

322744263-23

**RESPONDENT'S
NOTICE OF INTENT
TO FILE
PROHIBITION**

04.07.25

322-744263-23

FILED
TARRANT COUNTY
4/7/2025 1:57 PM
THOMAS A. WILDER
DISTRICT CLERK

NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS**ITMOMO***(AITIO M.E.M., C.R.M., two children)***MORGAN MICHELLE MYERS**

Petitioner,

CHARLES DUSTIN MYERS,

Respondent.

RESPONDENT'S NOTICE OF INTENT TO
SEEK AN EXTRAORDINARY WRIT OF
PROHIBITION

2025-04-07

TO THE HONORABLE JAMES MUNFORD:

Respondent, CHARLES DUSTIN MYERS, submits his NOTICE OF INTENT TO
SEEK AN EXTRAORDINARY WRIT OF PROHIBITION, and in support thereof, shows the
following:

I. INTRODUCTION

After over a year of one-sided litigation, this court has permitted a purported settlement agreement to destroy the lives of two children, their father's livelihood, and have rewarded both the Petitioner and her attorney by refusing to prosecute the case. There is no excuse for allowing the Petitioner to blatantly deceive this court into acquiring agreed temporary orders without the consent of all parties through her attorney of record only to then fail to prosecute the case. This situation has resulted in unenforceable orders that remain facially void and now this court, after

months of inaction, is seeking to set an improperly filed consolidation motion used as a tactic to stall emergency relief.

Notably, the participation from Petitioner resurfaces again only in the face of an emergency TRO. It doesn't come with good faith or arguments; it only comes with a false sense of urgency by the opposing counsel in this matter. This court has sat on its' hands for months, and then despite the failure to prosecute from the other side, it chooses to act on *the wrong motion*. Such a display is legally improper, unjustified, and showcases the complete disregard for what would otherwise be a prima facie case warranting dismissal for want of prosecution.

Now, rather than acting *sua sponte* to set the DWOP for hearing, the court instead chooses to entertain a prematurely filed consolidation motion *which it has no jurisdiction to rule on*. As the Texas Supreme Court has held previously: “[a] plaintiff has a duty to “prosecut[e] the suit to a conclusion with reasonable diligence,” failing which a trial court may dismiss for want of prosecution.” *In re Conner*, 458 S.W.3d 532 (Tex. 2015) (citing *Callahan v. Staples*, 139 Tex. 8, 161 S.W.2d 489, 491 (1942)). The court has wide discretion to manage its' docket, so it begs the question as to why the court wants to act on its own accord on a motion to consolidate before the case is properly transferred.

Although the writ of prohibition is intended to prevent this Court from setting a matter for hearing that is procedurally improper, the issue in this case mirrors that addressed by the Texas Supreme Court in *In re Conner*, 458 S.W.3d 532 (Tex. 2015). There, the Court considered whether a trial court abuses its discretion by refusing to grant a motion to dismiss for want of prosecution in the face of unmitigated and unexplained delay—and held that it does. That is precisely the circumstance presented here, and this intended writ of prohibition is to prevent this court from causing even further delays by setting a matter for a hearing which it has no

jurisdiction to rule on, and give the court the ability to *dismiss this case for want of prosecution* given that it has the discretion to do so, and no opposition to it from the opposing party.

II. LEGAL FRAMEWORK

A. Writ of Prohibition

A writ of prohibition is an extraordinary legal remedy that serves specific, limited purposes in the Texas legal system. It is a judicial order issued by a higher court to prevent a lower court from exceeding its jurisdiction or interfering with the higher court's determination of a case.

Key characteristics of a writ of prohibition include:

1. **Limited Purpose Remedy:** A writ of prohibition is used to protect the subject matter of an appeal or to prohibit unlawful interference with enforcement of a superior court's judgment (*Sivley v. Sivley*, 972 S.W.2d 850, 863, Tex. App.—Tyler 1998).
2. **Preventive Nature:** The writ is designed to prevent future actions, not to remedy acts already completed. It can only be used to prevent what is about to be or could be done, not as a remedy for acts that are already completed (*United States v. Hoffman*, 71 U.S. 158, 1866). Here, Respondent seeks to use this writ as a means to prevent the court from causing further delays by setting opposing counsel's improper motion to consolidate.
3. **Extraordinary Remedy:** Courts have characterized a writ of prohibition as a "drastic remedy" and the legal equivalent of an equitable injunction (*In re Lewis*, 223 S.W.3d 756, 761, Tex. App.—Texarkana 2007). This is a drastic circumstance. The Respondent has

been barred from his own residence for over a year without any explanation, and without any case prosecution in a one-sided effort to obtain relief from facially void orders.

4. **Last Resort:** Prohibition is not appropriate if any other remedy, such as appeal, is available and adequate (*In re Castle Tex. Prod. Ltd. P'ship*, 189 S.W.3d 400, 404, Tex. App.—Tyler 2006). Here, Respondent has no adequate remedy by appeal, because there is currently no court with continuous, exclusive jurisdiction over the children in this matter.

III. STATEMENT OF FACTS

5. On January 24, 2025, after more than 11 months of inaction, Petitioner filed a Motion to Dismiss for Want of Prosecution in this court. The divorce case has had no substantive action from Petitioner since April 2024, a legal ghost ship drifting without direction or purpose. That motion wasn't attempted to be set for hearing until **September of 2024**, only after the Respondent exhausted all efforts seeking relief throughout the Texas Judiciary without any participation from the opposing side.

6. On March 19, 2025, driven by mounting concerns about the children's welfare and learning that the 322nd District Court did not have continuous, exclusive jurisdiction over the children in this matter, Petitioner filed a new SAPCR in the 233rd District Court (Cause No. 233-765358-25) seeking emergency relief for the children. The very next day, March 20, 2025, Ms. Carter suddenly reappeared like a character presumed missing in the second act, filing an answer to the SAPCR petition in this Court and thereby submitting to this Court's jurisdiction by filing a response rather than a motion to abate.

7. On March 21, 2025, Respondent filed a verified Rule 12 motion challenging Ms. Carter's authority in the 233rd to represent Petitioner in the matter—the second such challenge, met with the same resounding silence as the first.

8. On March 25, 2025, Respondent filed an Objection to Consolidation and an Ex-Parte Emergency Motion for TRO in the 233rd. Two days later, on March 27, 2025, Respondent contacted the court coordinator, requested a date and time to present the motion, and served the documents to the opposing party with the intent to present on March 28, 2025, at 9:00 A.M. before the Associate Judge of this Court. On that fateful morning of March 28, 2025, Respondent drove to the courthouse, paid for parking, met with the coordinator, communicated with opposing counsel, and secured a hearing date of April 10, 2025 agreed by the parties. Respondent then proceeded to the Associate Judge's courtroom to present the TRO.

9. Before Respondent could present his case—before he could speak a single word about his children's welfare—he was told that Ms. Carter would be filing a motion to consolidate in the 322nd District Court, that his motion was improperly before the 233rd court, and the Associate Judge refused to hear the motion. It was a curious thing, this refusal. Ms. Carter wasn't even present in the courtroom, yet her words carried more weight than Respondent's physical presence, his properly filed papers, and most importantly, the urgent needs of his children. She stopped the proceedings with nothing more than word of mouth for the incorrect motion. A true showcasing of disregard for the process, and the children.

10. On April 2, 2025, Respondent filed a Pre-Objection to Motion to Consolidate in the 322nd District Court. Ms. Carter's motion to consolidate wasn't filed with the 322nd District Court until April 3, 2025, six days after she used its mere possibility to prevent the 233rd Court

from hearing Respondent's emergency motion. Her motion disregarded Respondent's pre-objection entirely, as if it were invisible ink on the page.

11. On April 4, 2025, unable to acquire a ruling due to Respondent's objection, Ms. Carter attempted to set the motion for a hearing before the 322nd District Court. That same day, Respondent filed a Pre-Objection to Motion to Transfer in the 233rd Court, given that a motion to transfer must come before any attempt at consolidation. Ms. Carter, who had been so urgently concerned about consolidation when it served to block Respondent's emergency hearing, suddenly claimed to be unavailable until late April—causing significant delays that could have been avoided had the 233rd Court simply heard the motion before it on March 28, 2025.

12. Throughout this period of procedural maneuvering, the children have been subjected to psychological manipulation and medical neglect. They have been removed from Petitioner's care and placed with elderly great-grandparents on a daily basis, and are being gaslighted into a false belief that the divorce is finalized. Respondent's eldest child's academic performance has plummeted, and both children have become emotionally estranged from both parents.

Respondent has suffered approximately \$110,500 in verifiable financial damages due to being locked out of his home and business, and it grows each day. But the financial toll pales in comparison to the emotional cost of watching Respondent's children suffer while the courts exchange procedurally incorrect volleys over his head.

IV. THE PROHIBITION PREDICAMENT

13. The writ of prohibition exists for precisely this sort of situation—where a court is about to act in a way that exceeds its authority and threatens to compound an already untenable situation. The law on this matter is as clear as a bell on a still morning:

A. The Procedural Parade Must Follow Its Proper Order

14. The Texas Family Code establishes a clear sequence for the consolidation of cases from different courts. First, a motion to transfer must be filed and granted, bringing both cases into the same court. Only then may a motion to consolidate be considered. See Tex. Fam. Code §§ 155.201 and 6.407.

15. This isn't merely a matter of dotting i's and crossing t's—it's the fundamental roadmap that ensures cases proceed in an orderly fashion. A court cannot consolidate what it does not possess, any more than a chef can cook ingredients that haven't yet been delivered to the kitchen.

16. The Texas Supreme Court has consistently held that courts must follow proper procedural sequence. *In re Southwestern Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000). When a court attempts to rule on a matter for which it lacks jurisdiction or authority, prohibition is the appropriate remedy. *In re Lewis*, 223 S.W.3d 756, 761 (Tex. App.—Texarkana 2007, orig. proceeding).

17. Respondent is no legal scholar with a library of case law memorized, but even he can see that this principle is as plain as a full moon on a cloudless night. This Court's potential willingness to hear a motion to consolidate before a motion to transfer has been filed and granted would be like a judge sentencing a defendant before the trial has begun—a clear inversion of the proper order of legal proceedings.

B. The Discretion Dilemma

18. The writ of prohibition as used in Texas has three functions: 1) preventing interference with higher courts in deciding a pending appeal, 2) preventing inferior courts from entertaining suits that will relitigate controversies which have already been settled by issuing

courts, and 3) prohibiting a trial court's action when it affirmatively appears that the court lacks jurisdiction. *Texas Capital Bank-Westwood v. Johnson*, 864 S.W.2d 186, 187 (Tex.App.-Texarkana 1993, orig. proceeding). Here, function three is directly relevant. A court cannot hear a motion to consolidate a case it does not have before it.

C. Opposing Counsel's Conduct

19. Ms. Carter's behavior throughout this saga deserves special attention, like a character in a novel whose actions consistently contradict their stated intentions.

20. She abandoned the divorce case for nearly a year, filing nothing since April 2024, only to suddenly reappear when Respondent sought emergency relief for the children—like a firefighter who ignores a smoldering house for months, only to rush in when someone else calls for help.

21. She filed an answer in the 233rd Court, thereby submitting to its jurisdiction, only to then argue that the case belongs in this Court—a contradiction as glaring as claiming to be both inside and outside a room simultaneously.

22. She used the mere possibility of a future filing to block an emergency hearing, then waited six days to file the motion—a delay that speaks volumes about the true urgency of the matter.

23. She filed a motion to consolidate without first filing a motion to transfer, putting the procedural cart before the horse in a manner that defies both logic and law.

24. She now claims to be unavailable until late April, creating further delay after using the urgency of consolidation to block Respondent's emergency hearing—a scheduling contradiction that would be comical if not for the children caught in its web.

25. This pattern reveals a tactical attempt to manipulate both courts' dockets to prevent me from obtaining timely relief. It's a shell game played with Respondent's children's welfare as the prize. This Court should not allow itself to be used as an instrument in such procedural gamesmanship, particularly when children's lives hang in the balance.

V. MORAL FIBER

26. If there's a lesson to be drawn from this procedural quagmire, it's that the law's complexity should never obscure its fundamental purpose: to provide justice, particularly for those most vulnerable. My children—innocent bystanders in this adult conflict—have become collateral damage in a game of procedural chess where the rules seem to change with each move.

27. It has been stated that the true measure of a society is found in how it treats its most vulnerable members. By that measure, the procedural labyrinth that has prevented the 233rd Court from hearing Respondent's emergency motion, and now threatens to compound the error by having this Court act prematurely, speaks volumes about how far we have strayed from the ideal of justice.

28. Respondent provide this notice not out of anger or vindictiveness, but out of that quiet, bewildered astonishment that settles in a person's bones when they've witnessed the law being twisted into shapes that would make a carnival contortionist blush with envy. Respondent followed the rules. He honored the procedures. He placed his faith in a system that promised justice would flow like water, clear and unobstructed, to those who seek it properly.

29. Behind every case number, behind every filing, behind every procedural rule, there are real children with real lives that continue whether the courts act or not. Time doesn't stop for them while adults sort out procedural disagreements. They grow, they hurt, they form memories and impressions that will shape them for a lifetime.

30. As Mark Twain might have observed, the difference between proper procedure and improper procedure is not merely academic—it's the difference between justice served and justice denied, between children protected and children neglected, between a system that works and one that merely pretends to.

VI. CONCLUSION AND PRAYER

31. I respectfully request that this Court pause, reflect on the procedural peculiarity before it, and decline to hear a motion to consolidate until the proper preliminary steps have been taken. Specifically, I ask that this Court:

- a. Recognize that it lacks jurisdiction to hear a motion to consolidate until a motion to transfer has been filed in the 233rd Court and granted;
- b. Take judicial notice that Petitioner submitted to the 233rd Court's jurisdiction by answering the SAPCR petition;
- c. Acknowledge the improper procedural sequence attempted by Petitioner's counsel in filing a motion to consolidate without first filing a motion to transfer;
- d. Consider that proceeding with a hearing on the consolidation motion would only compound the procedural irregularities and further delay relief for the children;

- e. Recognize that the 233rd Court has the power and jurisdiction to address the emergency concerns raised in my TRO motion, which remains unopposed on the record.
- f. Using the court's own inherent power, dismiss the divorce outright for failure to prosecute given the circumstances of this case.

Respondent understands that in most situations, courts give deference to licensed attorneys over self-represented litigants. But the procedural impropriety here is so glaring, so fundamental, that it transcends the usual presumptions. Even a layperson can see that you cannot consolidate what you do not possess, just as you cannot serve a meal with ingredients you haven't yet purchased.

The children deserve better than to have their fate determined by procedural sleight of hand. They deserve courts that follow the law's clear sequence, that prioritize substance over form, and that remember that behind every procedural rule are real lives hanging in the balance. The truth of this matter can only be revealed once the injustices are duly corrected by this court.

Respondent has filed a similar notice to the 233rd court informing of the intent to file a writ of mandamus to compel a ruling on the emergency TRO that was unlawfully blocked from being heard by COOPER L. CARTER.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
CHUCKDUSTIN12@GMAIL.COM
817-546-3693
PRO-SE

CERTIFICATE OF SERVICE

Respondent, CHARLES DUSTIN MYERS, certifies that, pursuant to Rule 21a of the Texas Rules of Civil Procedure that:

A copy of this NOTICE has been served to MORGAN MICHELLE MYERS through her EFM registered under MORGANMW02@GMAIL.COM

A copy of this NOTICE has been provided to COOPER L. CARTER through her email COOPERCARTER@MAJADMIN.COM

A copy of this NOTICE has been served to HOLLY HAYES through her EFM registered email address: CSD-FILER914@TEXAS.OAG.GOV

Served on: 04/07/2025

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
817-546-3693
CHUCKDUSTIN12@GMAIL.COM
PRO-SE

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Filing Description: Notice of Intent to Seek Writ of Prohibition

Status as of 4/7/2025 4:31 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/7/2025 1:57:58 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/7/2025 1:57:58 PM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/7/2025 1:57:58 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/7/2025 1:57:58 PM	SENT



322-744263-23

**RESPONDENT'S
NOTICE OF NEW
INFORMATION**

04.04.25

322-744263-23

NO. 322-744263-23

FILED
TARRANT COUNTY
4/4/2025 11:58 AM
THOMAS A. WILDER
DISTRICT CLERK

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS**ITMOMO***(AITIO M.E.M., C.R.M., two children)***MORGAN MICHELLE MYERS**

Petitioner,

CHARLES DUSTIN MYERS,

Respondent.

RESPONDENT'S NOTICE OF NEW
INFORMATION

2025-04-04

TO THE HONORABLE COURT:

Respondent, CHARLES DUSTIN MYERS, submits this notice of new information, and reiterates the absurdity of this case through the following facts conclusively established by the record:

1. There has been no effort by the opposing party to prosecute this matter since April 24, 2024.
2. There is conclusive evidence supporting this suit was brought in bad faith by MORGAN MICHELLE MYERS, Petitioner
3. There is conclusive evidence supporting this suit has been litigated in bad faith by COOPER L. CARTER.
4. There are no valid orders in effect which has been the case for the cases' entirety.

5. The current orders, despite bearing the Associate Judge's signature, are *void and of no legal effect*.
6. The Respondent has suffered now over \$110,500 in verifiable damages due to being unlawfully locked out of his residence on March 6, 2024.
7. The Respondent cannot find alternative housing while being barred from being able to work.
8. The Petitioner knows this to be true but instead sabotaged the Respondent's ability to provide for the children for the purpose of pursuing an extramarital relationship that began prior to the commencement of these proceedings.
9. The Petitioner is now **ENGAGED** to **DAMEN KAZLAUSKAS**, who proposed to Petitioner in the presence of the children.
10. There is no child support set up for the children.
11. Petitioner continues to dispose of Respondent's personal belongings.
12. Despite her authority being in question, and despite her failure to prosecute, COOPER L. CARTER unilaterally interrupted emergency proceedings on March 28, 2025, claiming that the case would be consolidated the following week without being present in the courtroom.
13. The 233rd district court blatantly denied the Respondent due process in the face of COOPER L. CARTER's false promise.
14. COOPER L. CARTER doesn't know the law, because you cannot consolidate a SAPCR with a divorce matter unless the suit is transferred according to the TEXAS FAMILY CODE.

15. The court, at this point, is choosing to not grant relief despite having no reason to do so.
16. This litigation has no possible means to an end, and it should be dismissed outright so that the SAPCR may continue.
17. There has been no filed opposition, objection, or arguments made against the Respondent's position in *either suit*.
18. The Petitioner has wasted everyone's time, caused significant damage, and remains hidden in fear of being held accountable.
19. The Petitioner prioritized an extramarital affair over prosecuting the divorce, and the children and Respondent have been significantly harmed.

Therefore, this case should be dismissed as a matter of law. Every day causes more irreparable harm, and this court has every ability and reason to rectify this situation immediately. Respondent already has the solution and has been the only party in this matter seeking relief. It is simply unacceptable to permit this to continue.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
CHUCKDUSTIN12@GMAIL.COM
817-546-3693
PRO-SE

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Served on: 04/04/2025

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
817-546-3693
CHUCKDUSTIN12@GMAIL.COM
PRO-SE

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/4/2025 11:58:22 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/4/2025 11:58:22 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/4/2025 11:58:22 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/4/2025 11:58:22 AM	SENT



02-25-00164-CV

MANDAMUS

04.10.25

No.02-25-00164-CV
IN THE
SECOND JUDICIAL DISTRICT COURT OF APPEALS
AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

On Petition for Writ of Mandamus
to the 233rd Judicial District Court, Tarrant County
Cause Number 233-765358-25
Hon. Kate Stone Presiding

PETITION FOR WRIT OF
MANDAMUS

Respectfully submitted by:

Charles Dustin Myers
chuckdustin12@gmail.com
Tel.: 817-546-3693



Emergency Relief Requested

Identity of Parties and Counsel***Relator***

Charles Dustin Myers
[REDACTED]

chuckdustin12@gmail.com

817-546-3693

Respondent

Hon. Kate Stone
Associate Judge of the 233rd District Court,
Tarrant County, Texas
200 E. Weatherford St. 5th Floor
Fort Worth, TX 76196-0227

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Real Party in Interest

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TABLE OF CONTENTS

Identity of Parties and Counsel 2

Table of Contents 3

Index of Authorities 4-5

Statement of the Case..... 6

Statement of Jurisdiction..... 7

Issues Presented 8

Statement of Facts 9-12

Argument..... 13

 A. Mandamus Standard..... 13

 B. The temporary orders rendered on March 14, 2024, are void..... 14-15

 C. Refusing to hear the emergency TRO is an abuse of discretion 15-17

 D. Improper consolidation does not justify the refusal to act..... 17-18

 E. Relator has been left with no adequate remedy by an appeal 18

 F. Refusal to accept exhibits central to the emergency TRO 19-20

Conclusion and Prayer 21-22

Certification (TRAP 52.3(j))..... 22

Certificate of Compliance 23

Certificate of Service 23

Affidavit of Charles Dustin Myers 24

Index of Authorities

Cases	Page
<i>Burnaman v. Heaton,</i>	
240 S.W.2d 288 (Tex. 1951)14, 15	14
<i>In re Bass,</i>	
113 S.W.3d 735, 738 (Tex. 2003) (orig. proceeding)	13
<i>In re Blakeney,</i>	
254 S.W.3d 659 (Tex. App.—Texarkana 2008, orig. proc.)	17
<i>Carter v. Carter,</i>	
535 S.W.2d 215 (Tex. Civ. App. 1976)	14
<i>In re J.R.,</i>	
No. 02-21-00060-CV, 2021 WL 1421440 (Tex. App.—Fort Worth	
Apr. 15, 2021, orig proceeding)	13-14
<i>Safety-Kleen Corp. v. Garcia,</i>	
945 S.W.2d 268, 269 (Tex.App.-San Antonio 1997, orig. proceeding)..	15
<i>In re Shredder Co., L.L.C.,</i>	
225 S.W.3d 676, 679 (Tex. App.—El Paso 2006, orig. proceeding)	15
<i>In re Southwestern Bell Tel. Co.,</i>	
35 S.W.3d 602 (Tex. 2000, orig. proc.)	13
<i>In re Prudential Ins. Co. of Am.,</i>	
148 S.W.3d 124, 136 (Tex. 2004)	18
<i>Urbish v. 127th Judicial Dist. Court,</i>	
708 S.W.2d 429, 431 (Tex. 1986) (orig. proceeding)	13
<i>Walker v. Packer,</i>	
827 S.W.2d 833, 839 (Tex. 1992)	13

Statutes and Rules

Tex. Fam. Code § 6.407 18

Tex. Fam. Code § 155.001 17

Tex. R. Civ. P. § 21(f)(11) 19

Tex. R. Civ. P. § 59..... 19-20

Tex. Gov’t Code § 22.221(c)..... 7

Tex. R. App. P. § 9.4(i)(3) 23

Tex. R. App. P. § 52.1 21

Tex. R. App. P. § 52.7(b)..... 20

Tex. R. App. P. § 52.3..... 22

Tex. R. App. P. § 52.10..... 21

Constitutions

Tex. Const. Art. 1, § 19 19

Statement of the Case

Nature of Underlying Proceeding: This original proceeding arises from a Suit Affecting the Parent-Child Relationship ("SAPCR") involving two minor children, M.E.M. and C.R.M., in which Relator filed an emergency ex parte application for temporary restraining order ("TRO") in the 233rd District Court of Tarrant County, Texas. The underlying SAPCR (Cause No. 233-765358-25) was a new proceeding initiated by Relator on March 19, 2025, and was answered on March 20, 2025. There is a related divorce matter (322-744263-23) that has not been prosecuted since April 24, 2024, and no final orders have been rendered. Relator seeks declaratory and injunctive relief preventing the Real Party in Interest from barring Relator's from accessing his home, business, and children until valid orders are rendered that reflect the children's best interests.

Respondent Judge: The Respondent Judge, Kate Stone, is the presiding Associate Judge of the 233rd District Court of Tarrant County, Texas. Her office is located at 200 E. Weatherford St. 5th Floor Fort Worth, TX 76196-0227.

Respondent's Challenged Actions and inaction: The trial court refused to hear an emergency motion before it on March 28, 2025, and used out-of-court statements made by the opposing counsel regarding a *forward looking* consolidation motion that *would be filed* at a later date, and denied to hear the motion after a full hearing date was agreed upon by both parties for April 10, 2025.

Statement of Jurisdiction

This Petition for Writ of Mandamus is filed in the Second Court of Appeals, which has jurisdiction to issue writs of mandamus to associate judges within its district. **See** Tex. Gov't Code § 22.221(c) as amended by H.B. No. 1480.

Respondent is the Associate Judge of the 233rd District Court of Tarrant County, which lies within the Second Court of Appeals District. Accordingly, this Court has jurisdiction over this original proceeding.

Issues Presented

- B. Are the March 14, 2024, temporary orders rendered by an Associate Judge *void ab initio* because they explicitly state that all parties agree to the terms of the order yet only contain the signatures of the opposing party and were never properly adopted by the referring court?
- C. Did the Respondent abuse her discretion by failing to perform a clear ministerial duty when she refused to consider and rule on Relator's properly filed ex parte emergency Application for TRO?
- D. Did the Respondent further abuse her discretion un-setting the matter for a hearing, and favoring a forward-looking consolidation motion as the grounds for denying to hear the emergency TRO before a transfer was filed?
- E. The Relator has been left without an adequate remedy for an appeal because no order resulted from the Respondent judge's refusal to act on Relator's emergency TRO.
- F. Did the Respondent clearly abuse her discretion by excluding any exhibits related to the emergency TRO?

Statement of Facts

“**MR**” in this section refers to the mandamus record.

“**APP**” refers to the relator’s appendix.

“**SUPP**” refers to the supplemental appendix filed concurrently with this petition.

1. On March 14, 2024, temporary orders were rendered as an agreed judgement despite the consent of all parties not being present at the time of rendition.

APP 2

2. The temporary orders claim that all parties consent to the terms of the orders. ***APP 2.1***
3. The temporary orders are missing the Relator’s signature because he did not consent to the orders. ***APP 2.38***
4. On March 19, 2025, Relator opened an original SAPCR in the 233rd district court to seek relief from ongoing damage to the status quo and children’s livelihood caused by these orders and filed an IFP statement. ***MR 1***
5. On March 20, 2025, the SAPCR was answered, and claimed COOPER L. CARTER had been retained in her individual capacity to represent real party in interest, yet the pleading was filed by a party not named in the suit, RODERICK D. MARX on behalf of COOPER L. CARTER. ***MR 3, MR 3.4***
6. On March 20, 2025, a motion to consolidate was filed by RODERICK D. MARX on behalf of COOPER L. CARTER. ***MR 4, MR 4.3***

7. On March 20, 2025, Relator filed a MOTION TO STRIKE RESPONDENT'S ANSWER AND MOTION TO CONSOLIDATE on the grounds that they were filed by a non-party and vague. **MR 5**
8. On March 21, 2025, Relator filed a verified RULE 12 MOTION TO SHOW AUTHORITY due to COOPER L. CARTER'S inactivity in the divorce matter for over 11 months and to clear up the ambiguity surrounding RODERICK D. MARX. **MR 6**
9. COOPER L. CARTER uses RODERICK D. MARX for filing pleadings because her EFM account is registered under her prior employer's email address. **MR 5.7**
10. On March 24, 2025, Relator filed an EX-PARTE EMERGENCY TRO seeking emergency relief for the minor children in this suit, who have been subjected to psychological manipulation, gaslighting, declining academic performance, and medical neglect. **MR 7**
11. On March 26, 2025, Relator contacted the court coordinator, was told he may present the TRO, and notified the opposing counsel that he would present the motion at 9:00 A.M. on March 28, 2025. **SUPP 2.9**
12. On March 27, 2025, Relator served a copy of the TRO, exhibits, and proposed order to the opposing party, and informed them of the relief being sought. **SUPP 2.18**

13. On the evening of March 27, 2025, opposing counsel bypassed communicating with Relator and directly contacted the court coordinator informing them of her intent to file a consolidation motion in the 322nd district court. ***SUPP 2.19***
14. On March 28, 2025, the relator drove to court, paid for parking, met with the coordinator, contacted the opposing party and provided available hearing dates. ***SUPP 2.24***
15. When the Relator went before the Respondent Judge to present the emergency TRO, Relator was denied the ability to Present the motion, and no order or ruling was given, and the agreed upon date for April 10, 2025, was un-set by the Respondent judge without hearing the motion. ***SUPP 2.27***
16. On April 1, 2025, Relator filed a PETITIONER’S STATEMENT to document facts Regarding COOPER L. CARTER’S bad faith litigation and to reiterate his legal position. ***MR 8***
17. On April 7, 2025, Relator filed a NOTICE OF INTENT TO FILE MANDAMUS and EMERGENCY STAY with the 233rd District Court. ***MR 9***
18. On April 8, 2025, Relator filed a NOTICE OF INCLUSION to include the email correspondence and other relevant materials relevant to this Mandamus petition. ***SUPP 2.1***

19. On April 9, 2025, Relator received a rejection letter regarding the NOTICE OF INCLUSION and was prevented from including the crucial exhibits.

SUPP 1.1

20. On April 9, 2025, when contacting the clerk for the reason for the rejection, she stated that “Each court/Judge is different in what they will or will not accept into a case. For our court you can reach out to our coordinator Angie on how to submit those exhibits to the court, but we are unable to accept any exhibits into the case.” ***SUPP 1.1***

ARGUMENT

A. Mandamus Standard

Mandamus relief is not merely appropriate but *imperative* in this case because the trial court's inaction and the continued enforcement of a void order constitute a clear abuse of discretion for which Relator has no adequate remedy at law. The Texas Supreme Court has consistently and unequivocally held that to obtain mandamus relief, a Relator must show (1) the trial court clearly abused its discretion or violated a duty imposed by law, and (2) there is no adequate remedy by appeal. *In re Bass*, 113 S.W.3d 735, 738 (Tex. 2003) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992).

Texas jurisprudence firmly establishes that mandamus will lie to correct a void order, even without a traditional showing of inadequate appellate remedy. As the Supreme Court of Texas definitively stated in *Urbish v. 127th Judicial Dist. Court*, 708 S.W.2d 429, 431 (Tex. 1986) (orig. proceeding), mandamus will issue to correct a void order, i.e., an order the trial court had no power or jurisdiction to render. The Court has further emphasized in *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000) (orig. proceeding) that if an order is void, the Relator need not show he lacks an adequate appellate remedy, and mandamus relief is appropriate. This principle was recently reaffirmed in *In re J.R.*, No. 02-21-00060-CV, 2021 WL 1421440 (Tex. App.—Fort Worth Apr. 15, 2021, orig. proceeding), where the

court explicitly stated: "A trial court abuses its discretion if it enters a void order, and mandamus will issue to remedy the void order regardless of whether the relator has an adequate remedy by appeal."

B. The temporary orders rendered on March 14, 2024, are void ab initio

A fundamental and inviolable principle in Texas jurisprudence is that a judgment based on a settlement requires the consent of both parties at the time it is rendered by the court. The Texas Supreme Court's seminal decision in *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (1951) established the bedrock principle that a party is free to withdraw their consent to a settlement at any time before the judgment is rendered. The Court's language was unambiguous and leaves no room for interpretation: "A valid consent judgment cannot be rendered by a court when consent of one of the parties thereto is wanting. It is not sufficient that a party's consent may at one time have been given; consent must exist at the very moment the court undertakes to make the agreement the judgment of the court." *Id.* This principle has been consistently reaffirmed, as in *Carter v. Carter*, 535 S.W.2d 215 (Tex. Civ. App. 1976), which emphasized that "the law seems to be clear that a consent judgment cannot be rendered by a trial court when consent of one of the parties is lacking, even though that consent may have been previously given."

In the present case, the only orders rendered by any court were rendered as consent judgments but lack the signatures of all parties. The orders themselves

explicitly state "As evidenced by the signatures below, all parties agree to the terms of this order" on page 1, **APP 2.1**, and later page 38 states "APPROVED AND CONSENTED TO AS TO BOTH FORM AND SUBSTANCE" yet crucially lacks the signature of the Relator and his prior counsel. **APP 2.38**. The Court must recognize that the absence of the Relator's signature is not a mere technical deficiency but a fatal jurisdictional flaw that renders the orders void ab initio. Because his signature was required to effectuate consent, and the orders themselves acknowledge this requirement, the orders are unquestionably void.

C. Outright refusing to hear the emergency TRO is a clear abuse of discretion

It is well-settled and beyond legitimate dispute that a trial court has a ministerial duty to consider and rule on motions that have been properly filed and brought to the court's attention. The Texas Court of Appeals has emphatically stated, "When a motion is properly filed and pending before the trial court, the act of giving consideration to and ruling upon that motion is a ministerial act, and mandamus may issue to compel the trial judge to act." *Safety-Kleen Corp. v. Garcia*, 945 S.W.2d 268, 269 (Tex. App.- San Antonio 1997, orig. proceeding). To establish an abuse of discretion for refusal to rule, the relator must show: (1) the trial court had a legal duty to perform a nondiscretionary act, (2) the relator requested performance of that act, and (3) the trial court failed or refused to do so.

In re Shredder Co., L.L.C., 225 S.W.3d 676, 679 (Tex. App.—El Paso 2006, orig. proceeding).

Here, the Relator properly filed his emergency TRO application in the 233rd District Court, meticulously followed all procedural requirements, and appeared at the scheduled time to present at 9:00 A.M. on March 28, 2025. **SUPP 2.11** The Court must recognize that the court's refusal to even consider the application—based solely on an opposing counsel's unverified, informal representation about a future filing in another court—constitutes a clear and inexcusable failure to perform a ministerial duty – especially when no response or opposition to the TRO was filed by the opposing party and that same party was permitted to interfere with the proceedings without being present in the courtroom. **SUPP 2.19**

The refusal is particularly troubling because 1) The TRO application involved un-opposed allegations of immediate harm to children, which courts are obligated to address promptly; 2) the refusal was due to a *forward looking* consolidation motion; 3) even if a motion to consolidate had been filed, it would not automatically divest the 233rd Court of jurisdiction until actually granted; and 4) the proper procedure would have been a motion to transfer, not consolidation. *See* Tex. Fam. Code § 6.407. This misapplication of the law resulted in the refusal to hear a properly filed motion to favor a procedurally improper motion that hadn't even been filed yet.

In *In re Blakeney*, 254 S.W.3d 659, 661 (Tex. App.—Texarkana 2008, orig. proc.), the court held that mandamus is appropriate when a trial court refuses to rule on a properly filed motion and the relator has no adequate remedy by appeal. That is precisely the situation here. The 233rd Court's refusal to even consider Relator's emergency TRO application has left him with no forum to address his urgent concerns about the children's welfare, as the case before the 322nd has been procedurally abandoned and Relator has been seeking relief from facially void temporary orders to no avail since March 14, 2024, without any opposition from the opposing counsel. *SUPP 3.2*

D. Improper consolidation does not justify the refusal to act

The 233rd Court's refusal to act was based on a fundamentally flawed legal premise: that the 322nd District Court had continuing exclusive jurisdiction over the children. Under Texas Family Code § 155.001, a court acquires continuing exclusive jurisdiction over children only when it renders a "final order" in a SAPCR. It is undisputed that the 322nd Court never rendered any final order regarding the children. Without a final order, the 322nd Court never acquired continuing, exclusive jurisdiction over the children. Therefore, the 233rd Court was entirely within its authority to hear and rule on Relator's emergency TRO application pursuant to § 155.001.

Moreover, even if the 322nd Court had continuing exclusive jurisdiction (which it does not), the proper procedure would have been a motion to transfer under the Family Code, not consolidation. Consolidation is appropriate for related cases within the same court, not for transferring jurisdiction between courts. By refusing to act based on an anticipated consolidation motion, the 233rd Court fundamentally misapplied the law, as consolidation cannot be effectuated prior to the transfer of the action. Tex. Fam. Code § 6.407.

Rather, opposing counsel could have filed a plea in abatement but instead chose to Respond to the SAPCR after not prosecuting the divorce case since April 24, 2024.

E. Relator has been left with no adequate remedy by an appeal

Because the 233rd District Court outright refused to hear the emergency TRO before it and the appearance before the court produced no order, the Relator has been left without an adequate remedy for an appeal. The Texas Supreme Court has recognized that mandamus relief is appropriate when "a party's ability to present a viable claim or defense is vitiated or severely compromised." *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004). That is precisely the situation here. The Relator has diligently sought relief in a one-sided case to no avail, and the 233rd SAPCR was opened to escape the abandoned divorce suit that hasn't been prosecuted since April 24th, 2024, and has no valid orders in effect.

F. Refusal to accept relevant exhibits central to the emergency TRO

On April 9th, 2025, Relator attempted to file a NOTICE OF INCLUSION with the trial court, which included critical exhibits related to the emergency TRO. The Judge refused outright to permit Relator to include any exhibits related to the TRO in the rejection comments. *SUPP 2.13, 2.16* When contacting the clerk's office, no substantive response was received from the court coordinator. The returned comment stated: "Judge's request. Please resubmit without the attached exhibits" without citing any legal authority, statute, rule, or local procedure justifying this rejection. *SUPP 1.1*.

This rejection by the clerk constitutes a clear violation of the Texas Rules of Civil Procedure. Rule 21(f)(11) states: "The clerk may not refuse to file a document that fails to conform with this rule." Instead, the rule provides that the clerk "may identify the error to be corrected and state a deadline for the party to resubmit the document in a conforming format." Here, the clerk provided no specific error to be corrected, and no legal basis for the rejection outside of "we are unable to accept any exhibits into the case". *SUPP 1.1* By doing so, the Relator has been deprived of essential privileges to make a record pursuant to Tex. Const Art. 1, § 19.

Moreover, Rule 59 of the Texas Rules of Civil Procedure states: "Notes, accounts, bonds, mortgages, records, and all other written instruments,

constituting, in whole or in part, the claim sued on, or the matter set up in defense, may be made a part of the pleadings by copies thereof, or the originals, being attached or filed and referred to as such, or by copying the same in the body of the pleading in aid and explanation of the allegations in the petition or answer made in reference to said instruments and shall be deemed a part thereof for all purposes.”

The request to remove the exhibits specifically for the emergency TRO without any statutory backing raises suspicion that the trial court is actively trying to prevent the record from being properly established.

Finally, by rejecting exhibits central to Relator's emergency TRO application without legal justification, the clerk has effectively denied Relator the ability to make a complete record and present all relevant evidence to this court, thereby impairing Relator's due process rights. The rejected exhibits have been served on the opposing party and will be included in the supplemental record pursuant to Tex. R. App. P. § 52.7(b).

CONCLUSION AND PRAYER

Relator has been seeking relief for his children for over a year while the opposing party has failed to prosecute their case. They obtained orders by falsely claiming consent and then abandoned their case. There have been no filed responses to any relief sought by the Relator, no objections filed, and if the Relator had not opened the SAPCR to seek relief for his Children, there was no indication

that the real party in interest ever intended to move the dormant divorce proceeding towards final trial. There are no valid, legally binding orders in effect, yet they have been used to control the Relator's livelihood and have destroyed the children's status quo. The opposing counsel only resurfaced at the 11th hour in a separate proceeding for the sole purpose of interfering with the relief sought by the Relator without even being present in the courtroom. *SUPP 2.19*

WHEREFORE, PREMISES CONSIDERED, Relator Charles Dustin Myers respectfully prays that this Court:

1. Issue a writ of mandamus directing Respondent, the Honorable Kate Stone, Associate Judge of the 233rd District Court of Tarrant County, Texas, to hear and rule on Relator's Emergency Application for Temporary Restraining Order at the earliest practical date;
2. Grant the emergency temporary relief requested in Relator's separate Emergency Motion under TRAP 52.10, filed concurrently with this petition because the orders are facially void;
3. Take judicial notice that Relator has been unlawfully barred from his matrimonial residence and children under these void orders for over a year while the real party in interest has remained completely silent;

4. Take judicial notice that no filed responses, objections, or any substantive information has been provided by the opposing party throughout these proceedings;
5. Take judicial notice that crucial elements of the claims were prohibited from being made a part of the official court record and will be supplemented.
6. Grant such other and further relief, both general and special, at law and in equity, to which Relator may be justly entitled.

Respectfully submitted,

/s/ Charles Dustin Myers

Charles Dustin Myers, Pro Se

[REDACTED]

Email: chuckdustin12@gmail.com

Phone: 817-546-3693

PRO-SE RELATOR

Certification (TRAP 52.3(j))

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 **2899 words**.

CERTIFICATE OF SERVICE

Relator certifies that on April 10, 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:

Hon. Kate Stone J.D.

Associate Judge, 233rd District Court
Tarrant County Family Law Center
200 E. Weatherford St.
Fort Worth, TX 76196

Via electronic submission to the court coordinator

Via email: ADWierzbicki@tarrantcountytexas.gov

Morgan Michelle Myers

Real Party in Interest

VIA the EFM at:

MORGANMW02@GMAIL.COM

Cooper L. Carter

Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116

Via email: coopercarter@majadmin.com

/s/ Charles Dustin Myers

Charles Dustin Myers,
Pro Se Relator

No. _____ -CV

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

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding Arising Out of
the 233rd Judicial District Court of Tarrant
County, Texas

Cause Number 233-765358-25

Hon. Kate Stone Presiding

RELATOR'S APPENDIX

Respectfully submitted by:

Charles Dustin Myers
chuckdustin12@gmail.com
Tel.: 817-546-3693


Pro-se Relator

NAME	TAB
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Order setting hearing for TRO	1
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Temporary Orders rendered 03/14/2024	2
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Tex. Fam. Code § 6.407 – Joinder of SAPCR	3
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Tex. Fam. Code § 155.001 – Continuing, Exclusive Jurisdiction	4
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Tex. Const. art. I, § 19 – Due Course of Law	5
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Tex. R. Civ. P. § 21(f)(11)	6
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Tex. R. Civ. P. § 59 – Exhibits and Pleadings	7
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STATE OF TEXAS COUNTY OF TARRANT
AFFIDAVIT CERTIFYING RELATOR'S APPENDIX

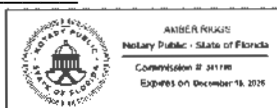
BEFORE ME, the undersigned authority, personally appeared **Charles Dustin Myers**, who, being duly sworn by me, stated upon oath as follows:

1. **My name is Charles Dustin Myers.** I am over the age of eighteen, competent to make this affidavit, and I am the Relator in the above-captioned cause. I have personal knowledge of the facts stated herein, and each is true and correct.
2. I am familiar with the documents included in Relator's Appendix submitted in support of the Petition for Writ of Mandamus filed in the Second Court of Appeals at Fort Worth, Texas, arising from cause number 233-765358-25 in the 233rd District Court of Tarrant County, Texas and hereby certify that each of the documents contained in Relator's Appendix is a true and correct copy of the original document under penalty of perjury.
3. The Appendix is submitted in accordance with Texas Rule of Appellate Procedure 52.3(k)(1)(A) and is tendered as a proper record of the matters complained of in the mandamus proceeding.

FURTHER AFFIANT SAYETH NOT.

Charles Dustin Myers

Charles Dustin Myers
 Relator *CDM*



State of Florida

County of Bay County

This foregoing instrument was acknowledged before me by means of online notarization, this 04/10/2025 by Charles Dustin Myers.

Amber Riggs
 Amber Riggs

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 99524439

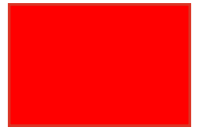
Filing Code Description: Original Proceeding Petition

Filing Description: PETITION FOR WRIT OF MANDAMUS AND
RELATOR'S APPENDIX - VERIFIED

Status as of 4/10/2025 3:05 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Kate Stone		adwierzbicki@tarrantcountytx.gov	4/10/2025 2:37:09 PM	SENT
COOPER LCARTER		COOPERCARTER@MAJADMIN.COM	4/10/2025 2:37:09 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/10/2025 2:37:09 PM	SENT
CHARLES MYERS		CHUCKDUSTIN12@GMAIL.COM	4/10/2025 2:37:09 PM	SENT



233-765358-25

**ORIGINAL
SAPCR**

03.18.25

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

Cause Number: 233-765358-25

(The Clerk's office will fill in the Cause Number and Court Number when you file this form.)

In the Interest of the following Minor Child(ren):

(Print the initials of each child.)

- 1 M.E.M,
- 2 C.R.M.,
- 3
- 4
5.

In the 322nd

Court Number

- ☒ District Court
- ☐ County Court at Law of:

TARRANT

County, Texas

Petition in Suit Affecting the Parent-Child Relationship

My name is: CHARLES DUSTIN MYERS

FirstMiddleLast

I am the **Petitioner**, the person asking the Court to make orders about the child or children named below.

My driver's license was issued in (state) TEXAS. The last three numbers of my driver's

license number are: 608.

Or ☐ I do not have a driver's license.

The last three numbers of my social security number are: 963.

Or ☐ I do not have a social security number.

I am: (Check one.)

- ☐ not related to the child(ren).
- ☒ related to the child(ren). I am the child(ren)'s: FATHER
- Write your relationship to the child(ren).

1. Discovery Level

The discovery level in this case, if needed, is Level 2.

2. Child(ren)

I ask the Court to make orders about the following child(ren):

	Child's name	County and State where child lives now
1.	M.E.M.	TARRANT/TEXAS
2.	C.R.M.	TARRANT/TEXAS
3.		
4.		
5.		

3. Standing

The law allows me to file this case because I am: (Check one.)

- ☐ the mother of the child(ren).
- ☒ the “legal father” of the child(ren). An Acknowledgment of Paternity form has been signed and filed with the Vital Statistics Unit for each child. A copy of each Acknowledgment of Paternity is attached to this Petition.
- ☐ a person who has had actual care, control, and possession of the child(ren) for at least 6 months ending not more than 90 days before the date this Petition is filed with the Court. I am not a foster parent.
- ☐ a person who lived with the child(ren) and the child(ren)’s parent, guardian, or managing conservator for at least 6 months ending not more than 90 days before the date this Petition is filed with the Court, and the child(ren)’s parent, guardian, or managing conservator is now dead.
- ☐ the grandparent, great-grandparent, sister, brother, aunt, uncle, niece, or nephew of the child(ren) and: (Check the box below that applies to your case.)
- ☐ both parents are dead.
- ☐ both parents, the surviving parent, or managing conservator agree to me filing this case.
- ☐ the child(ren)’s present circumstances will significantly impair (*harm*) the child(ren)’s physical health or emotional development.
- ☐ other: _____

(Read the law about standing in Texas Family Code Sections 102.003, 102.004 and 102.006)

Note: If you are the mother or biological father of the child/ren and an Acknowledgment of Paternity form has not been signed and filed for each child, you may need to file a paternity case instead of a Suit Affecting the Parent-Child Relationship (SAPCR) case. Get information about filing a paternity case at www.TexasLawHelp.org.

4. Jurisdiction

There are no court orders about any of the child(ren). No other Court has continuing jurisdiction over this case or the child(ren).

Texas has authority to decide this case because: (Check one.)

- ☒ The children live in Texas now and have lived in Texas for at least the past 6 months or since birth.
- ☐ The children do not live in Texas now, but they have been gone from Texas less than 6 months. The children had lived in Texas for at least 6 months before they moved. A parent or person acting as a parent continues to live in Texas.

Important: Talk to a lawyer if neither of the above applies.

Note: If there is already a court order about any of the children, you may need to file a modification case instead of a Suit Affecting the Parent-Child Relationship (SAPCR) case. Get information about filing a modification case at www.TexasLawHelp.org.

Note: There may be one or more Respondents. Read the SAPCR instructions at www.TexasLawHelp.org for information about who must be listed as a Respondent and given legal notice of the case.

Respondent A's name is: MORGAN MICHELLE MYERS
PRINT the full name of Respondent A.

☒ the mother of the child(ren).
☐ the legal father of the following child(ren): _____
☐ an alleged father of the following child(ren): _____
☐ other: _____

M.2056

Respondent C
☐ Check this box if there are no other Respondents and skip to section 6.

Respondent C's name is: _____

PRINT the full name of Respondent C.

Respondent C is: (Check one.)

- ☐ the mother of the child(ren).
- ☐ the legal father of the following child(ren): _____
- ☐ an alleged father of the following child(ren): _____
- ☐ other: _____

Write Respondent C's relationship to the child(ren).

Legal Notice: (Check one.)

- ☐
- I will have a sheriff, constable, or process server give a copy of this
- Petition*
- to Respondent C here:

PRINT Street Address City State Zip

If this is a work address, name of business: _____

I ask the clerk to issue a Citation of Service (the form necessary to provide legal notice to my spouse by "Official Service of Process"). I understand that I will need to **pay the fee** (or file a Statement of Inability to Afford Payment of Court Costs form to show the Court that I am unable to pay the fee) and **arrange for service**.

- ☐ I think Respondent C will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve Respondent C with this *Petition* at this time.
- ☐ I cannot find this Respondent. I ask that this Respondent be served by publication.

Respondent D
☐ Check this box if there are no other Respondents and skip to page 5 section 6.

Respondent D's name is: _____

PRINT the full name of Respondent D.

Respondent D is: (Check one.)

- ☐ the mother of the child(ren).
- ☐ the legal father of the following child(ren): _____
- ☐ an alleged father of the following child(ren): _____
- ☐ other: _____

Write Respondent D's relationship to the child(ren).

Legal Notice: (Check one.)

- ☐
- I will have a sheriff, constable, or process server give a copy of this
- Petition*
- to Respondent D here:

PRINT Street Address City State Zip

If this is a work address, name of business: _____

I ask the clerk to issue a Citation of Service (the form necessary to provide legal notice to my spouse by "Official Service of Process"). I understand that I will need to **pay the fee** (or file a Statement of Inability to Afford Payment of Court Costs form to show the Court that I am unable to pay the fee) and **arrange for service**.

- ☐ I think Respondent D will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve Respondent D with this Petition at this time.
- ☐ I cannot find this Respondent. I ask that this Respondent be served by publication.

6. Out-of-State Respondent(s)

(Check one.)

- ☒ Everyone involved in this case lives in Texas.
- ☐ The following Respondent does not live in Texas: _____

Note: You must complete and attach the Exhibit: Out-of-State Party Declaration if you or a Respondent does not live in Texas.

Print the FULL name of the Out-of-State Respondent.

(Check all that apply for the Out-of-State Respondent.)

- ☐ The Respondent agrees that a Texas court can make orders in this case and will file a written response with the court.
- ☐ The children live in Texas because of the Respondent's actions.
- ☐ The Respondent has lived in Texas with the children.
- ☐ The Respondent has lived in Texas and provided prenatal expenses or support for the children.
- ☐ The Respondent had sexual intercourse in Texas, and the children may have been conceived by that act of intercourse.
- ☐ The child was born in Texas and the Respondent registered with the paternity registry maintained by the Texas Vital Statistics Unit or signed an Acknowledgment of Paternity filed with the Texas Vital Statistics Unit.
- ☐ The Respondent will be personally served with citation in Texas.

7. Conservatorship (Custody)

I ask the court to make conservatorship (custody) orders naming: (Check a, b, c, d, or e.)

- a. ☒ Mother and Father Joint Managing Conservators of the child(ren) with:

(If you checked a, check a-1, a-2, or a-3.)

- a-1. ☒ Father having the exclusive right to designate the primary residence of the child(ren) within the following geographic area: (Check one box below.)

- ☐ this county. ☒ this county or in counties adjacent to this county.
- ☐ Texas. ☐ anywhere. ☐ other _____.

- a-2. ☐ Mother having the exclusive right to designate the primary residence of the child(ren) within the following geographic area: (Check one box below.)

- ☐ this county. ☐ this county or county adjacent to this county.
- ☐ Texas. ☐ anywhere. ☐ other: _____.

- a-3. ☐ Neither parent having the exclusive right to designate the primary residence of the children but both parents ordered not to remove the children's primary residence from the following specific geographic area: (Check one box below.)

- ☐ this school district: _____ ☐ this county.
- ☐ this county or county adjacent to this county. ☐ other: _____.

- b. ☐ Mother Sole Managing Conservator of the child(ren).

- c. ☐ Father Sole Managing Conservator of the child(ren).

- d. ☐ _____ Nonparent Sole Managing Conservator of the child(ren).
- e. ☐ _____ and _____
Nonparent Joint Managing Conservators of the child(ren).

8. Child(ren)'s Passports (Check only if applicable.)

- ☒ I ask the Court to order that I have the exclusive right to apply for and renew passports for the child(ren).

9. Possession and Access (Visitation)

I ask the court to make possession and access (visitation) orders as follows: (Check a, b, c, d or e.)

- a. ☐ Father should have "standard visitation." (See Texas Family Code Chapter 153, Subchapter F.)
- b. ☐ Mother should have "standard visitation." (See Texas Family Code Chapter 153, Subchapter F.)
- c. ☒ "Standard visitation" would be unworkable or inappropriate. Possession and access to the children should be as follows:

Due to the past year of ongoing harm and deprivation, Petitioner requests
access to the children be worked out between Petitioner and Respondent due to
the family's unique circumstances.

- d. ☐ One or more of the children is under age 3. Until the child turns 3, possession should be as follows:

After the child turns 3, possession should be as checked above.

- e. ☐ I am concerned about the safety of the children with: ☐ Father ☐ Mother

Therefore, I ask that: (If you checked e, check all that apply below.)

e-1. ☐ exchanges of the children be supervised, or in the alternative, be in a public place

e-2. ☐ that parent's possession of the children be limited to day visits

e-3. ☐ that parent's possession of the children be supervised

e-4. ☐ that parent have no right to possession or access to the children

e-5. ☐ that parent be ordered not to use alcohol or illegal drugs 24 hours prior to or during possession of the children.

e-6. ☐ that parent's possession and access to the children be restricted as follows:

(Check only if applicable.)

- ☐ I am concerned that the other parent may take the child(ren) to another country and refuse to return them. I ask the Court to determine if there is a risk of international kidnapping by the other parent and to take such measures as are necessary to protect the child(ren).

10. Child Support and Medical Support

I ask the court to make appropriate orders for the support of the child(ren), including regular child support, medical support and dental support and, if supported by the evidence, retroactive child support.

11. Protective Order Statement

Note: You **must** provide information about any protective order or pending application for protective order involving a party in this case or a child of a party. This includes information about any: 1) family violence protective order, (2) sexual assault, sexual abuse, trafficking or stalking protective order and/or (3) emergency protective order issued after an arrest.

A "party" includes you (the Petitioner) and anyone listed as a Respondent in this Petition.

You **must also** attach to this Petition a copy of any protective order (even if it's expired) in which one party or a child of a party was the applicant or victim and another party was the respondent or defendant.

If your petition does not accurately reflect whether there is a protective order, the Court may require you to file an amended petition.

(Check the appropriate boxes. Fill in the requested information, if applicable.)

11A. No Protective Order

- ☒ I do not have a protective order and I have not asked for one.
- ☐ No one has a protective order against me or asked for one.

11B. Pending Protective Order

- ☐ I filed paperwork at the courthouse asking for a protective order, but a judge has not decided if I should get it. I asked for a protective order against _____.
- I asked for a protective order on _____ in _____ County, _____ State.
- Date Filed County State
- The cause number of the protective order case is _____.
- If I get a protective order, I will file a copy of it before any hearings in this case.

- ☒ The Respondent filed paperwork asking for a protective order, but a judge has not decided if the Respondent will get it. The Respondent asked for a protective order on 2023-12-14 in _____.
- Date Filed
- TARRANT County, TEXAS State.
- The Respondent asked for a protective order against CHARLES DUSTIN MYERS.
- The cause number of the protective order case is 322-744263-23.
- If the Respondent gets a protective order, I will file a copy of it before any hearings in this case.

11C. Protective Order in Place

- ☐ I have a protective order. The protective order is against _____.
- I got the protective order on _____ in _____ County, _____ State.
- Date of Order County State

The cause number for the protective order is _____.

Either I have attached a copy of the protective order to this petition or I will file a copy of it with the court before any hearings in this case.

- ☐ A Respondent in this case has a protective order.

The protective order is against _____.

The protective order was made on _____ in _____ County, _____ State.

Date of Order County State

The cause number for the protective order is _____.

Either I have attached a copy of the protective order to this petition or I will file a copy of it with the court before any hearings in this case.

12. Family Information (Check only if applicable.)

- ☐ I believe the children or I will be harassed, abused, seriously harmed, or injured if I am required to give the Respondent(s) the information checked below for myself and the children: (Check the boxes below to tell the judge which information you want to be kept confidential.)

- ☐ home address, ☐ mailing address, ☐ employer, ☐ work address,
☐ home phone no., ☐ work phone no. ☐ social security no., ☐ driver's license no.,
☐ email address.

I ask the Court to Order that I not have to give this information or notice of changes in this information to the Respondents. I also ask the Court to keep this information confidential.

13. Children's Property (Check one.)

- ☒ The children do not own any property of significant value in their own name.
☐ The children own the following property of significant value in their own name:

_____.

14. Health Insurance Availability for Children

The children: (Check all that apply.)

- ☐ have **private health insurance**.

Name of insurance company: _____

Policy number: _____ Cost of premium: \$ _____

Name of person who pays for insurance: _____

The insurance policy ☐ is ☐ is not available through the parent's work.

- ☐ have health insurance through **Medicaid**.

- ☐ have health insurance through **C.H.I.P.** Cost of premium (if any): _____

- ☒ **do not** have health insurance.

If the children do not have private health insurance also complete the following:

Private health insurance ☐ is ☒ is not available to Father at a reasonable cost.

Private health insurance ☐ is ☒ is not available to Mother at a reasonable cost.

15. Dental Insurance Availability for Children

The child(ren): (Check one.)

☐ have **private dental insurance**.

Name of insurance company: _____

Policy number: _____ Cost of premium: \$ _____

Name of person who pays for insurance: _____

The insurance policy ☐ is ☐ is not available through the parent's work.

☒ **do not** have dental insurance.

If the children do not have private dental insurance also complete the following:

Private dental insurance ☐ is ☒ is not available to Father at a reasonable cost.

Private dental insurance ☐ is ☒ is not available to Mother at a reasonable cost.

16. Public Benefits

The children: (Check all that apply.)

☐ have Medicaid now **or** had in the past.

☒ get TANF (Temporary Assistance for Needy Families) now **or** got it in the past.

Note: If your children have ever received Medicaid or TANF, you MUST send a copy of this Petition to the Office of the Attorney General Child Support Division. You MUST also sign the "Certificate of Service to the Office of the Attorney General" below.

17. Request for Judgment

I ask that citation and notice be issued as required by law and that the Court make the orders I have asked for in this Petition and any other orders to which I am entitled. I ask for general relief.

Respectfully,

→ /s/ Charles Dustin Myers

Petitioner's Signature

03/18/2025

Date

CHARLES DUSTIN MYERS

Petitioner's Name (Print)

(817) 456 3693

Phone

6641 ANNE COURT, WATAUGA, TEXAS 76148

Mailing Address

City

State

Zip

Email Address: CHUCKDUSTIN12@GMAIL.COM Fax (if available) _____

Warning: Each Respondent will get a copy of this form. If you are concerned about a Respondent learning your address, call the Hope Line at 800-374-4673(HOPE) for free advice before filing this form with the court.

I understand that I must notify the Court and each Respondent's attorney (or the Respondent if the Respondent does not have an attorney) in writing if my mailing address or email address changes during these proceedings. If I don't, any notices about this case will be sent to me at the mailing address or email address on this form.

18. Certificate of Service to the Office of the Attorney General (OAG)

Sign below **only** if your child(ren) receive (or have received) Medicaid or TANF. This tells the judge that you will deliver a copy of this Petition to the Office of the Attorney General Child Support Division as required by law. Get contact information for the Office of the Attorney General Child Support Office in the county where this case will be filed at https://www.texasattorneygeneral.gov/apps/cs_locations/. Bring proof of delivery with you to court.

I certify that a true copy of this Petition was served on the Office of the Attorney General Child Support Division* in person, by certified and first-class mail, by commercial delivery service, by fax, by email, or through the electronic file manager on this date.

→ /s/ Charles Dustin Myers

Petitioner's Signature

03/18/2025

Date

Note: For Information about how to file an answer go to www.TexasLawHelp.org

For a referral to a lawyer call your local lawyer referral service
or the State Bar of Texas Lawyer Referral Information Service at 800-252-9690.

For information about free and low-cost legal help in your county go to
www.TexasLawHelp.org or call the Legal Aid office serving your area:

Legal Aid of Northwest Texas 888-529-5277 (serves Dallas / Fort Worth area & Northwest Texas)

Lone Star Legal Aid 800-733-8394 (serves Houston area & East Texas)

Texas Rio Grande Legal Aid 888-988-9996 (serves Austin / San Antonio area, El Paso area & South Texas)

If you have been the victim of family violence, or if at any time you feel unsafe, get help by calling the:

National Domestic Violence Hotline at 800-799-SAFE (7233) or

Texas Advocacy Project Hope Line at 800-374-HOPE (4673) or

Advocates for Victims of Crime (AVOICE): at 888-343-4414.

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 98573077

Filing Code Description: Petition

Filing Description: ORIGINAL PETITION FOR SAPCR

Status as of 3/19/2025 11:21 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/18/2025 10:42:43 AM	NOT SENT
COOPER LCARTER		COOPERCARTER@MAJADMIN.COM	3/18/2025 10:42:43 AM	NOT SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	3/18/2025 10:42:43 AM	NOT SENT



233-765358-25

**PETITIONER'S
NOTICE OF INTENT
TO FILE MANDAMUS**

04.07.25

233-765358-25

FILED
TARRANT COUNTY
4/7/2025 3:46 AM
THOMAS A. WILDER
DISTRICT CLERK

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS**IN RE: M.E.M., ET AL.******CHARLES DUSTIN MYERS, ****

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

2025-04-07

PETITIONER'S NOTICE OF INTENT TO
FILE MANDAMUS AND EMERGENCY
STAY**TO THE HONORABLE JUDGE OF SAID COURT:****I. INTRODUCTION**

There comes a time in the journey of life when a man finds himself standing in the same muddy footprints he left as a child, gazing up at the same towering courthouse steps, and feeling that same sinking sensation in his chest. It's a peculiar thing, this cycle of disappointment—to have lived it once as a bewildered child and then again as a rule-abiding adult. The faces change, the dates on the calendar advance, but the feeling remains as familiar as an old, worn book.

Petitioner comes before this Court not with anger burning in his chest, nor with vindictiveness poisoning his pen, but rather with that quiet, heavy disappointment that settles in a person's bones when they've done everything by

the book only to find the book itself has been shelved away, forgotten by those sworn to read from it.

Petitioner followed the rules. He honored the procedures. He placed his faith in a system that promised justice would flow like water, clear and unobstructed, to those who seek it properly. He lived under the façade of facially void orders, and sustained extraordinary damages that were all caused intentionally by one person: **the Respondent**, who has sat in complete silence as this breakdown has continued to occur.

Yet here stands Petitioner, a father twice removed—once from his home and once from his children—knocking on the courthouse door with papers properly filed, only to be told that the door shall remain closed because someone else might, at some future date, file papers at another door entirely. If this strikes the Court as a curious interpretation of justice, then we find ourselves in rare agreement.

Mark Twain once observed that “the difference between the almost right word and the right word is really a large matter—it’s the difference between the lightning bug and the lightning.” In matters of law and children’s welfare, the difference between almost justice and actual justice is equally vast—it’s the difference between children thriving and children suffering, between a father’s presence and his absence, between following the law and merely gesturing toward it.

The Petitioner is now in an extraordinary circumstance. On one hand, he must seek mandamus relief respectfully compelling this Court to fulfill its

ministerial duty to hear and rule on Petitioner's properly filed emergency TRO, which this Court refused to hear on March 28, 2025. The refusal came not from any defect in the filing itself, but solely from representations made by opposing counsel regarding a future filing in another court which she abandoned—a procedural sleight of hand that has left children in distress and a father without an adequate remedy for an appeal.

On the other hand, the Petitioner must prohibit the 322nd District Court from setting a matter for a hearing that cannot bear a valid result through a concurrent Writ of Prohibition. The proper procedure wasn't followed, and cannot be overlooked in the face of an emergency.

In essence, a procedurally improper forward-looking consolidation motion to be filed in a different court was used to block a properly filed emergency TRO before this court. The court cannot rule on a case not before it, and mandamus is the proper remedy here if this court refuses to act. Given the extraordinary circumstances of this matter, and given there has been no response or opposition to the relief being requested, the court should **grant the emergency TRO immediately through a written order delivered to all the parties via the electronic filing manager**, set the matter for a hearing 14 days from the signing of the order, and require a written response from the opposing party no later than 7 days prior to the hearing.

Despite the circumstances of this case, Petitioner feels that settlement will and could be a possibility in the future, but the priority remains to rebuild the status quo of the children that has been destroyed and regain the ability to provide for his children financially while damages are assessed and attended to. Petitioner is at the very least entitled to this immediate relief. He is not asking this court for anything more than what it has the discretion to do and what the law demands that it must do given the circumstances. This intent to file mandamus is filed out of respect and serves as a notice to all parties of record of my position on this matter.

Such absurdity should end with an order from this court in Petitioner's favor, and in support thereof, he shows the following unopposed facts:

II. STATEMENT OF FACTS

1. On January 24, 2025, after more than 11 months of inaction, Petitioner filed a Motion to Dismiss for Want of Prosecution. The divorce case no substantive action from Respondent since April 2024, a legal ghost ship drifting without direction or purpose. That motion wasn't attempted to be set for hearing until **September of 2024**, only after the Petitioner exhausted all efforts seeking relief throughout the Texas Judiciary without any participation from the opposing side.

2. On March 19, 2025, driven by mounting concerns about the children's welfare and learning that the 322nd District Court did not have continuous, exclusive jurisdiction over the children in this matter, Petitioner filed a new

SAPCR in this Court (Cause No. 233-765358-25) seeking emergency relief for the children. The very next day, March 20, 2025, Ms. Carter suddenly reappeared like a character presumed missing in the second act, filing an answer to the SAPCR petition in this Court and thereby submitting to this Court's jurisdiction by filing a response rather than a motion to abate.

3. On March 21, 2025, Petitioner filed a verified Rule 12 motion challenging Ms. Carter's authority to represent Respondent in this matter—the second such challenge, met with the same resounding silence as the first.

4. On March 25, 2025, Petitioner filed an Objection to Consolidation and an Ex-Parte Emergency Motion for TRO. Two days later, on March 27, 2025, Petitioner contacted the court coordinator, requested a date and time to present the motion, and served the documents to the opposing party with the intent to present on March 28, 2025, at 9:00 A.M. before the Associate Judge of this Court. On that fateful morning of March 28, 2025, Petitioner drove to the courthouse, paid for parking, met with the coordinator, communicated with opposing counsel, and secured a hearing date of April 10, 2025. Petitioner then proceeded to the Associate Judge's courtroom to present the TRO.

5. Before Petitioner could present his case—before he could speak a single word about his children's welfare—he was told that Ms. Carter would be filing a motion to consolidate in the 322nd District Court, that his motion was improperly before the court, and that the Associate Judge refused to hear the motion. It was a

curious thing, this refusal. Ms. Carter wasn't even present in the courtroom, yet her words carried more weight than Petitioner's physical presence, his properly filed papers, and most importantly, the urgent needs of his children. She stopped the proceedings with nothing more than word of mouth for the incorrect motion. A true showcasing of disregard for the process, and the children.

6. On April 2, 2025, Petitioner filed a Pre-Objection to Motion to Consolidate in the 322nd District Court. Ms. Carter's motion to consolidate wasn't filed with the 322nd District Court until April 3, 2025—six days after she used its mere possibility to prevent this Court from hearing Petitioner's emergency motion. Her motion disregarded Petitioner's pre-objection entirely, as if it were invisible ink on the page.

7. On April 4, 2025, unable to acquire a ruling due to Petitioner's objection, Ms. Carter attempted to set the motion for a hearing before the 322nd District Court. That same day, Petitioner filed a Pre-Objection to Motion to Transfer in this Court, given that a motion to transfer must come before any attempt at consolidation. Ms. Carter, who had been so urgently concerned about consolidation when it served to block Petitioner's emergency hearing, suddenly claimed to be unavailable until late April—causing significant delays that could have been avoided had this Court simply heard the motion before it on March 28, 2025.

8. Throughout this period of procedural maneuvering, the children have been subjected to psychological manipulation and medical neglect. They have been removed from Petitioner's care and placed with elderly great-grandparents on a daily basis, and are being gaslighted into a false belief that the divorce is finalized. Petitioner's eldest child's academic performance has plummeted, and both children have become emotionally estranged from both parents. Petitioner has suffered approximately \$110,500 in verifiable financial damages due to being locked out of his home and business, and it grows each day. But the financial toll pales in comparison to the emotional cost of watching Petitioner's children suffer while the courts exchange procedurally incorrect volleys over his head.

III. ARGUMENT

A. The Court's Ministerial Duty

9. It is well-established Texas law that a trial court has a ministerial duty—not a discretionary duty—to consider and rule upon motions properly filed and pending before it. *In re Sheppard*, 193 S.W.3d 181, 183 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding); *In re Chavez*, 62 S.W.3d 225, 228 (Tex. App.—Amarillo 2001, orig. proceeding). The Texas Supreme Court has consistently held that while a court has discretion in how it rules on a motion, it has no discretion to refuse to rule at all. *In re Blakeney*, 254 S.W.3d 659, 661 (Tex. App.—Texarkana 2008, orig. proceeding) ("When a motion is properly filed and pending before a trial court, the act of considering and ruling upon that

motion is a ministerial act, and mandamus may issue to compel the trial judge to act.").

10. This principle is not merely a procedural nicety but a fundamental cornerstone of our judicial system. When a court refuses to hear a properly filed motion, it effectively denies access to justice itself. As the Texas courts have repeatedly emphasized, "A trial court's refusal to rule on a pending motion within a reasonable amount of time constitutes a clear abuse of discretion." *In re Bonds*, 57 S.W.3d 456, 457 (Tex. App.—San Antonio 2001, orig. proceeding). This abuse is magnified exponentially when the motion concerns the welfare of children and seeks emergency relief.

11. The Court's refusal to hear Petitioner's properly filed emergency TRO on March 28, 2025, constitutes a clear failure to perform a ministerial duty. This failure is particularly concerning given that:

- a) The motion was properly filed and noticed for hearing and the parties agreed on a date and time set for April 10th, 2025;
- b) Petitioner communicated with court staff, physically appeared at the courthouse ready to present the motion and was told he could present his motion;
- c) The motion concerned the immediate welfare of children; and
- d) The refusal was based solely on representations about a future filing in another court that had not yet occurred.

B. Clear Abuse of Discretion

12. A writ of mandamus is appropriate when a trial court clearly abuses its discretion and there is no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992). An abuse of discretion is clearly established from point one below, and supported by points two through eight:

i. First, it refused to perform its ministerial duty to hear and rule on a properly filed motion based solely on representations about a future filing in another court. It's as if a doctor refused to treat a bleeding patient because another doctor might, at some future date, claim the patient should be treated at a different hospital.

ii. Second, it failed to recognize that by answering the SAPCR petition in this Court, Respondent submitted to this Court's jurisdiction and should have instead filed a motion to abate or should have moved to transfer the case. The law doesn't allow for half-measures of jurisdiction.

iii. Third, it failed to recognize that this Court maintained jurisdiction until any transfer was completed pursuant to Texas Family Code § 155.005(d) as no final order has been rendered in the 322nd District Court. Jurisdiction isn't a hot potato to be

dropped at the first mention of another court—it's a solemn responsibility that remains until properly transferred.

iv. Fourth, it failed to recognize that the proper procedure for consolidation of cases in different courts requires a motion to transfer to be filed and granted before any motion to consolidate can be considered, pursuant to Texas Family Code §§ 155.201 and 6.407. The law provides a sequence, a proper order of operations, that cannot be reversed or circumvented without creating procedural delay, which is what the emergency TRO sought to prevent from occurring.

v. Fifth, it allowed opposing counsel to circumvent proper legal procedure by influencing this Court's decision without being present and without having filed any response to the emergency TRO properly before this Court. It's as if the referee in a football game made a call based on what someone in the parking lot said might happen in the fourth quarter when she had the rules of the game mixed up.

vi. Sixth, it failed to consider that the purported "agreed" orders in the divorce case are void for lack of consent under *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951). A void order is no order at all—it's a legal nullity, as insubstantial as a

shadow on the wall. No court has continuous, exclusive jurisdiction over the children in this matter.

vii. Seventh, it failed to recognize that the Associate Judge's orders in the divorce case were never properly adopted by the referring District Court as required by Texas Family Code § 201.013(b). An unadopted order is like an unsigned check—it may look official, but it carries no legal weight, yet it has been used to bar the Petitioner from his residence, business, and children, and impose a disruptive and chaotic schedule upon the children.

viii. Eighth, and perhaps most troublingly, it disregarded the children's best interests in favor of procedural considerations, contrary to Texas Family Code § 153.002 and has languished for over a year due to the opposition's failure to prosecute.

12. The law is clear that in matters involving children, their welfare must be the court's primary consideration—not procedural niceties, not docket management, and certainly not the convenience of opposing counsel.

C. No Adequate Remedy by Appeal

13. When Justice Delayed Is Justice Denied Petitioner has no adequate remedy by appeal for reasons that should stir the conscience of any court: The emergency nature of the injunctive relief sought requires immediate action, as

Petitioner's children are suffering immediate and ongoing harm while procedural issues remain unresolved. *In re Texas Dep't of Family & Protective Servs.*, 255 S.W.3d 613, 615 (Tex. 2008) (granting emergency relief where children's welfare was at immediate risk). Petitioner's children are being alienated from him, causing long-term psychological damage that cannot be undone by a favorable ruling months or years in the future. *In re Scheller*, 325 S.W.3d 640, 643 (Tex. 2010) (recognizing that interference with the parent-child relationship can constitute irreparable harm).

14. The improper procedural maneuvers by opposing counsel are causing significant delays that cannot be remedied through the normal appellate process. Each day that passes is another day the children suffer, another day their academic performance declines, another day they become more emotionally estranged in a situation that the law should've prevented from existing to begin with.

15. Temporary orders in family law cases are generally not appealable, leaving Petitioner in a procedural trap with no exit. Waiting for a final judgment to appeal would allow the improper procedural tactics to succeed, causing irreparable harm to Petitioner and his children.

16. Void orders are being enforced against Petitioner, causing ongoing harm that cannot be adequately remedied by appeal. *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000). Petitioner is caught in a procedural echo chamber

with no effective remedy, as both courts have effectively denied him access to the judicial system. *In re Team Rocket, L.P.*, 256 S.W.3d 257, 262 (Tex. 2008).

D. Opposing Counsel's Contradictory Behavior

17. Cooper L. Carter's contradictory behavior warrants particular attention, like a character in a novel whose actions never quite align with their words: She zealously defended her client by filing an answer to the SAPCR in this Court, thereby submitting to this Court's jurisdiction, only to then influence this Court to refuse to hear Petitioner's properly filed motion by representing that she would file a motion to consolidate in the 322nd Court, which would be moot by statute.

18. She had abandoned the divorce case for nearly a year, filing nothing since April 24, 2024, only to suddenly reappear precisely when I sought emergency relief for the children—like a firefighter who ignores a smoldering house for months, only to rush in when someone else calls for help. She failed to respond to a Rule 12 motion challenging her authority to represent the Respondent, her silence speaking volumes about the nature of her representation. She subsequently filed an improper motion to consolidate in the 322nd Court without first filing the required motion to transfer, putting the procedural cart before the horse. She is now claiming unavailability until late April in the 322nd Court, creating unnecessary delay after using the urgency of consolidation to block Petitioner's emergency hearing.

19. This pattern demonstrates a tactical attempt to manipulate both courts' dockets to prevent me from obtaining a timely hearing on Petitioner's properly filed emergency motion. It's a shell game played with the children's welfare as the prize. This Court should not allow itself to be used as an instrument in such procedural gamesmanship, particularly when it involves a failure to perform a ministerial duty required by law and when children's welfare is at stake.

IV. CONCLUSION

This Court's refusal to hear Petitioner's properly filed motion constitutes a failure to perform a ministerial duty for which there is no adequate remedy by appeal. The proper legal procedure requires a motion to transfer to be filed and granted before any motion to consolidate can be considered, and by answering the SAPCR petition in this Court, Respondent submitted to this Court's jurisdiction.

The children who are the subject of this proceeding are suffering immediate and ongoing harm while procedural issues remain unresolved. Each day that passes without addressing the emergency concerns raised in Petitioner's TRO is a day of certain damage to the children's psychological well-being and development.

Petitioner once heard it said that the true measure of a society is found in how it treats its most vulnerable members. By that measure, the procedural labyrinth that has prevented this Court from hearing Petitioner's emergency

motion speaks volumes about how far we have strayed from the ideal of justice. The children— innocent, vulnerable, and deserving of the Court’s protection— have instead become collateral damage in a game of procedural chess.

Petitioner provides this petition not out of anger or vindictiveness, but out of that quiet, heavy disappointment that settles in a person’s bones when they’ve done everything by the book only to find the book itself has been shelved away. Petitioner followed the rules. He reiterates that he honored the procedures. He placed his faith in a system that promised justice would flow like water, clear and unobstructed, to those who seek it properly.

Petitioner asks this Court to remember that behind every case number, behind every filing, behind every procedural rule, there are often real children with real lives that continue whether the courts act or not. Time doesn’t stop for them while adults sort out procedural disagreements. They grow, they hurt, they form memories and impressions that will shape them for a lifetime.

As Mark Twain might have observed, the difference between justice served and justice delayed is the difference between a father’s presence and his absence, between children thriving and children suffering, between following the law and merely gesturing toward it.

V. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that this Court correct its error sua sponte, recognize the seriousness of

this situation, and grant relief without delay given the extraordinary circumstances of this case. Petitioner specifically requests that this Court:

- i. Immediately grant the attached proposed order requesting an emergency TRO preventing the Respondent from barring Petitioner's access to the matrimonial home located at [REDACTED] [REDACTED] pursuant to Texas Family Code § 105.001(b) and serve the order on all parties of record through the EFM pursuant to rule 21a of the Texas Rules of Civil Procedure;
- ii. Have the parties confer with the court coordinator to set this matter for a hearing within 14 days from the signing of the order, and require Respondent's written response no later than 7 days before the hearing;
- iii. Take judicial notice that this Court has personal jurisdiction over the respondent to issue a TRO given her response to the original SAPCR;
- iv. Take judicial notice that no opposition to the requested relief appears on record;
- v. Grant such other and further relief as the Court deems just and necessary to protect the best interests of the children, under § 153.002 and aid the parties in satisfying Texas State policy under § 153.001.

Petitioner emphasizes that this request is urgent and narrowly tailored to avoid further procedural delay that places the children at risk.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
CHUCKDUSTIN12@GMAIL.COM
817-546-3693
PRO-SE

CERTIFICATE OF SERVICE

Respondent, CHARLES DUSTIN MYERS, certifies that, pursuant to Rule 21a of the Texas Rules of Civil Procedure that:

A copy of this NOTICE has been served to MORGAN MICHELLE MYERS through her EFM registered under MORGANMW02@GMAIL.COM

A copy of this NOTICE has been provided to COOPER L. CARTER through her email COOPERCARTER@MAJADMIN.COM

A copy of this NOTICE has been served to HOLLY HAYES through her EFM registered email address: CSD-FILER914@TEXAS.OAG.GOV

Served on: 04/07/2025

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
817-546-3693
CHUCKDUSTIN12@GMAIL.COM
PRO-SE

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This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Status as of 4/7/2025 2:57 PM CST

Case Contacts

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CHARLES MYERS		chuckdustin12@gmail.com	4/7/2025 12:05:40 PM	SENT
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233-765358-25

**PETITIONER'S PRE-
OBJECTION TO
TRANSFER**

04.04.25

233-765358-25

FILED
TARRANT COUNTY
4/4/2025 9:25 AM
THOMAS A. WILDER
DISTRICT CLERK

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS**IN RE: M.E.M., ET AL.******CHARLES DUSTIN MYERS, ****

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

2025-04-04

PETITIONER'S PRE-OBJECTION TO
MOTION TO TRANSFER**TO THE HONORABLE COURT:**

Petitioner, CHARLES DUSTIN MYERS, PRE-OBJECTS to any motion to transfer filed on behalf of COOPER L. CARTER in this matter, and in support thereof, shows the following:

I. INTRODUCTION

1. On March 28, 2025, Petitioner set a properly filed motion to be heard in front of the associate Judge.

2. Petitioner was denied an opportunity to be heard due to the *claim* that COOPER L. CARTER would be filing a motion to consolidate in the 322nd District Court of Tarrant County as justification for the denial of due process.

3. On April 2nd, 2025, Petitioner filed a PRE-OBJECTION laying out the legal reasons why COOPER L. CARTER's consolidation motion was improper, and premature.

4. COOPER L. CARTER cannot move to consolidate this matter with the divorce suit pending before the 322nd District Court because the Texas Family Code 6.407(b) explicitly states:

“On the transfer of the proceedings, the court with jurisdiction of the suit for dissolution of a marriage shall consolidate the two causes of action.”

5. Therefore, COOPER L. CARTER's motion to consolidate is procedurally improper, and was used as a tool to interfere with emergency proceedings where no answer was provided.

6. The court cannot refuse to hear a properly filed motion before it and give deference to an improperly filed motion notwithstanding COOPER L. CARTER's misconduct and failure to prosecute the divorce suit.

II. CONCLUSION

7. For these reasons, Petitioner respectfully OBJECTS to any motion to transfer filed on behalf of COOPER L. CARTER.

8. Furthermore, before any motion to transfer is to be set by COOPER L. CARTER, her authority pursuant to Rule 12 should be resolved by citing COOPER L. CARTER to appear and prove her authority to represent the Respondent in this matter.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

CHUCKDUSTIN12@GMAIL.COM

817-546-3693

PRO-SE

CERTIFICATE OF SERVICE

Pursuant to rule 21a of the Texas Rules of Civil Procedure, this PRE-OBJECTION to motion to transfer was served on all parties of record via their EFM email registered with re:Search Texas on 04/04/2025.

And also to COOPER L. CARTER via COOPERCARTER@MAJADMIN.COM

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MERS

CHUCKDUSTIN12@GMAIL.COM

817-546-3693

PRO-SE

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Case Contacts

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CHARLES MYERS		chuckdustin12@gmail.com	4/4/2025 9:25:44 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/4/2025 9:25:44 AM	SENT



322-744623-23

**DOMINANT
JURISDICTION**

ANALYSIS

04.15.25

322-744263-23

FILED
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4/15/2025 10:38 AM
THOMAS A. WILDER
DISTRICT CLERK

NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS**ITMOMO***(AITIO M.E.M., C.R.M., two children)***MORGAN MICHELLE MYERS**

Petitioner,

CHARLES DUSTIN MYERS,

Respondent.

DOMINANT JURISDICTION ANALYSIS

2025-04-15

TO THE HONORABLE COURT:

Under Texas law, the doctrine of dominant jurisdiction dictates that when two suits involving the same parties and subject matter are filed in courts of concurrent jurisdiction, the court where the suit was first filed typically acquires exclusive control. However, this presumption can be overcome by showing that the first suit was initiated in bad faith or for the purpose of delay. Texas courts, following the rule established in *Wyatt v. Shaw Plumbing Co.*, recognize exceptions where the first suit was filed merely to establish procedural priority, in anticipation of subsequent litigation, or to stall the opposing party's legitimate claims. These principles provide a vital check against strategic abuse of court processes and ensure jurisdictional fairness when forum manipulation is evident.

This analysis looks into the circumstances surrounding this matter, and is presented in a good-faith effort to provide insight to the court.

Dominant Jurisdiction Analysis with Bad Faith Focus

I. Legal Framework for Dominant Jurisdiction

A. General Principles

Under Texas law, the doctrine of dominant jurisdiction provides that when two suits are pending in courts of concurrent jurisdiction involving the same parties and subject matter, the court in which the suit was first filed acquires dominant jurisdiction to the exclusion of the other court. This doctrine is established in the seminal case of *Curtis v. Gibbs*, 511 S.W.2d 263 (Tex. 1974), where the Texas Supreme Court held that any subsequent suit involving the same parties and controversy must be dismissed if a party to that suit calls the second court's attention to the pendency of the prior suit.

B. Bad Faith Exception

However, Texas courts recognize an important exception to the dominant jurisdiction doctrine: when the first-filed suit was brought in bad faith or for the purpose of delay. As established in *Wyatt v. Shaw Plumbing Co.*, 760 S.W.2d 245, 248 (Tex. 1988), the first court's dominant jurisdiction can be defeated by showing that the first suit was filed:

1. As a mere pretext to establish priority;
2. In anticipation of the second suit;
3. For the purpose of delay; or
4. In bad faith.

When this exception applies, the second court may proceed with its case despite the pendency of the first-filed suit.

II. Evidence of Bad Faith in the Initial Suit

A. Chronology Demonstrating Premeditated Legal Strategy

1. Pre-Filing Coordination with Dan Branthoover (December 14-17, 2023)

- Morgan exchanged 92 text messages with Dan Branthoover on December 14, 2023
- Dan persuaded Charles to allow Morgan to bring children to his residence under false pretenses
- While at Dan's residence, Morgan prepared divorce papers with his assistance
- Dan purchased a second phone for Morgan and pepper spray mace

2. Financial Misconduct Prior to Filing (December 15-16, 2023)

- Morgan transferred \$1,576 from joint account to Dan's PayPal account
- When confronted, Dan falsely claimed Morgan transferred money to her own account
- Morgan then claimed to be indigent in her divorce filing despite having just transferred these funds

3. False Claims in Initial Filings (December 18-22, 2023)

- Morgan filed for divorce on December 18, 2023, claiming to be indigent
- She falsely claimed an active protection order already existed

- She falsely claimed family violence had occurred during the marriage to waive the 60-day waiting period
- She falsely claimed financial responsibility for bills that Charles paid
- Despite claiming an active protective order already existed, she filed for another one on December 22, 2023

B. Misrepresentations to the Court

1. False Allegations of Family Violence

- No evidence of family violence was ever presented
- Morgan claimed family violence occurred on December 18, 2023, which was demonstrably false
- These allegations were strategically included to waive the 60-day waiting period for divorce

2. False Financial Affidavits

- Morgan claimed indigent status immediately after transferring \$1,576 from joint account
- She misrepresented financial responsibilities, claiming to make both car payments
- She falsely claimed to have no money despite the recent transfer

3. Fabricated Protective Order Status

- Morgan's grandmother served an eviction notice claiming a protective order had been filed when none existed

- Initial divorce filing claimed an active protective order existed when none did
- These misrepresentations were designed to prejudice the court against Charles

C. Procedural Manipulation

1. Strategic Delays and Attorney Changes

- At the January 22, 2024 hearing, Morgan appeared without counsel
- She hired Cooper L. Carter on the spot in the courtroom lobby to cause further delay
- This tactic successfully delayed the case until February 1, further prejudicing Charles

2. Self-Help Tactics Outside Legal Process

- On March 6, 2024, Morgan illegally locked Charles outside the home
- This occurred after Charles had filed notice with the court that he would not leave until after the hearing
- This demonstrated willingness to circumvent legal process

3. Systematic Non-Prosecution

- After securing favorable temporary orders, Morgan's counsel ceased prosecuting the case
- Last action in the divorce matter was April 24, 2024, nearly one year ago

- This pattern suggests the initial filing was not intended to resolve the dispute but to secure tactical advantages

III. Application of Bad Faith Exception to Current Case

A. Legal Analysis

The facts of this case align precisely with the bad faith exception outlined in *Wyatt v. Shaw Plumbing Co.* The initial divorce filing shows clear evidence of being:

1. **A mere pretext to establish priority:** The coordinated preparation of documents with Dan Branthoover before any legitimate attempt at reconciliation or mediation demonstrates the filing was pretextual.
2. **Filed in anticipation of potential action by Charles:** The timing of the filing after Charles discovered evidence of an affair suggests anticipatory filing to gain tactical advantage.
3. **For the purpose of delay:** The systematic non-prosecution of the case for nearly a year after securing favorable temporary orders demonstrates the purpose was not resolution but delay.
4. **In bad faith:** The numerous false statements in court filings, including claims about protective orders, family violence, and financial status, constitute clear bad faith.

B. Case Law Support

1. **In re Henry**, 274 S.W.3d 185, 193 (Tex. App.—Houston [1st Dist.] 2008, pet. denied)

- Court held that "filing a lawsuit for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation, is sanctionable conduct."
- The pattern of behavior in the initial divorce filing aligns with this standard.

2. **Perry v. Del Rio**, 66 S.W.3d 239, 252 (Tex. 2001)

- The Texas Supreme Court recognized that "the first-filed rule should not be applied inflexibly or when doing so would reward gamesmanship or ill motive."
- Morgan's coordinated preparation of divorce filings while misleading Charles about her intentions constitutes precisely the kind of gamesmanship courts should not reward.

3. **Gonzalez v. Reliant Energy, Inc.**, 159 S.W.3d 615, 622 (Tex. 2005)

- Court held that dominant jurisdiction does not apply when the first suit is filed "in anticipation of the second suit and in an effort to subvert the second action."
- The timing and coordination with Dan Branthoover suggest the divorce was filed in anticipation of potential action by Charles after discovering the affair.

C. Family Law Context

In family law matters, courts have been particularly vigilant about bad faith filings due to their impact on children and families:

1. **In re Marriage of Allen**, 593 S.W.3d 133, 137 (Tex. 2019)

- The Texas Supreme Court emphasized that in family law matters, courts must be particularly vigilant about procedural gamesmanship that affects children's welfare.
 - The false allegations of family violence and protective orders directly implicate this concern.
2. **In re Sims**, 88 S.W.3d 297, 303-04 (Tex. App.—San Antonio 2002, orig. proceeding)
- Court held that in SAPCR cases, the best interest of the child can override strict application of dominant jurisdiction.
 - The systematic non-prosecution of the case has prevented resolution, contrary to the children's best interests.

IV. Implications for Current Proceedings

A. Legal Consequences of Bad Faith Finding

If the court determines the initial divorce filing was made in bad faith, several significant legal consequences follow:

1. **Dominant Jurisdiction Defeated:** The 233rd District Court would not be bound by the dominant jurisdiction of the 322nd District Court where the divorce was filed.
2. **Consolidation Order Invalidated:** The consolidation order would be invalid not only for procedural defects but also because it erroneously applied dominant jurisdiction principles to a bad faith filing.
3. **Independent Proceeding Permitted:** Charles's SAPCR filing in the 233rd District Court could proceed independently, unaffected by the prior divorce filing.

4. **Potential for Sanctions:** The court could consider sanctions against Morgan and/or her counsel for the bad faith filing and misrepresentations to the court.

B. Strategic Approach for Rehearing Motion

In the motion for rehearing, the bad faith analysis should be presented as an independent, alternative ground for mandamus relief:

1. **Primary Argument:** The consolidation order should be vacated due to procedural defects (lack of notice, hearing, proper transfer).
2. **Alternative Argument:** Even if procedurally proper, consolidation was improper because the first-filed suit's dominant jurisdiction was defeated by bad faith.
3. **Relief Requested:** The court should:
 - Vacate the consolidation order
 - Recognize the 233rd District Court's authority to proceed independently with the SAPCR
 - Order the trial court to hear Charles's emergency TRO on its merits

V. Conclusion

The doctrine of dominant jurisdiction is not an absolute rule but a principle of judicial efficiency that yields when its application would reward bad faith or procedural gamesmanship. The extensive evidence of coordination before filing, false statements in court documents, and systematic non-prosecution after securing favorable orders demonstrates that the initial divorce filing was made in bad faith.

Under Texas law, this bad faith defeats any claim of dominant jurisdiction by the 322nd District Court. Consequently, the consolidation order was not only procedurally defective but substantively erroneous in its application of dominant jurisdiction principles. The Court of Appeals should grant rehearing and issue mandamus relief to prevent the trial court from rewarding this bad faith through improper consolidation.

CERTIFICATE OF SERVICE

Relator certifies that on April 15, 2025, a true and correct copy of the foregoing DOMINANT JURISDICTION ANALYSIS was served on all parties and counsel of record as follows:

PETITIONER

Morgan Michelle Myers

Real Party in Interest

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Automated Certificate of eService

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