

NO. 322-744263-23

IN THE MATTER OF

THE MARRIAGE OF

MORGAN MICHELLE MYERS

AND

CHARLES DUSTIN MYERS

AND IN THE INTEREST OF

M.E.M. AND C.R.M.,

CHILDREN

§
§
§
§
§
§

IN THE DISTRICT COURT

322ND JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

RESPONDENT'S NOTICE OF RULE 193.6 OBJECTION AND REQUEST FOR CLARIFICATION

TO THE HONORABLE COURT:

1. Respondent files this notice to ensure the record reflects the legal effect of the Court's ruling denying Respondent's no-evidence motion.
2. Regardless of denial, **Texas Rule of Civil Procedure 193.6 operates automatically** to exclude any exhibits or testimony **not timely disclosed in discovery**.
3. The Texas Supreme Court has made clear that:
 - i. nondisclosed materials **cannot be used** at summary judgment or trial,
 - ii. attaching such materials to a response **does not cure nondisclosure**, and
 - iii. exclusion is **mandatory**, absent a record finding of good cause or absence of unfair surprise. See *Fort Brown Villas III Condo. Ass'n v. Gillenwater*, 285 S.W.3d 879 (Tex. 2009); *Montes v. Montes*, No. 04-20-00474-CV (Tex. App. Jul. 28, 2021); *Alvarado v. Farah Mfg. Co.*, 830 S.W.2d 911 (Tex. 1992).
4. Here, Petitioner:

- i. **Produced no evidence in response to discovery,**
- ii. Submitted **new affidavits and allegations for the first time in her MSJ reply,**
- iii. Never identified any witnesses or supplemented disclosures, and
- iv. Offered unsworn, unauthenticated, hearsay materials.

5. Under Rule 193.6, these materials remain inadmissible at trial unless Petitioner affirmatively moves to show good cause or lack of unfair surprise — neither of which exists, nor has been asserted.

6. Accordingly, Respondent respectfully notes for the record that:

The Court's denial of summary judgment does not authorize Petitioner to use evidence she failed to disclose. Rule 193.6 exclusion applies automatically and continues to govern trial.

Respondent will object at trial to any attempt to introduce nondisclosed exhibits or testimony.

7. It is also worth noting that the trial court has discretion to postpone trial and impose sanctions to cure any prejudice resulting from late disclosure, as recognized in *Alvarado v. Farah Mfg. Co., Inc.* (Tex. 1992). However, this is an alternative to exclusion and does not alter the default rule.

Respectfully submitted,

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

CERTIFICATE OF SERVICE

I certify that on this 9th day of December, 2025, a true and accurate copy of this RESPONDENT'S NOTICE OF RULE 193.6 OBJECTION AND REQUEST FOR CLARIFICATION has been served through the state approved EFM pursuant to § 21a of the Texas Rules of Civil Procedure.

Respectfully submitted,

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

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: 108904317

Filing Code Description: Request

Filing Description: RESPONDENT???S NOTICE OF RULE 193.6
OBJECTION AND REQUEST FOR CLARIFICATION

Status as of 12/10/2025 4:27 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	12/9/2025 4:00:28 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	12/9/2025 4:00:28 PM	SENT
HOLLY HAYES		csd-legal-914@texasattorneygeneral.gov	12/9/2025 4:00:28 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	12/9/2025 4:00:28 PM	SENT