

No.25-_____

IN THE
SUPREME COURT OF TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

On Direct Appeal - Petition for Writ of Mandamus
from the 322nd Judicial District Court, Tarrant County

Cause Number 322-744263-23

Original Proceeding

Hon. David L. Evans Presiding

PETITION FOR WRIT OF
MANDAMUS

Respectfully submitted by:

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Statement of the Case

Nature of Underlying Proceeding: This original proceeding arises from a divorce action, No. 322-744263-23, pending in the 322nd District Court of Tarrant County, Texas.

Respondent Judge: The Respondent Judge, Honorable David L. Evans, is the presiding Regional Judge of the 8th Administrative Judicial Region of Texas.

Respondent's Challenged Actions: Respondent abused his discretion and violated Rule 18a(e) by overruling Relator's written objection to the unauthorized involvement of a court coordinator—appointed by the judge subject to recusal—in the recusal process. Respondent's order also improperly ratified a procedure that undermines judicial impartiality and creates the appearance of impropriety by permitting a judicial officer not named in the recusal motion to voluntarily recuse himself.

Statement of Jurisdiction

This Petition for Writ of Mandamus is properly filed in the Supreme Court of Texas, which possesses original jurisdiction to issue writs of mandamus against regional presiding judges pursuant to Article V, Section 3 of the Texas Constitution and Texas Government Code § 22.002(a). In contrast, the jurisdiction of intermediate appellate courts is governed by Texas Government Code § 22.221, and the Legislature has not conferred upon those courts the authority to issue writs of mandamus against regional presiding judges.

This original proceeding is properly presented to this Honorable Court in the first instance due to the jurisdictional limitations of the Second Court of Appeals.

Issues Presented

Issue No. 1:

The Respondent abused his discretion by not following the mandatory procedures set forth in the Texas Rules of Civil Procedure and Texas Government Code regarding recusal.

Issue No. 2:

The Respondent has shown a pattern of unwillingness to adhere to mandatory recusal procedures, and mandamus should issue to compel his timely compliance.

RECORD REFERENCES

The relator respectfully directs the Court's attention to the following prior mandamus petitions and consolidated record filed in connection with this matter:

- i. Cause numbers [24-0395](#), [25-0361](#), [25-0367](#), [25-0378](#), [25-0426](#), and [25-0458](#), specifically cause number 25-0426 which names the same Respondent as the instant matter, and sought similar relief through a petition for writ of mandamus. The petition alongside an emergency stay and motion to consolidate was denied by this Court on July 11, 2025, and again on rehearing on August 15, 2025.
- ii. The sworn Second Amended Consolidated Mandamus Record is incorporated by reference for judicial efficiency and has been served on Respondent.

These prior petitions and consolidated mandamus record¹, as amended, are part of the public record and are referenced here to provide the Court with a complete procedural history and to demonstrate that the current petition addresses the deficiencies identified in previous filings. All record references will be marked with “REC”. Any references to the appendix herein are marked with “APP”, and any references to the instant mandamus record are marked with “MR”.

¹ <https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=f40307f9-8e71-4dfb-849b-068d6634d4af&coa=cossup&DT=RECORD&MediaID=57884b51-3be8-495b-8b47-edac982e6298>

I. STATEMENT OF FACTS

1. On May 19, 2025, Relator, CHARLES DUSTIN MYERS, submitted a direct appeal to this Court asking it to compel the same Respondent named herein to follow mandatory recusal procedures. [REC. 3510-3532](#).
2. In the initial mandamus petition filed under cause number [25-0426](#), the Relator alleged that Respondent did not follow mandatory recusal procedures as set forth in the Texas Rules of Civil Procedure 18a by involving the court coordinator, and for permitting erroneous orders to be considered in the process from a judge not named in the recusal motion. [REC. 3521](#).
3. On September 11, 2025, Relator submitted a first amended motion to recuse the Regional Presiding Judge to the eFile Texas platform at 3:04 P.M. which was accepted by the clerk on September 12, 2025, at 3:40 P.M. CST. and served it upon all parties of record. MR 1.
3. As of today, September 24, 2025, no such motion has been referred to the Chief Justice of this Court, causing unreasonable delay and also highlights a persistent unwillingness by the Respondent to follow mandatory recusal procedures both regarding trial court judges, and himself.
4. “[D]eviation from these mandatory procedural requirements has proven to be inefficient and [has] undermined the recusal process itself in a case already fraught with procedural abnormalities.” [REC 3524](#).

II. SUMMARY OF ARGUMENT

5. Mandamus is warranted to compel the Regional Presiding Judge to perform the mandatory, ministerial duty of referring the recusal motion to the Chief Justice, as the ongoing procedural violations and inaction have caused irreparable harm to the Respondent and are not correctable by appeal. [The record](#) indicates and facially establishes a reoccurring pattern in this matter where the trial courts below are willfully disregarding the law. This marks the seventh mandamus petition in this matter with no substantive insight from any level of the Texas Judiciary, with no response provided from any implicated respondent, the opposing party, and the

6. Relator has received no insight from higher authorities. Accordingly, mandamus should issue as these errors will continue to occur, as previously warned. (“...it is crucial to prevent the recurrence of similar due process violations in the future, ensuring that all actions within this jurisdiction adhere strictly to the rule of law and respect the rights and well-being of all parties, particularly children.” [REC. 1064](#) (Prayer, mandamus petition 24-0395)).

III. ARGUMENT

A. Standard of Review

7. To obtain relief by writ of mandamus, a relator must establish a clear abuse of discretion by the trial court and that no adequate appellate remedy exists. *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex.1992) (orig. proceeding). An abuse of

discretion occurs when a trial court's ruling is arbitrary and unreasonable, made without regard for guiding legal principles or supporting evidence. *Ford Motor Co. v. Garcia*, 363 S.W.3d 573, 578 (Tex.2012). Similarly, a trial court abuses its discretion when it fails to analyze or apply the law correctly. *In re Sw. Bell Tel. Co.*, 226 S.W.3d 400, 403 (Tex.2007). The Relator submits that Respondent clearly abused his discretion by not following the mandatory recusal procedures.

B. The Ministerial Duty to Refer Recusal Motions

8. The statutory scheme specifically addresses the situation where the regional presiding judge is the subject of the recusal motion. In such cases, Tex. Gov't Code § 25.00255 requires the presiding judge to refer the motion to the Chief Justice of the Supreme Court. This duty is clear and unequivocal, and failure to perform it is a violation of law.

9. The same principles that apply to trial judges apply to the regional presiding judge in this context. The act of referring the motion to the Chief Justice is ministerial, and the harm caused by delay—namely, the inability to resolve the recusal issue and the stalling of the underlying proceedings—cannot be remedied on appeal. Therefore, mandamus is the appropriate remedy to compel the regional presiding judge to perform this duty (Tex. Gov't Code § 25.00255; *In re Gold*, 04-25-00085-CV (Tex. App. May 07, 2025)).

10. The legislative and procedural framework in Texas leaves no doubt that the act of referring a recusal motion is ministerial. Statutes such as Tex. Gov't Code §§ 74.059 and 25.00255, as well as procedural rules like Tex. R. Civ. P. 18a(f)(1), impose a clear, non-discretionary duty on judges to either recuse themselves or refer the motion to the appropriate authority. This duty is further reinforced by administrative and local rules, which specify the time frame and manner in which the referral must occur.

11. Case law uniformly holds that when a judge fails to perform this ministerial duty, mandamus is the appropriate remedy. The courts have repeatedly emphasized that the referral requirement is mandatory, and that any action taken by the judge after failing to comply with this requirement is void (*In re Gold*, 04-25-00085-CV (Tex. App. May 07, 2025); *In re Norman*, 191 S.W.3d 858 (Tex. App. 2006); *In re PG & E Reata Energy, et al*, 4 S.W.3d 897 (Tex. App. 1999)). The rationale is that the recusal process is designed to protect the integrity of the judiciary and the fairness of proceedings, and any delay or failure to act undermines these fundamental principles.

12. Here, in a case already marred with procedural violations that have gone unaddressed, the unreasonable delay of over twelve days by the Respondent to refer the motion to recuse is unreasonable, and this Court should compel him to refer the motion as required by Texas law so that the Relator may exercise the legal

avenues provided to him in order to receive a fair and impartial judge and to restore public confidence in the Texas judiciary.

C. Prior Conduct Demonstrates a Pattern of Non-Compliance

13. Seven mandamus petitions should not be taken lightly by this Court. Self-represented or not, the Relator has suffered ongoing, irreparable, and unexplained damages in the absence of any response or legal explanation.

14. The Respondent's pattern of non-compliance with recusal procedures highlights a deeper systemic issue that is affecting several Texas families and the Texas Judiciary as a whole, and this Court should take action to prevent these issues from compounding further, as they most certainly will given this case's fact pattern and lack of any meaningful participation on the issues.

IV. CONCLUSION

15. The Respondent's inaction regarding the motion to recuse filed on September 11, 2025, highlights a reoccurrence within this case that warrants mandamus relief to prevent unreasonable delay regarding the issues, and to compel the Respondent to refer the motion to the Chief Justice of this Court at the earliest opportunity. By doing so, this Court upholds Texas Law, the public confidence in the judiciary, and will show that nobody – even Regional Presiding Judges – are above the law that they swore to uphold.

V. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Relator respectfully prays that this Honorable Court:

- i. Issue a writ of mandamus directing the Respondent to refer the Relator's Motion to Recuse filed on September 11, 2025, naming David L. Evans as the respondent judge, to the Chief Justice of the Supreme Court of Texas, as required by law;
- ii. Take judicial notice that this is the seventh mandamus petition filed before this Honorable Court, and that all issues raised across each petition remain adjudicated;
- iii. Grant such other and further relief, whether at law or in equity, to which Relator may be justly entitled, including all relief necessary to ensure compliance with Rule 18a and the fair administration of justice.

Respectfully submitted,

/s/ Charles Dustin Myers

Charles Dustin Myers, Pro Se

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PRO-SE RELATOR

Certification (TRAP 52.3(i))

Relator, Charles Dustin Myers, certifies that he has reviewed this petition and concluded that every factual statement in the petition is supported by competent evidence included in the appendix or record.

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
PRO-SE RELATOR

Certificate of Compliance (TRAP 9.4(i)(3))

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), Relator certifies that this document contains **2260 words**.

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
PRO-SE RELATOR

CERTIFICATE OF SERVICE

Relator certifies that on September 24, 2025, a true and correct copy of the foregoing Petition for Writ of Mandamus was served on all parties and counsel of record as follows:

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/s/ Charles Dustin Myers

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Pro Se Relator

On this 24th day of September

No.25-_____

**IN THE
SUPREME COURT OF TEXAS**

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

On Direct Appeal - Petition for Writ of Mandamus
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RELATOR'S APPENDIX

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APP 1
TEXAS GOV'T CODE §
25.00255

Texas Government Code - GOV'T § 25.00255. Recusal or Disqualification of Judge

Current as of January 01, 2024 | Updated by FindLaw Staff

(a) Notwithstanding any conflicting provision in the Texas Rules of Civil Procedure, Rules 18a and 18b, Texas Rules of Civil Procedure, apply to the recusal and disqualification of a statutory probate court judge except as otherwise provided by this section or another provision of this subchapter. The presiding judge:

(1) has the authority and shall perform the functions and duties of the presiding judge of the administrative judicial region under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to Subdivisions (2) and (3), assign a judge to hear and rule on a referred motion of recusal or disqualification;

(2) may assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the presiding judge of the administrative judicial region;

(3) may not assign a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification; and

(4) if the presiding judge is the subject of the motion of recusal or disqualification, shall sign and file with the clerk an order referring the motion to the chief justice of the supreme court for assignment of a presiding judge of an administrative judicial region, a statutory probate court judge, or a former or retired judge of a statutory probate court to hear and rule on the motion, subject to Subdivisions (2) and (3).

(a-1) Notwithstanding Rule 18a(h), Texas Rules of Civil Procedure, or any other conflicting provision of the rules, the judge who hears a motion of recusal or disqualification, after notice and hearing, may:

(1) order the party or attorney who filed the motion, or both, to pay the reasonable attorney's fees and expenses incurred by another party if the judge determines that the motion was:

(A) groundless and filed in bad faith or for the purpose of harassment; or

(B) clearly brought for unnecessary delay and without sufficient cause; and

(2) enjoin the movant from filing other recusal motions in the case without the prior written consent of the presiding judge of the statutory probate courts.

(b) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(c) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(d) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(e) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(f) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(g) A judge who recuses himself or herself:

(1) shall enter an order of recusal and:

(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge assign a judge under Section 25.002201 to hear the case; or

(B) subject to Subsection (1), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts located in the county; and

(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(g-1) A judge who disqualifies himself or herself:

(1) shall enter an order of disqualification and:

(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge assign a judge under Section 25.002201 to hear the case; or

(B) subject to Subsection (1), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts; and

(2) may not take other action in the case.

(h) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(i) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(i-1) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(i-2) A judge who hears a motion for recusal or disqualification may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(i-3) If a motion for recusal or disqualification is granted, the presiding judge shall transfer the case to another court or assign another judge to the case and:

(1) if the judge subject to recusal or disqualification serves a statutory probate court located in a county with only one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the presiding judge assign a judge under Section 25.002201 to hear the case; or

(2) subject to Subsection (1), if the judge subject to recusal or disqualification serves a statutory probate court located in a county with more than one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county.

(i-4) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(i-5) A judge assigned to hear a motion for recusal or disqualification is entitled to receive the same salary, compensation, and expenses, and to be paid in the same manner and from the same fund, as a judge otherwise assigned under Section 25.0022.

(j) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).

(k) A party may file a motion for sanctions alleging that another party in the case filed a motion for the recusal or disqualification of a judge solely to delay the case and without sufficient cause. The presiding judge of the administrative judicial district or the judge assigned to hear the motion for recusal may approve a motion for sanctions authorized by Rule 215.2(b), Texas Rules of Civil Procedure.

(l) If a clerk of a statutory probate court is unable to reassign a case as requested under Subsection (g)(1)(B), (g-1)(1)(B), or (i-3)(2) because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case, the clerk shall immediately notify the presiding judge and request that the presiding judge assign a judge under Section 25.002201 to hear the case.

(m) The clerk of a statutory probate court shall immediately notify and provide to the presiding judge of the statutory probate courts a copy of an order of recusal or disqualification issued with respect to the judge of the statutory probate court.

APP 2
TEXAS GOV'T CODE
§ 74.059

Texas Government Code - GOV'T § 74.059. Powers and Duties

Current as of January 01, 2024 | Updated by FindLaw Staff

(a) A judge assigned under the provisions of this chapter has all the powers of the judge of the court to which he is assigned.

(b) A judge shall extend the regular terms of the court, or call the special terms, that are necessary to carry out the purposes of this chapter and to dispose of pending litigation. If a term is extended, the other terms of the court may be opened and held as usual, and a term of court in that district does not fail because of the extension. By entering an order on the minutes of the court, the judge of a district court or statutory county court or a judge assigned by the presiding judge may convene a special term of the court for the trial of cases, the entry of orders, and the disposition of the business before the court.

(c) A district, statutory probate, or statutory county court judge shall:

(1) diligently discharge the administrative responsibilities of the office;

(2) rule on a case within 90 days after the case is taken under advisement;

(3) request the presiding judge to assign another judge to hear a motion relating to the recusal of the judge from a case pending in his court; and

(4) if an election contest or a suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge who is not a resident of the county to hold a regular or special term of court in that county to dispose of the suit.

APP 3
TEX. R. CIV. P. §
18a(f)(1)

Rule 18a. Recusal and Disqualification of Judges (2011)

TEXT

(a) Motion; Form and Contents. A party in a case in any trial court other than a statutory probate court or justice court may seek to recuse or disqualify a judge who is sitting in the case by filing a motion with the clerk of the court in which the case is pending. The motion:

- (1) must be verified;
- (2) must assert one or more of the grounds listed in Rule 18b;
- (3) must not be based solely on the judge's rulings in the case; and
- (4) must state with detail and particularity facts that:

(A) are within the affiant's personal knowledge, except that facts may be stated on information and belief if the basis for that belief is specifically stated;

(B) would be admissible in evidence; and

(C) if proven, would be sufficient to justify recusal or disqualification.

(b) Time for Filing Motion.

(1) Motion to Recuse. A motion to recuse:

(A) must be filed as soon as practicable after the movant knows of the ground stated in the motion; and

(B) must not be filed after the tenth day before the date set for trial or other hearing unless, before that day, the movant neither knew nor reasonably should have known:

- (i) that the judge whose recusal is sought would preside at the trial or hearing; or
- (ii) that the ground stated in the motion existed.

(2) Motion to Disqualify. A motion to disqualify should be filed as soon as practicable after the movant knows of the ground stated in the motion.

(c) Response to Motion.

(1) By Another Party. Any other party in the case may, but need not, file a response to the motion. Any response must be filed before the motion is heard.

(2) By the Respondent Judge. The judge whose recusal or disqualification is sought should not file a response to the motion.

(d) Service of Motion or Response. A party who files a motion or response must serve a copy on every other party. The method of service must be the same as the method of filing, if possible.

(e) Duty of the Clerk.

(1) Delivery of a Motion or Response. When a motion or response is filed, the clerk of the court must immediately deliver a copy to the respondent judge and to the presiding judge of the administrative judicial region in which the court is located ("the regional presiding judge").

(2) Delivery of Order of Recusal or Referral. When a respondent judge signs and files an order of recusal or referral, the clerk of the court must immediately deliver a copy to the regional presiding judge.

(f) Duties of the Respondent Judge; Failure to Comply.

(1) Responding to the Motion. Regardless of whether the motion complies with this rule, the respondent judge, within three business days after the motion is filed, must either:

(A) sign and file with the clerk an order of recusal or disqualification; or

(B) sign and file with the clerk an order referring the motion to the regional presiding judge.

(2) Restrictions on Further Action.

(A) Motion Filed Before Evidence Offered at Trial. If a motion is filed before evidence has been offered at trial, the respondent judge must take no further action in the case until the motion has been decided, except for good cause stated in writing or on the record.

(B) Motion Filed After Evidence Offered at Trial. If a motion is filed after evidence has been offered at trial, the respondent judge may proceed, subject to stay by the regional presiding judge.

(3) Failure to Comply. If the respondent judge fails to comply with a duty imposed by this rule, the movant may notify the regional presiding judge.

(g) Duties of Regional Presiding Judge.

(1) Motion. The regional presiding judge must rule on a referred motion or assign a judge to rule. If a party files a motion to recuse or disqualify the regional presiding judge, the regional presiding judge may still assign a judge to rule on the original, referred motion. Alternatively, the regional presiding judge may sign and file with the clerk an order referring the second motion to the Chief Justice for consideration.

(2) Order. The ruling must be by written order.

(3) Summary Denial for Noncompliance.

(A) Motion to Recuse. A motion to recuse that does not comply with this rule may be denied without an oral hearing. The order must state the nature of the noncompliance. Even if the motion is amended to correct the stated noncompliance, the motion will count for purposes of determining whether a tertiary recusal motion has been filed under the Civil Practice and Remedies Code.

(B) Motion to Disqualify. A motion to disqualify may not be denied on the ground that it was not filed or served in compliance with this rule.

(4) Interim Orders. The regional presiding judge or judge assigned to decide the motion may issue interim or ancillary orders in the pending case as justice may require.

(5) Discovery. Except by order of the regional presiding judge or the judge assigned to decide the motion, a subpoena or discovery request may not issue to the respondent judge and may be disregarded unless accompanied by the order.

(6) Hearing.

(A) Time. The motion must be heard as soon as practicable and may be heard immediately after it is referred to the regional presiding judge or an assigned judge.

(B) Notice. Notice of the hearing must be given to all parties in the case.

(C) By Telephone. The hearing may be conducted by telephone on the record. Documents submitted by facsimile or email, otherwise admissible under the rules of evidence, may be considered.

(7) Reassignment of Case if Motion Granted. If the motion is granted, the regional presiding judge must transfer the case to another court or assign another judge to the case.

(h) Sanctions. After notice and hearing, the judge who hears the motion may order the party or attorney who filed the motion, or both, to pay the reasonable attorney fees and expenses incurred by other parties if the judge determines that the motion was:

(1) groundless and filed in bad faith or for the purpose of harassment, or

(2) clearly brought for unnecessary delay and without sufficient cause.

(i) Chief Justice. The Chief Justice of the Supreme Court of Texas may assign judges and issue any orders permitted by this rule or pursuant to statute.

(j) Appellate Review.

(1) Order on Motion to Recuse.

(A) Denying Motion. An order denying a motion to recuse may be reviewed only for abuse of discretion on appeal from the final judgment.

(B) Granting Motion. An order granting a motion to recuse is final and cannot be reviewed by appeal, mandamus, or otherwise.

(2) Order on Motion to Disqualify. An order granting or denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law.

Comment to 2011 Change: Rule 18a governs the procedure for recusing or disqualifying a judge sitting in any trial court other than a statutory probate court, justice court, or municipal court. Chapter 25 of the Government Code governs statutory probate courts, Rule 528 governs justice courts, and Chapter 29 of the Government Code governs municipal courts. Under Rule 18a, a judge's rulings may not be the sole basis for a motion to recuse or disqualify the judge. But when one or more sufficient other bases are raised, the judge hearing the motion may consider evidence of rulings when considering whether to grant the motion. For purposes of this rule, the term "rulings" is not meant to encompass a judge's statements or remarks about a case.

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Status as of 9/25/2025 5:01 PM CST

Case Contacts

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