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322-744623-23

MOTION TO RECUSE -

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IN THE 322ND DISTRICT COURT OF TARRANT COUNTY

In the 322nd Judicial District Court, Tarrant County

Cause No. 322-744263-23

Hon. James Munford Presiding

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., TWO CHILDREN

MOTION TO RECUSE

Submitted by:

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

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CONSTITUTIONS

TO THE HONORABLE DAVID L. EVANS OF THE 8TH ADMINISTRATIVE JUDICIAL REGION OF TEXAS:

This Court's impartiality is now irrevocably in question. The act of setting this case for final trial after sustaining over a year of irreparable harm while appellate proceedings remain unresolved is itself an act of partiality warranting mandatory recusal pursuant to Tex. R. Civ. P. 18b(b)(1) and 18b(b)(2) on the grounds that the partiality of the tribunal is reasonably in question, and there is a clear personal bias and prejudice exhibited towards the undersigned.

I. TIMELINESS

The timeliness of this motion comes three days before a scheduled court proceeding, which is intended to "set the case for final trial and to enter a pre-trial scheduling order".**(TAB A)** However, this flies in the face of three concurrent mandamus proceedings pending before the Second Court of Appeals, which concurrently seek redress for 1) the refusal of Hon. Kate Stone to hear a properly filed emergency TRO (No. 02-25-00164-CV), to seek vacatur of the orders issued beyond the court's jurisdiction by Hon. Jeff Kaitcer on March 14, 2024 (No. 02-25-00166-CV), **(TAB B)** and to reverse an improper consolidation motion granted *sua sponte* by Hon. Kenneth Newell. (No. 02-25-00171-CV) All three mandamus petitions are at the *en banc* rehearing stage, except for cause number 02-25-00166-CV which was denied *per curiam* on April 24, 2024.

Despite the upcoming setting, the exception pursuant to Tex. R. Civ. P. 18a(b)(1)(B)(i) applies. The act of scheduling this matter for final trial itself constitutes grounds for recusal by casting doubt upon the tribunal's impartiality. The undersigned could not have anticipated that this final trial setting would suddenly arise amidst ongoing appellate proceedings, especially given that the case has remained inactive since September of 2024.

Significantly, the opposing party has only recently re-engaged with the case after emergency relief was requested by the undersigned in the 233rd District Court due to the continuing harm inflicted upon him and his children by these unresolved issues. Thus, this abrupt effort to proceed with final trial under the prevailing circumstances starkly demonstrates judicial bias, further reinforcing the necessity of recusal at this juncture.

II. PRIOR RECUSAL

The undersigned must also note that this marks the second recusal motion filed in this case, the first occurring on October 7, 2024, which was denied on November 7, 2024, by visiting retiring Justice Gabriel.**(TAB C)** The motion was denied stating a “failure to appear”, however, all parties agreed to reset the case to a later due to a dental emergency sustained by the undersigned.**(TAB D)** There was no mention of this emergency in the order. Finally, it wasn’t until over ***four months later*** that the judges were reinstated back into the case, because the undersigned

had to remind the court coordinator when seeking a ruling on his still un-opposed summary judgement that's been on the docket since February 22, 2024, to reinstate Hon. Munford and Hon. Kaitcer.**(TAB E)** Had the undersigned not proactively reached out, there wasn't any indication that the reinstatement would have occurred.

III. PROCEDURE

The correct procedural framework required in these proceedings, particularly considering the irregular handling of prior matters, must be restated here:

First, pursuant to Tex. R. Civ. P. 18a(e)(1), "…the clerk of the court must immediately deliver a copy to the respondent judge and to the presiding judge of the administrative judicial region in which the court is located." Therefore, the undersigned formally objects to **any handling from the court coordinator** regarding these proceedings. In the prior matter there were amended referrals, modified pleadings, and an otherwise straightforward process became ambiguous. **(TAB F)**

Second, pursuant to *Id.* 18a(e)(2): "[w]hen a respondent judge signs and files an order of recusal or referral, the clerk of the court must immediately deliver a copy to the regional presiding judge." The same applies here as to point one. No disrespect is intended; this assertion is made solely insofar as the governing statute confers no such authority to court coordinators.

Third, pursuant to *Id.* 18a(g)(6)(C), the undersigned respectfully requests that this matter be set for hearing by telephone at the earliest practicable time, considering the undersigned's current financial hardship and lack of stable residence. The nature and complexity of the underlying issues are not easily reducible to writing, which is precisely why this matter has suffered from prolonged procedural silence rather than meaningful discussion grounded in the record. A telephonic hearing is necessary to afford the Court a clearer understanding of the facts and to ensure due process is meaningfully observed.

Fourth, should this motion be granted, the undersigned respectfully requests that this case be reassigned to an entirely different judicial district, given that both the 233rd and 322nd District Courts are presided over by judges directly implicated in the procedural and constitutional irregularities described herein.

Fifth, if the Honorable Regional Presiding Judge chooses to refer this motion, the undersigned requests that the alternative language of *Id.*18a(g)(1**)** be exercised so that the motion may be referred to the **Chief Justice of the Supreme Court of Texas** given the circumstances of this matter, as explained in more detail below.

Finally, pursuant to *Id.* 18a(f)(1)(A), the undersigned respectfully urges the Honorable James B. Munford to voluntarily recuse himself in order to avoid further delay and to restore confidence in the fair and impartial administration of

justice, *or in the alternative*, **vacate the March 14, 2024 orders for want of consent, and set cause number #322-744263-23 for a pre-trial conference no later than 14-days from the decision, effectively rendering moot these recusal proceeding.**

The persistent and unexplained judicial inaction—particularly in the face of repeated requests for emergency relief—has caused ongoing, irreparable harm to the undersigned and his minor children. Such circumstances are fundamentally incompatible with both the due process protections guaranteed by law and the best interest standard governing all family law proceedings in this State. There is no logic in proceeding to final trial in the current circumstance. One party cannot unilaterally decide the matter, especially when they remain silent in the face of serious, un-rebutted allegations.

IV. GROUNDS FOR RECUSAL

A. STANDARD FOR RECUSAL

A motion to recuse is the appropriate procedural mechanism to challenge a judge's impartiality. *Sanchez v. State*, 926 S.W.2d 391, 394 (Tex. App.—El Paso 1996, pet. ref'd). Under **Texas Rule of Civil Procedure 18a(a)**, any party may file a verified motion stating with particularity the grounds upon which the presiding judge should not sit.

In addition to the statutory bases for recusal, the **Due Process Clause of the Fourteenth Amendment** provides an independent constitutional floor: recusal is required where the probability of actual bias is too high to be constitutionally tolerable. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009) (citing *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)). That standard is met where, under the totality of circumstances, a judge's continued participation creates an unacceptable risk of bias—whether due to prior involvement, one-sided procedures, or unchecked discretion applied to the detriment of one party.

Here, the cumulative record demonstrates a pattern of prejudice, one-sided decision-making, and disregard for both procedure and fundamental rights, rising well beyond the constitutional threshold described in *Caperton*. Recusal is not merely appropriate—it is required, as explained below.

B. BIAS

The level of bias against the undersigned started on day one. Without any factual basis, without holding an evidentiary hearing, and without eliciting any testimony from the Petitioner, the undersigned was ordered to vacate the residence that same day. **(TAB F)** No protective order was ever issued, no findings of family violence were made, even though Tex. Fam. Code §§ 83.006 and 85.001 plainly require such findings.

This decision, even though temporarily, severed the parent-child relationship without any lawful basis. The Family Code's strict requirements were ignored. Tex. Fam. Code § 83.006(a) permits exclusion of a party from the home *only* if (1) the applicant files an affidavit describing facts requiring exclusion, and (2) appears at the hearing to testify to those facts. Section 83.006(b) further requires that the court make three findings: (i) the applicant resides (or recently resided) at the premises, (ii) the other party committed family violence within the past 30 days, and (iii) there is a clear and present danger of future family violence.

The only thing before the court were *allegations* of family violence, which were never substantiated. Rather, they were leveraged into a settlement agreement that removed the children from their own home in February of 2024. **(TAB G)** A court cannot sever a parent-child bond on mere *allegations*. Tex. Fam Code 153.002. Yet here, that's what has occurred, and the undersigned has sought answers from this court – and has received nothing but complete silence.

Now, over fourteen months later, a facially invalid consent judgement has been permitted to destroy the lives of not only the undersigned – but his children, all while enabling the Petitioner, MORGAN MICHELLE MYERS, to get away with her deliberate scheme to undermine the judiciary that remains un-opposed on the face of the record. A cursory glance at page 1 versus page 38 of an excerpt of

these orders reveals this defect. **(TAB B.1 "**The parties have agreed to the terms of this order as evidenced by the signatures below**")**

In essence, Hon. James Munford's initial decision to oust a father from his own home was unlawful and instead of explain his decision or support it with legal authority, he has chosen to ignore it and now moves to set the matter for final trial in the midst of the undersigned's attempt to seek relief from a fraudulent consent judgement where only one-half of the parties signatures appear. **(TAB B.10)** This is not just prejudicial; this is such a significant level of deliberate bias that it must be reconciled through recusal. The court cannot just sit on its' hands and wait for the undersigned to exhaust his appeal efforts after depriving him unlawfully of his core interests protected by the

Moreover, the **substantive** aspect of due process was violated. There is a "**strong presumption** that the best interest of a child is served by remaining with a fit parent." *Troxel v. Granville*, 530 U.S. at 68-69. The government may not "infringe on the fundamental right of parents to make child rearing decisions **simply because a state judge believes a 'better decision' could be made**." *Id.* at 72 (plurality op.). In the absence of any evidence or finding that Respondent was an unfit or dangerous parent, removing his children from him was an arbitrary infringement on his fundamental liberty interest. The orders entered in this case prioritized a one-sided allegation over a father's constitutional rights, in a manner

repugnant to both the Texas and U.S. Constitutions, which guarantee that no citizen shall be deprived of liberty or property **except by the due course of the law of the land**. Here, Respondent was deprived of **liberty and property interests** without lawful procedures or any adjudication of wrongdoing, in violation these fundamental protections. **U.S. Const. amend. XIV, § 1**. Further, no equal protection or due course of law has been afforded to the undersigned, demonstrating further unexplained bias, in violation of **Tex. Const. art. I, §§ 3, 19**.

C. PREJUDICIAL DOCKET MANAGEMENT

A court has the inherent authority to control its own docket. See *Ho v. University of Texas at Arlington*, 984 S.W.2d 672, 694-95 (Tex.App.-Amarillo 1998, pet. denied) Whether a reasonable period has lapsed in which to rule on a pending matter is dependent on the circumstances of each case. *Ex parte Bates*, 65 S.W.3d 133, 134-35 (Tex. App.—Amarillo 2001, orig. proceeding). Other factors considered in determining whether a reasonable time has passed are the state of the trial court's docket and other judicial and administrative duties that must be addressed. *In re Villarreal*, 96 S.W.3d 708, 711 (Tex. App.—Amarillo 2003, orig. proceeding).

Here, in this matter, the undersigned has dispositive motions on the docket that would afford him the much-needed relief, yet the court chooses to prioritize motions that favor the opposition. For example, the oldest sitting motion is a

Motion for Summary Judgement filed on Feb 22, 2024, seeking to defeat the baseless claims of violence that were raised him at the onset of this case**.**

Next, there exists a pending Rule 12 Motion challenging COOPER L. CARTER's authority, counsel for Petitioner in this matter. Despite this, she interrupted emergency proceedings in the 233rd District Court, leading to the mandamus proceedings that neither the tribunal nor opposing side has participated in, but continues to act *sua sponte* to give the illusion of an adequate remedy for an appeal when the threshold issues remain.

Finally, there exists a pending DWOP motion and motion to compel discovery on the docket, pending for several months – unaddressed – showing no respect for the process by the opposing side. In *In re Conner*, 458 S.W.3d 532 (Tex. 2015) the Texas Supreme Court's statement that "conclusive presumption of abandonment" that arises from unexplained delays indicates that judges must actively manage their dockets to prevent such delays or ensure that they are adequately explained. Here, there is no explanation for the delays and inaction. The opposition has no incentive to move the case forward, as they were awarded on all core issues at the onset of the case – for reasons yet to be explained.

The only party seeking any form of relief has been the undersigned. Authorities not only establish judicial responsibility for docket management but also provide examples of judges proactively fulfilling this responsibility rather than

blaming litigants for delays. The actions of the Galveston County district judges described in *Armentrout v. Murdock*, 779 S.W.2d 119 (Tex. App. 1989) and *Southern Pacific Transp. Co. v. Stoot*, 530 S.W.2d 930 (Tex. 1975) exemplify this approach. These judges "recognized this problem, took responsibility for the condition of their dockets, and moved against the troubles of delay" by instituting systems to ensure timely case progression. This example demonstrates that effective judges take ownership of their dockets rather than deflecting responsibility.

The responsibility of judges for docket management is further emphasized by the accountability measures in place. *In re Rose*, 144 S.W.3d 661 (Tex. 2004) demonstrates that judges can face disciplinary action for administrative misconduct, including failures related to court management. Judge Rose's own acknowledgment that "the responsibility is mine" and "I'm the bottom line" reflects the understanding within the judiciary itself that judges bear ultimate responsibility for their courts' functioning.

A plea to the jurisdiction has been filed as of April 24, 2025, to serve as another reminder to the court that these orders must be vacated as a matter of law, not finalized into finality. **(TAB H)**

D. FAVORITISM TOWARD OPPOSING COUNSEL

The record in this case reveals a sustained pattern of judicial favoritism toward opposing counsel, warranting recusal. In *Sun Exploration & Production Co. v. Jackson*, 783 S.W.2d 202, 204 (Tex. 1989), the Texas Supreme Court acknowledged that while individual rulings may not rise to the level of reversible error, an appellate court may nonetheless detect from the record a clear pattern of favoritism that undermines the appearance of impartiality.

Recusal is required where such favoritism would cause a reasonable observer to doubt the judge's neutrality. Here the level of favoritism is so high that the courts below *improperly* grant motions sua-sponte without hearings to the Petitioner's benefit, when the same is done to the undersigned to his detriment. As the court explained in *Guillen v. Cameron County*, No. 13-16-00682-CV (Tex. App.—Corpus Christi–Edinburg Nov. 15, 2018, no pet.):

"Recusal is appropriate if a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would harbor doubts as to the judge's impartiality." That standard is met here. An objective observer reviewing the docket would see:

i. A mother who conducted a deliberate scheme to defraud the judiciary and pursue an extramarital affair;
ii. A father ordered out of his home and children's daily lives without any findings or evidentiary hearing;

iii. A consistent pattern of orders favoring one party while leaving the pro se litigant's motions unresolved;

iv. Multiple appellate filings by the undersigned that went entirely unopposed by opposing counsel and yet still resulted in no relief;

v. No findings of fact, no evidentiary hearings, no sworn testimony—despite extraordinary relief being granted to the opposing party;

vi. An attorney of record who has failed to prosecute her claims in accordance with Rule 165a or respond to critical motions—yet continues to receive the benefit of judicial action;

vii. Five appellate proceedings where no Respondent judge provided any input or argument;

viii. And a series of sua sponte orders, issued in her favor, without proper notice, hearing, or adversarial testing.

These facts are not merely irregular—they reflect a judicial posture that appears to favor silence over substance and one party's procedural neglect over the other's persistent legal effort. It chooses to separate parent and child rather than uphold the State's policy pursuant to Tex. Fam. Code 153.001.

Accordingly, the undersigned objects to any participation from opposing counsel in any forthcoming telephonic or evidentiary hearing unless and until she submits a formal response addressing the allegations raised in this motion. To

remain silent in briefing, only to appear at hearing and object, is both prejudicial and professionally improper. Such conduct should not be condoned by the Court, particularly when it operates to the detriment of a self-represented parent seeking long-delayed relief.

CONCLUSION

Imagine being labeled a criminal—accused of abuse—while a court is told that a protective order already exists against you. Imagine that the very person you supported for years and who benefitted from your success suddenly claims financial indigence, asserts full responsibility for all expenses, and serves you—**at Christmas**—with allegations designed to remove you from your home, your children, and your livelihood. Now imagine this: You built a business from home—intentionally, strategically—so that you could raise your children and be a present father, not just a provider. You tailored your entire life around being there for them. **Now imagine the State—without lawful authority—rips that life away.** No hearing. No findings. No emergency. No evidence. And then the State does nothing. It sits on its hands while you fight, alone, for over fifteen months—**pleading for relief, receiving only silence**. And the reason? There isn't one that can be traced to the record, meaning it must be extrajudicial and derived from *actual bias*. There exists no basis for the current orders to remain in effect, yet they are. The court chooses to act *sua sponte* only when it benefits the opposing party.

In a world where you take the initiative of showing up, ready to defend yourself—your family, your home, your rights—only for those rights to be stripped away in the blink of an eye *before* being afforded the chance to defend yourself. No process. No fairness. No law.

Is that how justice works? Is that how a divorce should begin? Because **that is exactly what happened here**. This is more than a denial of due process. **This is a system abandoning its core duty to protect children and uphold the law.** This is a constitutional wound—one that continues to bleed with every day this court refuses to act. This recusal must be granted **as a matter of law**—not just to restore fairness, but to prevent this travesty from becoming permanent. Each day this continues is another day of unexplained, avoidable suffering inflicted on the children at the center of this case while the opposing side sits in silence. The court has an obligation to conduct their operations within the bounds of the law and protect the family unit. Here, this court took no issue in destroying it from the onset.

Therefore, notwithstanding the docket management and favoritism displayed towards the opposing party, the pattern of rulings alone showcases a deep-seated favoritism or antagonism that would make fair judgment impossible. *Dow Chem. Co v Francis*, 46 S.W.3d 237, 240 (Tex 2001) (per curiam); *In re CJO*, 325 S.W.3d

261, 267 (Tex App-Eastland 2010, pet denied). Therefore, recusal is warranted in this situation.

This absurdity must be put to an end or lawfully justified.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the undersigned respectfully requests the following:

1. **If the Honorable James B. Munford declines to voluntarily recuse himself**, the Court shall set this matter for **a telephonic hearing at the earliest practicable time** pursuant to **Tex. R. Civ. P. 18a(g)(6)(C)**;
2. **If the Regional Presiding Judge refers this motion**, the undersigned respectfully requests that it be escalated to the **Chief Justice of the Supreme Court of Texas**, pursuant to **Tex. R. Civ. P. 18a(g)(1)**, in light of the extraordinary circumstances and the appearance of structural bias throughout the proceedings;
3. Pursuant to **Tex. R. Civ. P. 18a(g)(4)**, the undersigned urgently requests that the Court issue **interim orders restoring the undersigned's fundamental right to property**, his **liberty interest in his children**, and his **right to conduct the normal operation of his business** until such time as valid orders can be lawfully entered by an impartial tribunal; and that the Court **vacate the March 14, 2024 "agreed" temporary orders**, as they were

entered **without consent, without findings, and in excess of the court's jurisdiction**;

4. Take **judicial notice** that all relief sought herein remains **unopposed** on the record, and that the opposing party has, by her own silence, **waived any right to rebut** this relief at this juncture;
5. Grant **such other and further relief**—at law or in equity—as the Court deems just and proper under the circumstances.

Respectfully submitted,

/s/ Charles Dustin Myers

/s/ Charles Dustin Myers
/s/ Charles Dustin Myers
CHUCKDUSTIN12@GMAIL.COM
817-546-3693

GIANNINA TASSARA
Notary Public - State of Florida
Commission # HH521612
Expires on April 28, 2028

State of Florida

County of Miami Dade

This foregoing instrument was acknowledged before me by means of online notarization, this 04/25/2025 by Charles Dustin Myers.

Giannina Tassara

___ Personally Known OR ___ Produced Identification

Type of Identification Produced _____DRIVER LICENSE

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CAUSE NUMBER: 322-744263-23

IN THE MATTER OF THE MARRIAGE OF	§	**IN THE DISTRICT COURT**
MORGAN MYERS AND CHARLES MYERS	§	**322ND JUDICIAL DISTRICT**
AND IN THE INTEREST OF M[redacted] M[redacted] AND C[redacted] M[redacted] CHILDREN	§	**TARRANT COUNTY, TEXAS**

NOTICE SETTING A COURT PROCEEDING

On this date the Court set a Court Proceeding.

A Court proceeding is set before the 322nd District Judge, Family Law Center, Fourth Floor, 200 E. Weatherford Street, Fort Worth, Texas 76196.

The Court proceeding is set on the 29 day of April, 2025 at 9:00 o'clock a .M.

This is an in person proceeding and your presence is required.

The Court's designated contact information is found in the Tarrant County Website which is located at www.tarrantcountytx.gov. The Court Coordinator, concerning scheduling questions, is Lindsey Baker. Her telephone number is (817) 884-1597. Her email is lkbaker@tarrantcountytx.gov.

The purpose of the hearing is to set the case for final trial and enter a Pre-Trial Scheduling Order.

SIGNED this 22nd day of April, 2025

JUDGE PRESIDING

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/23/2025 12:50:13 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/23/2025 12:50:13 PM	SENT

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322-744263-23

CAUSE NO. 322-744263-23

IN THE MATTER OF THE MARRIAGE OF	§	**IN THE DISTRICT COURT**
MORGAN MYERS AND CHARLES MYERS	§	**322ND JUDICIAL DISTRICT**
AND IN THE INTEREST OF MARA MYERS AND CAROLINE MYERS, CHILDREN	§	**TARRANT COUNTY, TEXAS**

TEMPORARY ORDERS

On February LJC, 2024, the Court heard Petitioner's motion for temporary orders.

Appearances

Petitioner, MORGAN MYERS, appeared in person and through attorney of record, Cooper L. Carter, and announced ready and signed an Associate Judge's Report regarding Agreed Temporary Orders.

Respondent, CHARLES MYERS, appeared in person and through attorney of record, Daniel Bacalis, and announced ready and signed an Associate Judge's Report regarding Agreed Temporary Orders.

The parties have agreed to the terms of this order as evidenced by the signatures below.

Jurisdiction

The Court, after examining the record and the agreement of the parties and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties.

Children

The following orders are for the safety and welfare and in the best interest of the

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following children:

Name:	MARA MYERS
Sex:	Female
Birth date:	7 years
Home state:	Texas

Name:	C[redacted]MYERS
Sex:	Female
Birth date:	5 years
Home state:	Texas

Conservatorship

IT IS ORDERED that MORGAN MYERS and CHARLES MYERS are appointed Temporary Joint Managing Conservators of the following children: MARA M[redacted] and CAROLINE MYERS

IT IS ORDERED that, at all times, MORGAN MYERS, as a parent temporary joint managing conservator, shall have the following rights:

1. the right to receive information from any other conservator of the children concerning the health, education, and welfare of the children;

2. the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the children;

3. the right of access to medical, dental, psychological, and educational records of the children;

4. the right to consult with a physician, dentist, or psychologist of the children;

5. the right to consult with school officials concerning the children's welfare and educational status, including school activities;

6. the right to attend school activities, including school lunches, performances, and field trips;

7. the right to be designated on the children's records as a person to be notified in case of an emergency;

8. the right to consent to medical, dental, and surgical treatment during an

1. The auto insurance for the vehicle in her possession;

2. the monthly payment for her cell phone;

3. the rent payment for the residence located [redacted] Anns [redacted] beginning after March 30, 2024.

IT IS ORDERED that CHARLES MYERS shall be responsible for the timely payment of the following:

1. The auto insurance for the 2021 Mazda, the 2023 Mazda, and any other vehicle currently in his possession;

2. the car payments for the 2021 Mazda, the 2023 Mazda, and any other vehicle currently in his possession;

3. the monthly payment for his cell phone;

4. the rent payment for the residence located at [redacted] Anns [redacted] February and March 2024.

IT IS ORDERED that Petitioner have the exclusive and private use and possession of the following property while this case is pending: the personal property and clothing in her possession, the 2007 Mazda motor vehicle currently in her possession, and the residence located at [redacted] Anns [redacted], Texas beginning March 30, 2024.

IT IS ORDERED that Respondent have the exclusive and private use and possession of the following property while this case is pending: the personal property and clothing in his possession, the 2021 Mazda motor vehicle, the 2023 Mazda motor vehicle, and the residence located at [redacted] Anns [redacted] ONLY until March 20, 2024.

Co-Parenting Website

IT IS ORDERED that the parties are to attend "Children in the Middle" part 1 and/or 2

by May 1, 2024, and file a certificate of completion with the Court for their attendance to this co-parenting class.

IT IS FURTHER ORDERED that each party shall be solely liable for their own costs for the attendance of this co-parenting class.

App Close

IT IS ORDERED that MORGAN MYERS and CHARLES MYERS each shall, within ten days after the entry of the Associate Judge's Report is signed by the Court, obtain at his/her sole expense a subscription to the AppClose program. IT IS FURTHER ORDERED that MORGAN MYERS and CHARLES MYERS each shall maintain that subscription in full force and effect for as long as the child is under the age of eighteen years and not otherwise emancipated.

IT IS ORDERED that MORGAN MYERS and CHARLES MYERS shall each communicate through the AppClose program with regard to all communication regarding the children, except in the case of emergency or other urgent matter.

IT IS ORDERED that MORGAN MYERS and CHARLES MYERS each shall timely post all significant information concerning the health, education, and welfare of the children, including but not limited to the children's medical appointments, the children's schedules and activities, and request for reimbursement of uninsured health-care expenses, on the AppClose website. However, IT IS ORDERED that neither party shall have any obligation to post on that website any information to which the other party already has access through other means, such as information available on the website of the children's schools.

IT IS FURTHER ORDERED that MORGAN MYERS and CHARLES MYERS shall each timely post on the AppClose website a copy of any email received by the party from the

children's school or any health-care provider of the children, in the event that email was not also forwarded by the school or health-care provider to the other party.

For purposes of this section of this order, "timely" means on learning of the event or activity, or if not immediately feasible under the circumstances, not later than twenty-four hours after learning of the event or activity.

By agreement, the parties may communicate in any manner other than using the AppClose program, but other methods of communication used by the parties shall be in addition to, and not in lieu of, using the AppClose program.

Temporary Injunction

The temporary injunction granted below shall be effective immediately and shall be binding on the parties; on their agents, servants, employees, and attorneys; and on those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise. The requirement of a bond is waived.

IT IS ORDERED that Petitioner and Respondent are enjoined from:

1. Intentionally communicating with the other party in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner, with intent to annoy or alarm the other party.

2. Threatening the other party in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, to take unlawful action against any person, intending by this action to annoy or alarm the other party.

3. Placing a telephone call, anonymously, at any unreasonable hour, in an offensive

and repetitious manner, or without a legitimate purpose of communication with the intent to annoy or alarm the other party.

4. Intentionally, knowingly, or recklessly causing bodily injury to the other party or to a child of either party.

5. Threatening the other party or a child of either party with imminent bodily injury.

6. Intentionally, knowingly, or recklessly destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties with intent to obstruct the authority of the Court to order a division of the estate of the parties in a manner that the Court deems just and right, having due regard for the rights of each party and the children of the marriage.

7. Intentionally falsifying any writing or record, including an electronic record, relating to the property of either party.

8. Intentionally misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any tangible or intellectual property of one or both of the parties, including electronically stored or recorded information.

9. Intentionally or knowingly damaging or destroying the tangible or intellectual property of one or both of the parties, including electronically stored or recorded information, and causing pecuniary loss or substantial inconvenience to the other party.

10. Intentionally or knowingly tampering with the tangible or intellectual property of one or both of the parties, including electronically stored or recorded information, and causing pecuniary loss or substantial inconvenience to the other party.

11. Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of one or both of the parties, whether personal property, real

property, or intellectual property, and whether separate or community property, except as specifically authorized by this order.

12. Incurring any debt, other than legal expenses in connection with this suit, except as specifically authorized by this order.

13. Withdrawing money from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order.

14. Spending any money in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.

15. Withdrawing or borrowing money in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan, employee savings plan, individual retirement account, or Keogh account of either party, except as specifically authorized by this order.

16. Withdrawing, transferring, assigning, encumbering, selling, or in any other manner alienating any funds or assets held in any brokerage account, mutual fund account, or investment account by one or both parties, regardless of whether the funds or assets are community or separate property and whether the accounts are self-managed or managed by a third party, except as specifically authorized by this order.

17. Withdrawing or borrowing in any manner all or any part of the cash surrender value of any life insurance policy on the life of either party or a child of the parties, except as specifically authorized by this order.

18. Entering any safe-deposit box in the name of or subject to the control of one or both of the parties, whether individually or jointly with others.

19. Changing or in any manner altering the beneficiary designation on any life

in connection with this suit.

For purposes of this order, "personal property" includes, but is not limited to, the following:

a. cash, checks, traveler's checks, and money orders;

b. funds on deposit in financial accounts with commercial banks, savings banks, and credit unions;

c. funds and assets held in brokerage, mutual fund, and other investment accounts;

d. publicly traded stocks, bonds, and other securities;

e. stock options and restricted stock units;

f. bonuses;

g. closely held business interests;

h. retirement benefits and accounts;

i. deferred compensation benefits;

j. insurance policies, annuities, and health savings accounts;

k. motor vehicles, boats, airplanes, cycles, mobile homes, trailers, and recreational vehicles;

l. money owed to one or both parties, including notes and expected income tax refunds;

m. household furniture, furnishings, and fixtures;

n. electronics and computers;

o. antiques, artwork, and collections;

p. sporting goods and firearms;

q. jewelry and other personal items;

r. pets and livestock;

s. club memberships;

t. travel award benefits and other award accounts;

u. crops, farm equipment, construction equipment, tools, leases, cemetery lots, gold or silver coins not part of a collection, tax overpayments, loss carry-forward deductions, lottery tickets/winnings, stadium bonds, stadium seat licenses, seat options, season tickets, ranch brands, and business names;

v. digital assets such as email addresses, social network accounts, Web sites, domain names, digital media such as pictures, music, e-books, movies, and videos, blogs, reward points, digital storefronts, artwork, and data storage accounts;

w. virtual assets such as virtual pets, avatars, accessories for virtual characters, virtual prizes, virtual real estate, and virtual currency;

x. safe-deposit boxes and their contents;

y. storage facilities and their contents; and

z. contingent assets.

Duration

These Temporary Orders shall continue in force until the signing of the Final Decree of Divorce or until further order of this Court.

SIGNED on March 14, 2024.

Associate JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

MARX ALTMAN & JOHNSON

M.1822

2905 Lackland Rd.
FT. WORTH, Texas 76116
Tel: (817) 926-6211
Fax: (817) 926-6188

By:_____
Cooper L. Carter
Attorney for Petitioner
State Bar No. 24121530
coopercarter@majadmin.com

Daniel R. Bacalis PC
669 Airport Freeway
Suite 307
Hurst, TX 76053
Office Phone: (817)498-4105
Fax: (817)282-0634

By:_____
Daniel Bucalis
Attorney for Respondent
State Bar No. 01487550
Email: dbacalis@dbacalis.com

APPROVED AND CONSENTED TO AS TO BOTH FORM AND SUBSTANCE:

_____
MORGAN MYERS
PETITIONER

_____
CHARLES MYERS
RESPONDENT

M.1822

M.1823

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: 85983756
Filing Code Description: No Fee Documents
Filing Description:
Status as of 3/27/2024 7:40 AM CST

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		morganmw02@gmail.com	3/26/2024 3:19:25 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	3/26/2024 3:19:25 PM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Bacalis		service@dbacalis.com	3/26/2024 3:19:25 PM	SENT
Tammy L.Johnson		tjohnson@dbacalis.com	3/26/2024 3:19:25 PM	SENT
Daniel R.Bacalis		dbacalis@dbacalis.com	3/26/2024 3:19:25 PM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	3/26/2024 3:19:25 PM	SENT

M.1823

M.1824

C

M.1824

M.1825

CAUSE NO.322-744263-23

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
MORGAN MICHELLE MYERS	§	
AND	§	
CHARLES DUSTIN MYERS	§	322ND JUDICIAL DISTRICT
	§	
AND IN THE INTEREST OF	§	
M[redacted] M[redacted] AND C[redacted]	§	
M[redacted], MINOR CHILDREN	§	TARRANT COUNTY, TEXAS

ORDER DENYING JOINT MOTION TO RECUSE JUDGE MUNFORD AND JUDGE KAITCER

On the 7th day of November, 2024, came on to be heard the Joint Motion to Recuse Judge Munford and Judge Kaitcer filed in the above-entitled cause. The movant, Charles Dustin Myers, failed to appear. The respondent, Morgan Michelle Myers, appeared by and through her attorney of record. The movant failed to file a motion for continuance and the case was called by the Court. No evidence was offered and the Court concluded that the motion should be **DENIED.**

IT IS THEREFORE ORDERED that the Joint Motion to Recuse Judge Munford and Judge Kaitcer is **DENIED.** Any other relief requested in connection with this Joint Motion to Recuse Judge Munford and Judge Kaitcer and not granted herein is hereby Denied.

SIGNED this 7th day of November 2024.

JUSTICE LEE GABRIEL,
Sitting by Assignment

Automated Certificate of eService

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Envelope ID: 94441042
Filing Code Description: No Fee Documents
Filing Description: ORDR DENYING RECUSAL
Status as of 11/19/2024 8:43 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	11/19/2024 8:20:51 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	11/19/2024 8:20:51 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	11/19/2024 8:20:51 AM	SENT

M.1827

D

M.1827

From: Charlie Vids [mailto:chuckdustin12@gmail.com]
Sent: Thursday, November 7, 2024 8:17 AM
To: Lindsey K. Baker; Cooper Carter
Subject: RE: Today's hearing at 11 CL-12105

Dear Ms. Baker, and Mr. Carter,

I am writing to respectfully request a rescheduling of today's recusal hearing due to an unexpected medical issue. Late last night, I began experiencing severe tooth pain, which has now escalated to significant facial swelling and intense discomfort. The pain is currently affecting my ability to speak, eat, and focus, making it challenging to fully participate in today's proceedings.

Specifically, it's my bottom left molar which the nerve is open and exposed causing significant pain.

I want to sincerely apologize for any inconvenience this may cause, especially given the efforts the court has made to accommodate this hearing. Please know that this request is made only out of necessity, and I deeply regret the timing as I would prefer to move the case forward.

This request comes with a high degree of reluctance given the unexpected technical difficulties experienced last time and would not be making it if it wasn't absolutely necessary.

Thank you all for your understanding and consideration. I am committed to continuing with the hearing at the earliest possible opportunity as I am eager to move the case forward.

I wanted to inform the court as soon as possible out of respect for the courts busy schedule.

I currently am unable to locate the case on research texas, as I've been trying to file a formal notice but given the time I wanted to ensure the court was made aware as soon as possible of the situation.

Lines of communication are open for further discussion or if any further information is needed.

With respect,

Charles Myers

Chuckdustin12@gmail.com

Gmail

Charlie Vids <chuckdustin12@gmail.com>

RE: ITMOMO MYERS, CAUSE NO. 322-744263-23, RECUSAL HEARING CL-12105

1 message

Cooper Carter <coopercarter@majadmin.com> Thu, Nov 7, 2024 at 9:12 AM
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>
Cc: Charlie Vids <chuckdustin12@gmail.com>, "Tegan B. Allison" <TBAllison@tarrantcountytx.gov>

Good Morning,

My client is in agreement with a reset at this time.

Would you please provide dates for a rescheduling? Thank you very much.

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

WED, NOV 06

THU, NOV 07

Hey, I started experiencing massive pain in my bottom left molar last night. I informed the court and apparently the coordinator is out with covid. I'm gonna have to go to the dentist and see what I can do, so i just wanted to let you know because the girls are excited about urban air today. There's just no way.. but I can make it up to them another day when I'm not in excruciating pain.

08:21 AM

Okay.

08:23 AM

I informed cooper but wanted to ensure everyone was aware. Called the court but no answer. Sent email. Case disappeared from the research tx platform

08:53

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: 94247500
Filing Code Description: Notice
Filing Description: Notice of Intent to Remove
Status as of 11/14/2024 7:12 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	11/13/2024 1:33:50 PM	SENT
MORGAN MICHELLEMYERS		morganmw02@gmail.com	11/13/2024 1:33:50 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	11/13/2024 1:33:50 PM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	11/13/2024 1:33:50 PM	SENT

M.1832

E

M.1832

Gmail FUDSTOP <chuckdustin12@gmail.com>

Ruling Requested – Unopposed Summary Judgment (Filed 2/22/2024) – Case No. 322-744263-23

9 messages

FUDSTOP <chuckdustin12@gmail.com> Fri, Mar 14, 2025 at 4:47 PM
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>, Cooper Carter <coopercarter@majadmin.com>

Ms. Baker,

My Motion for Partial Summary Judgment, filed February 22, 2024, remains unopposed for over a year. Under TRCP 166a(c) and Local Rule 4.01(d), this motion is ripe for ruling. Opposing counsel's failure to respond waives any objection.

Further, opposing counsel (CC'ed here), cannot prosecute her case in accordance with Texas law, and still has an outstanding rule 12 motion that is now also unopposed.

A granting of either motion would resolve the core case issues, and given the circumstances, is duly warranted.

I formally request an immediate ruling or confirmation of when the Court will act. Further delay is unacceptable.

If the judges cannot legally act given opposing counsels failure to comply with Tex. R. CIV. P. 237a, then the matter should be brought before David L. Evans without delay.

Sincerely,
Charles Dustin Myers
Chuckdustin12@gmail.com
817-546-3693

Lindsey K. Baker <LKBaker@tarrantcountytx.gov> Sun, Mar 16, 2025 at 1:54 PM
To: FUDSTOP <chuckdustin12@gmail.com>, Cooper Carter <coopercarter@majadmin.com>
Cc: "chuckdustin12@gmail.com" <chuckdustin12@gmail.com>

Mr. Dustin:

Prior to providing available dates to set your hearing request, the Court must know how much time you are requesting for the hearing? Further, you must E-file or personally appear with a Notice of Hearing for the Court to set the hearing.

Thank you,

If you received a Notice of Dismissal, you MUST file a Motion to Retain. The Motion MUST be SET, HEARD and concluded with a SIGNED ORDER TO RETAIN.

DO NOT EMAIL ME FOR A SETTING REGARDING THE DWOP.

YOU MUST APPEAR IN PERSON TO SET THE HEARING.

All Orders that require the Judge's signature must be presented in person and will not be processed through e-filing.

Lindsey Baker

322nd Court Coordinator

Tarrant County Family Law Center

200 E. Weatherford, 4th floor

Fort Worth, Texas 76196

Phone: (817) 884-1597

From: FUDSTOP <chuckdustin12@gmail.com>
Sent: Friday, March 14, 2025 4:47 PM
To: Lindsey K. Baker <LKBaker@tarrantcountytx.gov>; Cooper Carter <coopercarter@majadmin.com>
Subject: Ruling Requested – Unopposed Summary Judgment (Filed 2/22/2024) – Case No. 322-744263-23

EXTERNAL EMAIL ALERT! Think Before You Click!

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Sun, Mar 16, 2025 at 4:26 PM
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>
Cc: Cooper Carter <coopercarter@majadmin.com>

Hello Lindsey,

I hope you are doing well. I am following up on the Myers v. Myers matter (Cause No. 322-744263-23 in the 322nd District Court), which was remanded back from federal court on December 17, 2024. As of today, the opposing party still has not filed the Notice of Remand or otherwise re-engaged with the case. This has left our case in limbo on the court's docket. In the meantime, Charles Dustin Myers (Respondent), is suffering ongoing harm each day without the court's intervention on pending matters.

To recap the situation briefly:

The federal court remanded the case to state court on 12/17/2024. Under Texas Rule 237a, it was Petitioner's responsibility to file the remand order with the clerk and notify us. That never happened. We are now three months post-remand, and the case has not been officially re-docketed due to this oversight.

I have multiple pending motions that were filed before and after the remand. Critically, Petitioner and her counsel have not responded to ANY of these motions. For example, the Motion for Summary Judgment (filed 2/26/2024) received no response. More urgently, our Ex Parte Motion for Child Custody, Exclusive Use of Marital Residence, Contempt, and Sanctions (filed 2/12/2025) remains unopposed and unaddressed. We also filed a Proposed Order on 2/20/2025 and a Request for Immediate Ruling on 2/28/2025, with no response from the other side.

The issues in that ex parte motion are time-sensitive and critical: we need a court order for custody and to regain access to the marital home. Opposing counsel's failure to follow procedure has effectively stalled relief that desperately needs attention. (Respondent has been without access to his home and children for an extended period through no fault of his own). There are also allegations of contempt by the opposing party that have not been heard because of these delays.

Given this extraordinary situation, we respectfully ask the Court to take immediate action. Specifically, we request one of the following at the Court's earliest convenience (and we truly mean as soon as possible, even this week if feasible):

Immediate ruling/signing of orders: Since the motions are unopposed, the Court can rule on them without a hearing. I have a proposed Order for the ex parte motion ready for Judge Kaitcer's signature. I urge the Court to sign an order granting Respondent temporary custody of the children and exclusive use of the residence immediately. This would provide much-needed stability while the case proceeds. Similarly, the motion for summary judgment can be granted on the papers, as no controverting evidence or response was ever filed by Petitioner.

Emergency hearing: If the Court prefers to hold a hearing, please provide the soonest possible date and time for an emergency hearing on the Ex Parte Motion (2/12/2025), and a notice will be filed tomorrow. I am prepared to appear on short notice. Given that the motion is unopposed, the hearing should be brief. Respondent will gladly testify to confirm the facts if needed. He just needs the Court's authorization to move forward – every day of delay is another day he is barred from his home and children.

Filing of Remand Order: To remove any procedural barrier, Respondent will obtain a certified copy of the federal remand order and he will file it himself (or hand-deliver a copy) to the Court. If the clerk needs that filed separately to officially reopen the case, please let me know – it will be done immediately. I do not want a clerical formality to stand between the children and justice any longer.

Sanctions for non-compliance (if appropriate): Resppndent also wants the Court to be aware that opposing counsel's conduct – failing to file the remand notice and ignoring court filings – is sanctionable. While the priority is getting relief for the children, the intent is to address this issue at the appropriate time. For now, this failure should at least not be rewarded by further delaying proceedings. Respondent shouldn't have to wait indefinitely due to the other side's procedural neglect.

In sum, Respondent is asking for the Court's help to break the logjam created by the opposing party. Our requests are straightforward and unopposed. The court has the authority to grant the relief either ex parte or by default given the circumstances. Respondent is simply requesting that the Court exercise that authority as soon as possible to prevent further irreparable harm.

My tone in this email is urgent because the situation is urgent. I have been exceedingly patient while trying every avenue to move this case forward. With each passing day, the situation worsens and the children at issue remain in uncertainty. I trust that the 322nd District Court strives to resolve such matters fairly and expeditiously, and I am eager to assist in any way to facilitate a prompt resolution.

Proposed next steps:

If Judge Kaitcer (or the assigned judge) is available to review the file tomorrow, we urge him to sign the proposed Order (filed 2/20/2025) granting the relief in the 2/12/2025 motion. I am available by phone or email if the Court has any questions or slight modifications to the order.

Alternatively, please provide a setting for an emergency hearing as early as possible. Even a telephone or Zoom hearing would be acceptable, given the urgency, if that would expedite the process. A notice of hearing will be filed Monday.

If there are any concerns about the procedural posture (such as the missing Notice of Remand), please let me know. I am prepared to cure any such issue immediately. I can file the remand order and serve opposing counsel (to the extent she will accept service) to remove any doubt that the case is properly before the Court.

Thank you very much for your time and attention to this matter, Lindsey. I understand the Court has a busy docket, but this case has unusual circumstances that warrant special handling. I greatly appreciate any assistance you can provide in conveying the urgency of this situation to Judge Kaitcer, Judge Munford, or in the alternative, Judge Evans. I am hopeful that, with the Court's intervention, we can obtain a ruling or hearing in a matter of days, bringing much-needed relief and allowing the case to progress.

Please let me know if you need any additional information or have any instructions for me. I will be watching for your reply and am ready to act immediately on any opportunity to be heard.

Sincerely,

Charles D. Myers
[Quoted text hidden]

Lindsey K. Baker <LKBaker@tarrantcountytx.gov> Mon, Mar 17, 2025 at 12:01 PM
To: FUDSTOP <chuckdustin12@gmail.com>
Cc: Cooper Carter <coopercarter@majadmin.com>

ALL motions must be set for a hearing. If you are requesting relief from the Court, you must provide the Court with a formal Notice of Court Proceeding to set each of your E-filed motions. I also informed you of this in my previous email response. I will take no further action responding to your email communications unless you are requesting an in person hearing AND provide the Court with a E-filed Notice of Court Proceeding in compliance with the Texas Rules of Civil Procedure. Please refer to the Texas Rules of Civil Procedure, The Texas Family Code, and the Tarrant County Family Court's Local Rules.

The 322nd District Court and Associate Court hears ALL matters in person and not by submission.

Thank you,

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Mon, Mar 17, 2025 at 3:53 PM
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>

Dear Ms. Baker,

Thanks for your response.

As I previously pointed out, the Order of Assignment from Judge David L. Evans assigned Justice Lee Gabriel to the case. That assignment remains in effect until Judge Evans issues a written termination order, as stated. To my knowledge, no such order has been issued or served.

Until that occurs, it would be procedurally improper to request a court hearing, particularly given that the opposing party has yet to fulfill their obligation under Texas Rule of Civil Procedure 237a by filing a Notice of Remand after removal to federal court.

It would be helpful if these issues could be resolved as soon as possible so that the case can proceed effectively.

Best regards,
Charles Dustin Myers

[Quoted text hidden]

Lindsey K. Baker <LKBaker@tarrantcountytx.gov> Mon, Mar 17, 2025 at 4:22 PM
To: FUDSTOP <chuckdustin12@gmail.com>

I will address this with Judge David Evans first thing tomorrow morning.

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Mon, Mar 17, 2025 at 4:22 PM
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>

Thank you very much.

I hope you have a good evening.

Respectfully,

[Quoted text hidden]

Lindsey K. Baker <LKBaker@tarrantcountytx.gov> Mon, Mar 17, 2025 at 4:24 PM
To: FUDSTOP <chuckdustin12@gmail.com>

You do the same.

[Quoted text hidden]

Lindsey K. Baker <LKBaker@tarrantcountytx.gov> Wed, Mar 19, 2025 at 3:19 PM
To: FUDSTOP <chuckdustin12@gmail.com>, Cooper Carter <coopercarter@majadmin.com>

Attached is an Order Terminating Assignment that has been signed by Judge David Evans.

Thank you.

[Quoted text hidden]

Order Terminating Assignment.pdf
330K

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322ND FAMILY DISTRICT COURT Rendition

~~ASSOCIATE JUDGE'S REPORT~~ JPM

FILED
TARRANT COUNTY
1/17/2024 2:28 PM
THOMAS A. WILDER
DISTRICT CLERK

CAUSE NUMBER: 322- 744538-23
322- 744263-23

ITMOTMO/INRE

Morgan M. Myers

vs

Charles D. Myers

§ IN THE DISTRICT COURT
§
§ TARRANT COUNTY, TEXAS
§
§ 322ND JUDICIAL DISTRICT

RESET DATE AND TIME: January 22, 2024 at 9:00 am

1. Appearances:

☑ Petitioner/Movant appeared in person and ~~by attorney~~ Pro Se

☑ Respondent appeared in person and ~~by attorney~~ Pro Se

☐ _____

2. Issue(s): ☐ Custody ☐ Visitation ☐ Child Support ☐ Health Insurance ☐ CPS

☐ (Property and Conservatorship)

3. Order(s) or Agreement(s): The Wife will remain in the house temporarily. Case is set next Monday, January 22, 2024 at 9:00a.m. The husband shall vacate the house by 2:00 p.m January 16, 2024. Mother to have possession of the Children until the time of the hearing. Cause # 322-744538-23 is consolidated into Cause # 322-744263-23.

Continuance granted.

AGREED AS TO FORM AND SUBSTANCE:

Attorney for Petitioner

Attorney for Respondent

Petitioner

Respondent

SO ORDERED:

James B Munford

322nd ~~District~~ Judge

1-16-2024

Date

Automated Certificate of eService

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Envelope ID: 83494135
Filing Code Description: No Fee Documents
Filing Description: Rendition
Status as of 1/17/2024 4:23 PM CST

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		morganmw02@gmail.com	1/17/2024 2:28:44 PM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	1/17/2024 2:28:44 PM	SENT

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M.1841

322-744263-23

M.1842

AGREED

ASSOCIATE JUDGE'S REPORT FOR TEMPORARY ORDERS

(Suit Affecting the Parent-Child Relationship, Property and Debts)

DIVORCE WITH CHILDREN

CAUSE NUMBER: 322- 744263-23

Morgan Myers	§	**IN THE DISTRICT COURT**
AND	§	**TARRANT COUNTY, TEXAS**
Charles Myers	§	**322ND JUDICIAL DISTRICT**

RESET DATE: _____

1. **Appearances:**

(X) Petitioner/Movant appeared in person and by attorney Cooper Carter

(X) Respondent appeared in person and by attorney Dan Bacalis

( ) _____

2. **Temporary Conservatorship:**

A. (X) Joint Managing Conservators: Primary Possession to (X) Mother ( ) Father ( ) Other: _____

(X) Mother and Father have the rights and duties under TEX. FAM. CODE ANN. §§ 153.073, 153.074

( ) Other has the rights and duties under TEX. FAM. CODE ANN. §§ 153.073, 153.074

( ) Mother ( ) Father ( ) Other have the rights, duties and privileges as set forth in TEX. FAM. CODE ANN. § 153.132 except as follows:

The (X) Mother ( ) Father ( ) Other shall have the exclusive right to establish the residence of the child(ren) and residence of the child(ren) will be Tarrant County or counties contiguous to Tarrant County, TX and/or _____

The (X) Mother (X) Father ( ) Other are enjoined from removing the child(ren) from Tarrant County or counties contiguous to Tarrant County, TX for the purpose of establishing the residence of the child(ren) and/or _____

The right to make educational decisions shall be by the (X) Mother ( ) Father ( ) Other.

The right to make invasive surgical decisions shall be by mutual consent of the partied and failing to agree by the (X)Mother ( )Father ( )Other. The term "invasive" means elective surgical decisions.

The right to receive child support shall be by the (X)Mother ( )Father ( )Other_____

B. ( )Sole Managing Conservator: ( )Mother ( )Father ( )Other:_____

( )Possessory Conservator: ( )Mother ( )Father ( )Other:_____

( )Mother ( )Father ( )Other have the rights and duties under TEX. FAM. CODE ANN. §§ 153.073, 153.074

( )Mother ( )Father and/or ( )Other have the rights, duties and privileges as set forth in TEX. FAM. CODE ANN. § 153.132.

( )Residency Restriction to ( )Tarrant County ( )Tarrant & contiguous counties.

3. Temporary Possession Schedule:

( )Texas Standard Family Code TEX. FAM. CODE ANN. §§ 153.311 THROUGH 153.316. All possession times begin and end at 6:00 p.m. except for Thursdays which ends at 8:00 p.m.

(X)Texas "Extended" Standard Family Code TEX. FAM. CODE ANN. §§ 153.311 THROUGH 153.316. All possession times begin and end at the time school recesses or begins. Thursdays overnight, during the regular school year.

( )Other:_____

_____

_____

_____

(X)Mother ( )Father ( )Other shall surrender the child to the other person at the residence of ( )Mother ( )Father ( )Other at the beginning of each period of possession.

( )Mother (X)Father ( )Other shall surrender the child to the other person at the residence of ( )Mother (X)Father ( )Other at the end of each period of possession.

4. Temporary Child Support:

( )Mother (X)Father shall pay through the Texas State Disbursement Unit, P.O. Box 659791, San Antonio, TX 78265-9791 of $ 973.19 per monthly beginning 4-1-2024

_____

Medical Insurance on Child Provided by: ( )Mother ( )Father Mother to apply for MEDICAID
Insurance Cost Paid by: ( )Mother (X)Father
Uncovered Medical, Dental & Vision Costs: (X)Equally ( )

5. **Additional Orders:**

App. for Protective Order is non-suited

6. **Temporary Spousal Support:** N.A.

( )Wife ( )Husband shall pay direct to Spouse $_____ per _____ beginning

7. **Temporary Possession of Property:**

Husband: 2021 MAZDA 3, his personal prop. & clothing 2023 MAZDA CX-8 (LEASED) Responsible to vacate home at 6641 Anne Court Watauga by March 1, 2024

Wife: 2007 MAZDA, her personal property & clothing, 6641 Anne Court, Watauga,

8. Temporary Payment of Debts and Bills:

Husband: His living expenses: CAR payment, his auto ins his telephone payment. Lease payment for homestead for February & March 2024

Wife: Her living expenses: her auto insurance, her telephone payment, lease payment on homestead after March 30, 2024

9. Temporary Injunctions:

(X) Mutual Temporary Injunctions as to Persons pursuant to the Texas Family Practice Manual.

(X) Mutual Temporary Injunctions as to Property pursuant to the Texas Family Practice Manual.

The parties to communicate through App Close

10. MISCELLANEOUS:

(X) The parties are to attend *"Children in the Middle"* part 1 and/or 2 by 5/1/24 and to file a certificate with the Court. Each to pay for their own costs.

(X) Neither party shall consume, use or have in their possession any illegal drug or drugs at any time nor shall they have, at any time, a legal drug or drugs in their possession for which that party does not have a prescription.

Neither party shall consume alcohol at least 12 hours prior to their time for possession of the child(ren).

Neither party shall consume alcohol during their period of possession with the child(ren).

Neither party shall attend one of the child(ren)'s activities if they have consumed alcohol or they are under the influence of alcohol.

Neither party shall leave the child(ren) with a person who is consuming alcohol at least 12 hours prior to taking possession of the child(ren) or has in their possession an illegal drug(s), including prescription drugs, as a childcare provider. No disparaging remarks in the presence of the child(ren) and no discussion of litigation or issues of the case with the child(ren).

(X) The parties are not to discuss the litigation or issues with the child(ren) about the other party. The aforementioned sentence means that neither party shall belittle, talk bad, refer to the other party using a profane name or names, profanity or curse words.

The parties are not to discuss the litigation or issues with the child(ren). This paragraph presumes the child(ren) is old enough to communicate with a party. The aforementioned sentence means that neither party shall discuss what occurred in Court including the testimony of any witness or witnesses with the child(ren).

A party is allowed to reasonably offer an age-appropriate statement to discuss the effect of an Order with the child(ren) with a brief statement or sentence. For example, a party is not allowed to show a document to the child(ren) and attempt to comprehensively discuss the case in detail with the child(ren).

A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by DAN BACH/S.

Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There are no ten (10) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from the signing of this Report.

AGREED AS TO FORM AND SUBSTANCE

Attorney for Petitioner

Attorney for Respondent

Petitioner

Respondent

SO, ORDERED:

322ND Associate Judge

Date: FEBRUARY 1, 2024

M.1847

Automated Certificate of eService

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Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
Cooper L.Carter		coopercarter@majadmin.com	2/8/2024 2:29:20 PM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Bacalis		service@dbacalis.com	2/8/2024 2:29:20 PM	SENT
Tammy L.Johnson		tjohnson@dbacalis.com	2/8/2024 2:29:20 PM	SENT
Daniel R.Bacalis		dbacalis@dbacalis.com	2/8/2024 2:29:20 PM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	2/8/2024 2:29:20 PM	SENT

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NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN THE INTEREST OF *M.E.M., C.R.M., two children)* **MORGAN MICHELLE MYERS** Petitioner, **CHARLES DUSTIN MYERS,** Respondent. 2025-04-24	Plea to the Jurisdiction

TO THE HONORABLE JAMES MUNFORD:

The record reveals a pattern of the Court acting beyond its jurisdiction: on **January 16, 2024**, the Court ousted Respondent from the marital residence **without any finding of family violence or protective order**; on **March 26, 2024**, the Court entered "Agreed" Temporary Orders **without Respondent's consent**, flouting the statutory procedures for entry of such orders. These actions violate Respondent's due process rights and the Texas Family Code. Under Texas law, orders issued **without jurisdiction or in the absence of a party's consent are void** and cannot confer jurisdiction. Respondent asks the Court to recognize these fundamental defects and dismiss the current orders as a matter of law.

Until these orders are resolved, or the court issues written findings regarding their legitimacy, Respondent will not appear and risk further deprivation of his rights from this court.

I. INTRODUCTION

Petitioner filed a divorce petition under Title 5 of the Texas Family Code on December 18, 2023. That petition did not seek exclusive possession of the residence or ask that Respondent be excluded from the home. Shortly thereafter, on December 22, 2023, Petitioner filed a separate **Application for Protective Order** under Title 4 of the Family Code, in which she explicitly requested exclusive possession of the home, removal of Respondent, and child support. The Court consolidated the protective-order case into the divorce case.

On January 16, 2024, the court—without holding an evidentiary hearing or finding family violence—entered Temporary Orders granting Petitioner exclusive possession of the home and primary custody and child support, and requiring Respondent to vacate the residence that same day. No protective order was ever issued and no findings of family violence were made, even though Tex. Fam. Code §§ 83.006 and 85.001 plainly require such findings. In the weeks that followed, the court continued these arrangements and ultimately entered "Agreed" Temporary Orders (March 26, 2024) allocating parenting time and support. All of these extreme orders were based solely on Petitioner's Title 4 application (and allegations of family violence), and no amendments to the pleadings were ever filed to convert the case into a Title 5 SAPCR. Respondent never received any notice or hearing on custody, possession, or support issues under Title 5.

II. Legal Standards

The trial court's authority is strictly limited by the statutes and pleadings. It may consider only the claims and relief expressly pleaded by the parties, and must follow the Family Code's procedures for protective orders and SAPCRs. Subject-matter jurisdiction is a threshold issue: if

the court acted beyond the law, its orders are void. A plea to the jurisdiction is decided as a matter of law when the relevant facts are undisputed (see *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 228 (Tex. 2004)). Here, the material jurisdictional facts are not in dispute.

III. Title 4 (Protective Order) Proceedings Cannot Support Custody or Support

Under Texas law, a protective-order proceeding (Title 4) is *not* a custody (SAPCR) proceeding (Title 5). The San Antonio Court of Appeals recently reaffirmed that without a proper SAPCR petition under Title 5, a court may not award conservatorship, possession, or support. In *Rivera v. Figueroa* (Tex. App.–San Antonio 2019), the court held that orders issued in a protective-order case cannot support conservatorship or child-support relief unless a Title 5 petition was filed and noticed. Likewise, *In re Sheffield*, 639 S.W.2d 270 (Tex. App.–Dallas 1982), long held that Title 4 and Title 5 proceedings are jurisdictionally separate: "a court may not grant relief beyond the scope of the protective-order statute without compliance with the SAPCR statutes" (sheffield, 639 S.W.2d at 272-73). Here, Petitioner's December 22 Title 4 application was never amended or converted into a Title 5 petition. Respondent never waived notice or a hearing on conservatorship/possession issues. The court's decision to exclude Respondent from the home and divest him of custody on January 16, 2024 therefore had no jurisdictional basis. In short, "[w]ithout a valid protective order in place, the court lacked jurisdiction to continue enforcing the extreme relief originally granted".

IV. Statutory Prerequisites for Exclusion and Protective Orders Were Not Met

Even if the court treated the relief as a protective-order, the Family Code's strict requirements were ignored. Tex. Fam. Code § 83.006(a) permits exclusion of a party from the

home *only* if (1) the applicant files a sworn affidavit describing facts requiring exclusion, and (2) appears at the hearing to testify on those facts. Section 83.006(b) further requires that the court make three findings: (i) the applicant resides (or recently resided) at the premises, (ii) the other party committed family violence within the past 30 days, and (iii) there is a clear and present danger of future family violence. Likewise, § 85.001(a) mandates that at the close of a protective-order hearing, the court must explicitly find whether family violence occurred. If so, the court "*shall*" issue a protective order against the perpetrator. In this case, none of these prerequisites were satisfied. Petitioner did file an application and affidavit, but no hearing on January 16 (or thereafter) produced any finding of family violence. The court did not issue a protective order as the statute requires, and instead simply extended the eviction and custody restrictions indefinitely. By failing to hold a hearing, make any family-violence finding, or enter a protective order, the court "bypass[ed] the statutory prerequisites" entirely. Without those statutorily required findings, the January 16 "kick-out" and custody order was outside the court's power.

V. All Orders Exceeding the Pleadings or Statutory Authority Are Void

It is a bedrock rule that a Texas court must confine its rulings to the relief requested by the pleadings and authorized by statute. Any order beyond that scope is void. The Houston First Court of Appeals has stated that "[a]n order purporting to grant relief beyond the pleadings is void ab initio". In *Guillory v. Boykins*, 442 S.W.3d 682, 690 (Tex. App.–Houston [1st Dist.] 2014, no pet.), the court held that where a trial court lacks jurisdiction or statutory authority to grant the relief, the order is void. Similarly, *In re P.M.G.*, 405 S.W.3d 406, 416–17 (Tex. App.–Texarkana 2013, no pet.), confirms that orders entered without pleadings or outside statutory scope are null. Here, not only did the protective-order pleadings not include any SAPCR claims,

but the later “agreed” orders on March 26, 2024 were not signed or even consented to by Respondent (violating Tex. R. Civ. P. 11). In short, every custody and exclusion order in this case was “predicated on a void order”. As the Second Court of Appeals recognized in *In re C.L.*, 933 S.W.2d 402, 405 (Tex. App.–Fort Worth 1996, no writ), an order that is void ab initio “cannot form the basis for any valid subsequent judgment”. That’s exactly what is happening here. The court is now moving to finalize fraud, constitutional deprivation, and is trying to finalize its’ original excision of Respondent’s constitutional rights. The court cannot destroy a family and then move to finalize that without a lawful basis, and over orders that are fundamentally void.

IV. Violation of Respondent’s Constitutional Rights to Due Process and Family Integrity

The trial court’s actions not only violated statute but also trampled Respondent’s fundamental constitutional rights. By evicting the Respondent from his home and effectively separating him from his children with **no prior notice or opportunity to be heard**, the court deprived him of liberty and property without due process of law. This violates **Article I, § 19 of the Texas Constitution** (the “due course of law” guarantee) and the **Fourteenth Amendment to the U.S. Constitution**. Now, the court seeks to *finalize* this fundamental error amidst an ongoing appeal, showing a continuous and complete disregard for the Respondent’s rights.

A. Deprivation of Property Without Due Process

The January 16 order forced Respondent to vacate his own home on the same day it was issued. A person’s right to occupy their home is a significant property interest, protected by due process. Yet Respondent was ousted immediately, with no notice that such relief would be sought and no chance to contest the allegations. The Texas Constitution and the 14th Amendment both forbid the State from depriving any person of property without due process of law. *Fuentes v. Shevin*, 407 U.S. 67, 81-82 (1972) (even temporary, non-final deprivations of property require

notice and hearing absent extraordinary circumstances). While Texas law does allow ex parte orders in truly exigent circumstances, those orders must be narrowly tailored and followed promptly by a full hearing. Here, the statutory requirements for an ex parte *kick-out* were disregarded, and Respondent was left homeless and separated from his belongings based on one-sided assertions. This is precisely the kind of state action that due process is meant to guard against.

B. Deprivation of Parental Rights Without Due Process

Even more critically, the court's orders infringed Respondent's fundamental right to parent his children, also without due process. A parent's interest in the care, custody, and control of their children is **fundamental**. The United States Supreme Court has recognized that "the interest of parents in the care, custody, and control of their children…is perhaps the **oldest of the fundamental liberty interests** recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality op.). Likewise, the Texas Supreme Court has affirmed that "the fundamental right of parents to make decisions concerning the care, custody, and control of their children" is constitutionally protected. *In re C.J.C.*, 603 S.W.3d 804, 811 (Tex. 2020) (citing *Troxel*, 530 U.S. at 66). Governmental interference with this right is subject to strict scrutiny and must be accomplished only with rigorous procedural safeguards.

Here, Respondent's removal from the home effectively **altered custody of the children** without any hearing or finding of unfitness. Respondent went from being an equal managing conservator of the children to having *zero possession or access* (by virtue of being excluded from the home and the children's presence) overnight and without notice. This is a profound deprivation of parental rights. As the U.S. Supreme Court held in *Stanley v. Illinois*, an unwed father could not be presumed unfit and have his children taken without a hearing – "**the Due**

Process Clause of the Fourteenth Amendment requires that [a father] be given a hearing on his fitness as a parent **before** his children are removed from his custody." *Stanley v. Illinois*, 405 U.S. 645, 649 (1972) (emphasis added). The State **"cannot, consistently with due process, merely presume"** a parent's unfitness or danger and bypass a hearing; **"parental unfitness must be established on the basis of individualized proof"** before a child is taken away. *Id.* at 647, 649. Yet in Respondent's case, the court did exactly what *Stanley* forbids – it presumed the necessity of removing the father, without any adversarial testing of the evidence or finding of actual misconduct and left the determination for later (a hearing that kept getting postponed). This violated Respondent's **procedural due process** rights to be heard *before* being deprived of custody of his children.

Moreover, the **substantive** aspect of due process was violated. There is a "**strong presumption** that the best interest of a child is served by remaining with a fit parent." *Troxel*, 530 U.S. at 68-69. The government may not "infringe on the fundamental right of parents to make child rearing decisions **simply because a state judge believes a 'better decision' could be made**." *Id.* at 72 (plurality op.). In the absence of any evidence or finding that Respondent was an unfit or dangerous parent, removing his children from him was an arbitrary infringement on his fundamental liberty interest. The orders entered in this case prioritized a one-sided allegation over a father's constitutional rights, in a manner repugnant to both the Texas and U.S. Constitutions. Article I, Section 19 of the Texas Constitution guarantees that no citizen shall be deprived of liberty or property **except by the due course of the law of the land** – here, Respondent was deprived of both without the lawful procedures or any adjudication of wrongdoing.

In sum, the process (or lack thereof) employed by the court fell far short of constitutional requirements. This constitutional infirmity is independently sufficient to render the court's orders void. A judgment entered in violation of due process is void and subject to collateral attack. *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80, 84-85 (1988) (judgment rendered without proper notice violates due process and is void). The proper remedy for a void order that stems from a due process violation is to declare it a nullity and dismiss any action that cannot proceed without it.

VI. Plea to the Jurisdiction Must Be Granted

The undisputed record shows no factual or legal basis for the court's jurisdiction over the extreme relief granted. Under *Miranda v. Texas Dept. of Parks & Wildlife*, a plea to the jurisdiction should be granted as a matter of law if the jurisdictional facts are undisputed or uncontroverted by competent evidence. Here, there is no genuine issue that (a) no protective order was issued and no findings of family violence were made, (b) no Title 5 SAPCR notice of hearing exists on the record, or was ever on file, and (c) all of Petitioner's requests for home exclusion and support were styled under Title 4 and unsupported by any pleaded conservatorship claim. The court cannot "proceed further on the merits" without first resolving these fundamental defects. Because these jurisdictional defects are purely legal, a full evidentiary hearing is unnecessary – the Court should rule as a matter of law that it never had authority to enter any of the challenged orders, vacate them accordingly, and allow the status quo to reset. Additionally, the March 14, 2024, orders are a mere extension of the initial orders, which claim consent where consent is not present. These orders must be vacated as a matter of law as this court has no power to rule on void orders.

Respondent puts the court on notice that this plea serves as non-appearance notice in that he will not participate in any further proceedings until these issues are resolved in writing on the record, and will challenge any orders or decisions made prior to the resolution of these issues.

VII. PRAYER

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

1. Rule, as a matter of law, that the January 16, 2024, exclusion and custody order and all subsequent temporary orders are **void ab initio** for lack of subject-matter jurisdiction;

2. Vacate and rescind those orders, and dismiss with prejudice any custody, possession, or support claims that rest on them; alternatively, dismiss all SAPCR claims for want of proper pleadings, notice, and jurisdiction;

3. Issue a written ruling on this plea as required by law, and stay all further proceedings in this case pending resolution of this jurisdictional challenge; and

4. Grant such other and further relief, at law or in equity, to which Respondent may be justly entitled.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
[redacted]
817-546-3693
Chuckdustin12@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Plea and Motion has been served on counsel for Petitioner on this 24th day of April 2025.

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
Pro-se respondent

CERTIFICATE OF SERVICE

Relator certifies that on April 25, 2025, a true and correct copy of the foregoing motion to recuse was served on all parties and counsel of record as follows:

PETITIONER
Morgan Michelle Myers
Real Party in Interest
MORGANMW02@GMAIL.COM

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M.1860

No. 02-25-00166-CV
EN BANC

04-21-2025

M.1860

M.1861

No. 02-25-00166-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 322nd Judicial District Court, Tarrant County

Cause Number 322-744263-23

Hon. Jeff Kaitcer Presiding

MOTION FOR EN BANC RECONSIDERATION

Respectfully submitted by:

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

M.1861

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Rehearing Issue No. 1:

According to the Texas Supreme Court, a trial court cannot render a valid consent judgment when a party's consent is absent at the time of rendition. The panel erred in issuing a *per curiam* denial that left undisturbed a facially invalid judgment.

Rehearing Issue No. 2:

According to the Texas Supreme Court, a judgment is void when the court rendering judgment has no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the judgment, or no capacity to act. The panel erred in issuing a *per curiam* denial that upheld a judgement in which the trial court had no capacity to act on.

FOREWORD

"The Dragon in Triplicate"

Relator CHARLES DUSTIN MYERS respectfully presents this motion for *en banc* reconsideration as the first in a trilogy of mandamus petitions, each receiving the same summary denial from the initial panel, which has given rise to what Relator calls "*A Dragon in Triplicate"*.

But the *Dragon* is not the lower courts themselves nor the panel. The *Dragon* is the Real Party— whose procedural misrepresentations, tactical silence, and evasions of judicial review have spawned a procedural hydra. One flawed order gave rise to the next, and then another, until due process itself was obscured beneath the scales.

The result is a tripartite error: a void order, a refusal to rule, and a consolidation entered without notice or consent — each reinforcing the next. Relief cannot be meaningfully granted unless each of these errors is severed in the correct sequence.

Although Rule 52.8(d) of the Texas Rules of Appellate Procedure does not require an opinion be issued when denying relief, the panel's *per curiam* denial here is irreconcilable with the undisputed facts in the record. Much like a hydra depicted in Greek mythology, this court can cauterize each individual head of this *Dragon* by imputing targeted relief lest each head regenerate unchecked.

TO THE HONORABLE SECOND COURT OF APPEALS:

Relator CHARLES DUSTIN MYERS respectfully moves this Honorable Court for *en banc* reconsideration of the panel decisions rendered in three separate but interwoven mandamus proceedings to be presented for reconsideration in the following order:

i. Cause No. 02-25-00166-CV (denied April 14, 2025) (“Void Order”)
ii. Cause No. 02-25-00171-CV (denied April 17, 2025) (“Consolidation”)
iii. Cause No. 02-25-00164-CV (denied April 11, 2025) (“SAPCR/TRO”)

This motion serves as the first filed reconsideration and addresses the panel’s denial of Cause No. 02-25-00166-CV (attached as Tab 1), referred to as the **“Void Order Mandamus”**.

SUMMARY OF ARGUMENT

Relator begins by demonstrating that this matter satisfies the standards for en banc reconsideration due to its extraordinary procedural posture, the interdependence of three concurrently pending motions, and the unique opportunity it presents for the Court to act as a unified body. The instant petition, as the first filed, serves as the natural point of entry for full court review.

The panel’s *per curiam* denial is irreconcilable with the undisputed facts and procedural defects clearly reflected in the mandamus record. Resolution of this petition offers the Court an opportunity to simultaneously uphold Texas precedent across three distinct areas of family law: (1) void judgments, (2) procedural due

process, and (3) case consolidation. The totality of circumstances further invites consideration of broader legal doctrines and frameworks.

Here, the question is whether the March 14, 2024, temporary orders are void or merely voidable. Relator contends that the face of the mandamus record conclusively demonstrates that the March 14, 2024, orders are *void ab initio*. As such, they are subject to collateral attack. These orders currently operate to deprive Relator of core constitutional and property rights, including access to his home, the ability to maintain and operate his business, and his conservatorship and possession rights over his minor children. Vacatur is necessary to eliminate these unlawful barriers to relief and to restore the status quo ante, pending adjudication of the subsequent *en banc* motions to be presented.

ARGUMENT AND AUTHORITY

I. Although disfavored in routine matters, en banc reconsideration is appropriate where the legal standard is met, as it is here.

En banc reconsideration is reserved for the rare case that satisfies one or both of the "hard-to-satisfy requirements" set forth in Texas Rule of Appellate Procedure 41.2(c): ensuring uniformity in the court's decisions or addressing extraordinary circumstances. The Texas Supreme Court has endorsed this narrow standard, cautioning against overuse to preserve judicial efficiency and ensure that "the appellate trains... run on time." See *In re Marriage of Harrison*, 507 S.W.3d 259, 260–61 (Tex. App.—[14th Dist.] 2016) (Frost, J., dissenting).

This is precisely the kind of novel case that warrants *en banc* reconsideration, where the panel's decision represents a fundamental oversight resulting in a departure from settled Texas law—made more urgent by the fact that the emergency relief sought was on behalf of two minor children and remains unopposed by any party at the time of filing this motion.

Finally, this may be the first time in American legal history that three *en banc* reconsideration motions—each arising from separate appellate causes within a single-family law controversy—have been presented simultaneously. This posture affords the Court a singular opportunity to ensure uniformity in its rulings, reinforce established precedent, and restore confidence in the fair administration of justice.

II. The panel's *per curiam* denial conflicts with controlling authority and overlooks critical facts established in the mandamus record.

Relator contends that the temporary orders signed on March 14, 2024, are facially invalid, violated the Relator's due process rights, and were rendered by the trial court when it had no capacity to act. If true, Texas precedent would declare the orders *void ab initio,* a legal nullity from the very beginning. First, we address whether the orders are invalid by examining the Temporary Orders signed on March 14, 2024, by the trial court.

A. The temporary orders are facially invalid for want of consent.

In *Burnaman v. Heaton*, the Texas Supreme Court held that "[w]hen a trial court has knowledge that one of the parties to a suit does not consent to a judgment, agreed to by his attorney, the trial court should refuse to give the agreement the sanction of the court so as to make it the judgment of the court. *Id.* 240 S.W.2d 288, 150 Tex. 333. Here, the orders in question (APP 1) reveal a departure from this precedent.

On Page 1 of the orders, they expressly state that the consent of all parties has been given as evidenced by the signatures below. (APP 1.1). However, on page 38 of the orders, the signatures of Relator and his prior counsel are missing. (APP 1.38) under *Burnaman*, "[a] valid consent judgment cannot be rendered by a court when consent of one of the parties thereto is wanting." The Relator's missing signature is a prima facie showing that the temporary orders are, at the very least, invalid for want of consent.

Compounding this issue is the fact that the orders were based on a February 1 Associate Judge's Report where the consent of the parties was memorialized by their signatures. However, even still - it is not sufficient to support the judgment that a party's consent thereto 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*. The record conclusively demonstrates that consent was not present at the time of rendition. Supported by the case docket (MR 1), a cursory glance

reveals that the only appearance made by the Real Party came on January 16, 2024. In fact, the March 14 setting was set to hear Relator's EMERGENCY MOTION TO VACATE evidenced by the NOTICE OF HEARING served on the parties (MR 1.3 – #74) and the order denying the motion itself. (MR 16.1) Therefore, the orders are at the very least invalid.

However, this defect doesn't necessarily render the orders *void ab initio,* but instead *voidable* so long as the orders didn't violate the Relator's due process rights. The question is whether the trial court had the capacity to act. The Relator contends that it did not.

B. The temporary orders issued on March 14, 2024, are void ab initio because the trial court had no capacity to act when it rendered the orders, subjecting them to collateral attack before this court.

In *PNS Stores, Inc. v. Rivera* 379 S.W.3d 267, 271–73 (Tex. 2012) the Texas Supreme Court discussed clarifying principles concerning important distinctions between void and voidable judgments and direct and collateral attacks. It is well settled that a litigant may attack a void judgment directly or collaterally, but a voidable judgment may only be attacked directly. *Id.* (citing *Hagen v. Hagen,* 282 S.W.3d 899, 902 (Tex. 2009); *Ramsey v. Ramsey,* 19 S.W.3d 548, 552 (Tex. App.—Austin2000, no pet.). A collateral attack seeks to avoid the binding effect of a judgment in order to obtain specific relief that the judgment currently impedes. *Id.* (citing *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex. 2005)). Here, the Relator

seeks relief from the judgement entered by the trial court which has impeded his right to property, limited access to his minor children, and prevented him from conducting his normal business operations. Therefore, the orders must in fact be *void* in order for them to be collaterally attacked here.

The Court reaffirmed that orders are void when "the court rendering judgment had no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act." *Travelers Ins. Co. v. Joachim*, 315 S.W.3d 860, 863 (Tex. 2010) (quoting *Browning*, 165S.W.3d at 346). In the instant matter, the Relator contends the court had no capacity to act.

The mandamus record conclusively establishes that:

1. The orders were required to be prepared by DAN BACALIS within 20 days from the signing of the February 1st, 2024, Associate Judge's Report. (MR 8.5)
2. If no agreement was reached, a motion to sign *shall* be filed within 30 days from February 1st, 2024. (MR 8.5)
3. The Temporary orders were prepared by COOPER L. CARTER.
4. An agreement was not reached. (APP 1.38)
5. No motion to sign can be found on the case docket. (MR 1-1.3)

Despite clear procedural and jurisdictional defects, the same judge who issued the March 14, 2024, orders disregarded his own directives and ordered Relator to sign orders to which he had never consented. (MR 16.1). The orders further misrepresent that a hearing on a motion for temporary orders occurred on February 1, 2024—yet there is no evidence such a motion was ever served on Relator, and the trial court's docket does not comport with this statement .

These are not technical deficiencies. They strike at the core of due process and judicial integrity. A judgment rendered without service, without hearing, and without consent is void—not voidable—and may be challenged at any time. In re E.R., __ S.W.3d __, __ (Tex. 2012). These orders must be declared *void ab initio* and set aside accordingly. This Court need not resolve all three mandamus proceedings at once—but must begin with this one, the origin point of the procedural unraveling below

CONCLUSION AND PRAYER

With this prima facie showing of a void judgment and a corresponding abuse of discretion, the panel's denial—issued without written explanation—raises serious concerns about uniformity, precedent, and due process. This Court now sits in a position to correct the record and prevent further harm by granting the relief requested.

Relator further advises the Court that the two remaining en banc reconsideration motions will be filed on or before April 23, 2025. If this Court continues to deny relief without substantive explanation while both trial courts and the Real Party remain silent, Relator will have no choice but to pursue additional litigation to vindicate his rights and preserve the rule of law.

Relator respectfully prays that this Court grant the instant motion for en banc reconsideration, issue writ relief vacating the March 14, 2024, temporary orders, and stay all further trial court proceedings related to those orders pending resolution of the forthcoming motions—so that Relator's fundamental rights may be promptly restored and the appellate process given meaningful effect. Relator has been barred from his residence, prevented from performing his normal business occupation, and has had the custody, care, and control over his minor children limited for 410 days without a single response from the opposing side.

The Dragon in Triplicate—each addressing a distinct but compounding judicial failure – presents a rare opportunity for this Honorable Court. Only by addressing this first head as an entry point can the Court begin to remedy the procedural and constitutional breakdown that has taken root below. Relator prays for any further relief entitled to him by law.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS (pro-se Relator)
[redacted]
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CERTIFICATE OF COMPLIANCE

I certify that the number of words in this motion (excluding any caption, identity of parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, issues presented, signature, proof of service, certificate of conference and certificate of compliance) is **2,016**.

CERTIFICATE OF SERVICE

Relator certifies that on April 21, 2025, a true and correct copy of the foregoing Motion for En Banc Reconsideration was served on all parties and counsel of record as follows:

Respondent
Hon. Jeff Kaitcer
Associate Judge, 322nd District Court
Tarrant County Family Law Center
200 E. Weatherford St. 4th Floor Fort Worth, TX 76196
817-884-1888
Via electronic submission to the court coordinator
Via email: LKBaker@tarrantcountytx.gov

Real Party In Interest
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In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth

No. 02-25-00166-CV

IN RE CHARLES DUSTIN MYERS, Relator

Original Proceeding
322nd District Court of Tarrant County, Texas
Trial Court No. 322-744263-23

Before Bassel, Kerr, and Wallach, JJ.
Per Curiam Memorandum Opinion

M.1877

MEMORANDUM OPINION

The court has considered relator's petition for writ of mandamus and emergency motion to stay proceedings and is of the opinion that relief should be denied. Accordingly, relator's petition for writ of mandamus and emergency motion to stay proceedings are denied.

Per Curiam

Delivered: April 15, 2025

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Case Contacts

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