF THE ATTORNEY GENERAL has been filed and served upon all parties of record via the EFM approved by the Texas Supreme Court.

CERTIFICATE OF CONFERENCE

A certificate of conference was *not held* because the opposing party remains silent on all issues and has not responded to any email correspondence throughout the litigation.