

# NOTICE OF TRIAL SETTING

## CAUSE NUMBER: 322-744263-23

FILED  
TARRANT COUNTY  
4/23/2025 12:50 PM  
THOMAS A. WILDER  
DISTRICT CLERK

IN THE MATTER OF  
THE MARRIAGE OF

MORGAN MYERS  
AND  
CHARLES MYERS

AND IN THE INTEREST OF

M [REDACTED] M [REDACTED] AND C [REDACTED]  
M [REDACTED]  
CHILDREN

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IN THE DISTRICT COURT

322ND JUDICIAL DISTRICT

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](http://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](mailto: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 22<sup>nd</sup> day of April, 2025

  
JUDGE PRESIDING

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**02-25-00164-CV**

**EMER. MOTION  
FOR  
DECLARATORY  
RELIEF**

**04.10.25**

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

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IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

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

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EMERGENCY MOTION FOR  
DECLARATORY RELIEF

---

Respectfully submitted by:

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

  
Pro-se Relator

**TO THE HONORABLE JUSTICES OF THE SECOND COURT OF APPEALS:**

Petitioner, Charles Dustin Myers, files this Emergency Motion for Temporary Declaratory Relief and respectfully shows the Court the following:

**I. INTRODUCTION**

This is an extraordinary case requiring extraordinary relief. For over a year, Relator has been barred from his residence and separated from his children based on court orders that are unquestionably void ab initio. These orders explicitly state that Relator agreed to their terms, yet they do not bear his signature—a fatal defect that renders them legal nullities from inception.

The Texas Supreme Court has consistently held that orders lacking required consent are void and unenforceable. Relator continues to suffer ongoing harm due to the existence of these void orders. The case has remained inactive due to non-prosecution by opposing counsel, Cooper L. Carter, while Relator's children lack access to both parents, and Relator remains unable to work due to this untenable situation.

This Court has the authority and duty to declare these orders *void ab initio* by providing immediate declaratory relief to prevent further irreparable harm to Relator and his children.

**II. BACKGROUND**

This case presents an extraordinary situation of ongoing harm that demands immediate judicial intervention. For more than a year, Relator Charles Dustin Myers has been wrongfully barred from his own residence and home, separated from his children, and placed in an impossible financial situation, all while the underlying case has languished without progress due to systematic non-prosecution by opposing counsel. In fact, the last action taken by the opposing counsel in the divorce matter was on April 24, 2024, nearly one year ago.

**A. Prolonged Exclusion from Home and Family**

In March 2024, Petitioner was abruptly removed from his residence at [REDACTED] through an illegal lockout by the real party in interest. With an upcoming hearing scheduled for March 14, 2024, Relator stayed with a relative temporarily with the expectation to prevail at the hearing.

However, when he made his appearance, the Relator was served with the orders that have been wreaking havoc on the lives of the children without notice, and they were rendered as a consent judgement despite Respondent not consenting to the terms of the order. **APP 2.38**

Given Relator's need for the residence to sustain his business operations, he has been forced to live in alternative housing arrangements, has suffered extensive business losses **MR 9.7**, and most critically: the children's status quo have been upended and have neither parent in their day-to-day lives.

This situation has created an untenable financial burden that has severely impacted Relator's ability to maintain stable employment and provide for himself and his children, and the Relator has fought relentlessly without any participation from the opposing side seeking relief without any opposition from the opposing side regarding the claims raised. All this information was pointed out in the emergency TRO that the 233<sup>rd</sup> refused to hear on March 28<sup>th</sup>, 2025. **MR 7.1**. There remains no substantive response from the opposing party, who has been notified of this motion, the claims for relief made, the allegations made, and their continued silence has prejudiced the Relator for the last 11 months.

#### **B. Prior Mandamus Filings and Lack of Case Progression**

On April 8<sup>th</sup>, 2024, Relator filed a Petition for Writ of Mandamus with this court seeking emergency relief from the same orders. Unfortunately, at that time, the Relator's mandamus was fatally deficient and a mandamus record was never filed. He sought judicial intervention to

address the fundamental violations of his due process rights and parental rights. Despite these good faith efforts to seek relief through proper legal channels, these mandamus actions did not result in any meaningful resolution or progress in the underlying case due to the defects in the pleadings.

Since April 2024, the underlying case has remained effectively dormant. There has been no action by the opposing party, and there was no effort to prosecute as Relator sought relief in the second court of appeals in 2024. *See* [02-24-00149-CV](#); *see also* [24-0395](#).

The opposing party has been challenged under Rule 12 in both instances, and had it not been for the original SAPCR filed on March 19, 2025, by the Relator, there was no indication that the opposing party would have ever continued moving the case towards final resolution. **MR 6.4.**

Notably, the Petition for Writ of Mandamus filed under cause number 02-24-00149-CV was denied exactly a year ago today, and now Relator returns before this court today hoping this court can see there truly is no adequate remedy by an appeal, and mandamus and this motion for relief should issue given no substantive action has occurred outside of the Relator's pursuit of relief since then.

### **C. Non-Prosecution by Opposing Counsel**

At the heart of this extraordinary situation is the systematic non-prosecution of this case by Respondent's attorney, COOPER L. CARTER. For over a year, CARTER has effectively abandoned the divorce matter only to show up in the SAPCR to prevent immediate relief from being obtained by the Relator. The original answer from the real party in interest filed in the SAPCR was the first pleading filed since April 24<sup>th</sup>, 2024, by the opposing side. **MR 3.1**



Most recently, this pattern of obstruction was demonstrated when the Associate Judge of the 233rd District Court refused to hear Petitioner's properly filed Emergency Motion for Temporary Restraining Order based solely on CARTER's verbal claim about a future filing in another court—a filing that had not yet occurred and would not occur until several days later and was the improper motion. *MR 4, SUPP 2.18*. Further, all this action happened with a pending Dismissal for Want of Prosecution filed and served to the opposing party on January 24, 2025, which remains unanswered. *SUPP 3.2*

### **III. ARGUMENT AND AUTHORITIES**

#### **A. Standard for Emergency Declaratory Relief**

Declaratory relief is a judicial remedy that allows parties to seek a court's determination of their rights, status, and legal relations without requiring further relief. This court can issue such relief pursuant to the Uniform Declaratory Judgment Act. The Act is a **remedial statute designed “to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations.”** Tex. Civ. Prac. & Rem. Code § 37.002(b). It provides: “A person . . . whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the . . . statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.” Id. § 37.004(a).

Here, Relator and his children have suffered ongoing irreparable harm from facially void orders which have prevented Relator from operating the at-home business that his family has relied on and have destroyed the status quo. Prior to these orders, the children enjoyed continuous and frequent access to both parents. Now, they are left in the daily care of relatives, have been deprived of daily interactions with their father, and are being led to believe the divorce

is final when it hasn't even started yet. **APP 1.2** Under these orders, the case has effectively stalled and has turned into a one-sided pursuit of relief by the Relator to dispose of these order which claim consent where it was not provided.

### **B. Consent Judgements Rendered Without True Consent**

Under Texas law, a judgment or order is void *ab initio* when it is apparent that 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." *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex. 2005). Critically, orders that purport to be based on a party's consent, but lack that party's actual consent, are *void ab initio*. This principle is firmly established in Texas jurisprudence.

In the landmark case of *Burnaman v. Heaton*, 240 S.W.2d 288 (Tex. 1951), the Texas Supreme Court established the fundamental principle that "a valid consent judgment cannot be rendered by a court when consent of one of the parties thereto is wanting." *Id.* The Court further declared that "without such consent the judgment is void." *Id.* at 291.

The Burnaman Court emphasized that consent must exist "at the very moment the court undertakes to make the agreement the judgment of the court." *Id.* It is not sufficient that a party's consent may have been given at some prior time; the consent must be present when the judgment is rendered. The Court held that when a trial court has knowledge that one of the parties does not consent to a judgment purportedly agreed to by their attorney, "the trial court should refuse to give the agreement the sanction of the court." *Id.*

In the present case, the orders at issue explicitly state that Relator agreed to their terms, yet they lack his signature—the most basic and fundamental evidence of consent. **APP 2.1, APP 2.38** This is not merely a technical defect but goes to the very heart of the court's authority to

issue the orders. Without Relator's actual consent, as evidenced by the missing signatures, the orders are void ab initio and have no legal effect.

### **C. The Court Has Authority to Declare Orders Void Ab Initio**

A void judgment can be collaterally attacked at any time. *In re E.R.*, 385 S.W.3d 552, — (Tex.2012). A collateral attack seeks to avoid the binding effect of a judgment to obtain specific relief that the judgment currently impedes. *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex.2005). Here, because the orders are facially void under the *Burman* precedent, they can be attacked collaterally. The binding effect the Relator seeks to eliminate is the inability to access his home, personal belongings, children, and his normal place of business that has been persisting for over a year.

It has also been held that "It is not necessary to take any steps to have a void judgment reversed, vacated, or set aside, it may be impeached in any action direct or, collateral." *Holder v. Scott*, 396 S.W.2d 906, (Tex.Civ.App., Texarkana, 1965, writ ref., n.r.e.). A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. "It is clear and well-established law that a void order can be challenged in any court", *Old Wayne Mutual Life Association v. McDonough*, 204 U.S. 8 (1907), 204 U. S. 8, 27 S. Ct. 236 (1907). Therefore, because the orders in question expressly claim consent where none was given, this court can and should declare them void, which would restore the rights of the parties pending any further action in the trial courts.

### **IV. CONCLUSION AND PRAYER**

This Court stands as the last bulwark against a cascade of injustices that have persisted unabated for over a year. What began as a family dispute has devolved into a prolonged, unconscionable deprivation of Relator's constitutional rights—his right to parent his children, his

right to reside in his own home, and his right to operate the business that sustains them. The orders in question were entered without consent, without hearing, and without legal authority, rendering them void ab initio under firmly established Texas and federal law. *Burnaman v. Heaton, Browning v. Prostok*, and *In re E.R.* compel the conclusion that these orders must be set aside.

Meanwhile, the opposing counsel has functionally abandoned this litigation, reappearing only to obstruct emergency relief and to further delay resolution—despite having been formally challenged under Rule 12. All while the Relator has remained the sole advancing party, unopposed, with no adequate remedy by appeal. The lack of participation from the Real Party in Interest only sharpens the urgency: justice delayed here has become justice denied, not just for the Relator, but for the children at the center of this matter who have been stripped of stability, routine, and meaningful access to both parents.

This Court has authority to intervene here. The Relator now invokes that authority, not for delay or advantage, but for protection of his rights, restoration of lawful process, and an end to the harm that has now metastasized through judicial inaction.

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

1. **Grant this Emergency Motion for Relief**, and immediately **declare the subject orders void ab initio** for lack of actual consent;
2. Grant the concurrent mandamus in Relator's favor, ordering the Respondent Judge to hold a hearing on the Emergency TRO it refused to hear on March 28, 2025 so that proper orders may be issued that suit the best interests of the children;

3. **Award such other and further relief, at law or in equity**, to which the Relator may be justly entitled pending a decision on the mandamus petition.

Respectfully submitted,

*/s/ Charles Dustin Myers*

**CHARLES DUSTIN MYERS**

[REDACTED]

**817-546-3693**

**[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)**

**PRO-SE RELATOR**

**Certificate of Compliance**

As required by Texas Rule of Appellate Procedure 52.10(a), I certify that I have notified or made a diligent effort to notify all parties by expedited means, specifically via email and via **MR 9** that this motion for temporary relief has been or will be filed.

Signed this 10<sup>th</sup> Day of April 2025.

*/s/ Charles Dustin Myers*

**CHARLES DUSTIN MYERS**

[REDACTED]

**817-546-3693**

**[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)**

**PRO-SE RELATOR**

**Certificate of Word Count (TRAP 9.4(i)(3))**

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), Relator certifies that this document contains **2098 words**.

**CERTIFICATE OF SERVICE**

Relator certifies that on April 10, 2025, a true and correct copy of the foregoing Emergency Motion for Declaratory Relief was served on all parties and counsel of record as follows:

***Respondent***

**Hon. Kate Stone J.D.**

Associate Judge, 233rd District Court

Tarrant County Family Law Center

200 E. Weatherford St.

Fort Worth, TX 76196

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)

***Real Party in Interest***

Morgan Michelle Myers

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***Counsel for Real Party in Interest***

**Cooper L. Carter**

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Fort Worth, TX 76116

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/s/ Charles Dustin Myers

Charles Dustin Myers

PRO-SE RELATOR

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RELATOR'S APPENDIX - VERIFIED  
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CHARLES MYERS		CHUCKDUSTIN12@GMAIL.COM	4/10/2025 2:37:09 PM	SENT



**322-744623-23**

**MOTION TO  
RECUSE -**

**04.25.25**



# IN THE 322<sup>ND</sup> DISTRICT COURT OF TARRANT COUNTY

In the 322<sup>nd</sup> Judicial District Court, Tarrant County

Cause No. 322-744263-23

Hon. James Munford Presiding

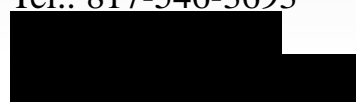
IN THE MATTER OF THE MARRIAGE OF MORGAN MICHELLE MYERS  
AND CHARLES DUSTIN MYERS

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



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**TO THE HONORABLE DAVID L. EVANS OF THE 8<sup>TH</sup> 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 date 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 233<sup>rd</sup> 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,

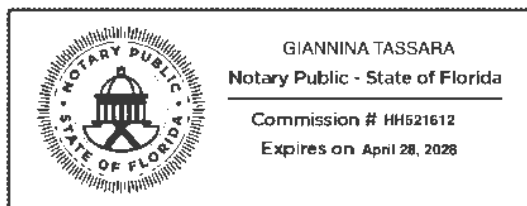
*/s/ Charles Dustin Myers*

/s/ Charles Dustin Myers

**/s/ Charles Dustin Myers**

**CHUCKDUSTIN12@GMAIL.COM**

**817-546-3693**



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*

Giannina Tassara

\_\_\_ Personally Known OR \_\_\_ ~~Reduced~~ Identification

Type of Identification 2 Produced DRIVER LICENSE

A

## CAUSE NUMBER: 322-744263-23

FILED  
TARRANT COUNTY  
4/23/2025 12:50 PM  
THOMAS A. WILDER  
DISTRICT CLERK

IN THE MATTER OF  
THE MARRIAGE OF

MORGAN MYERS  
AND  
CHARLES MYERS

AND IN THE INTEREST OF

M [REDACTED] M [REDACTED] AND C [REDACTED]  
M [REDACTED]  
CHILDREN

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IN THE DISTRICT COURT

322ND JUDICIAL DISTRICT

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.

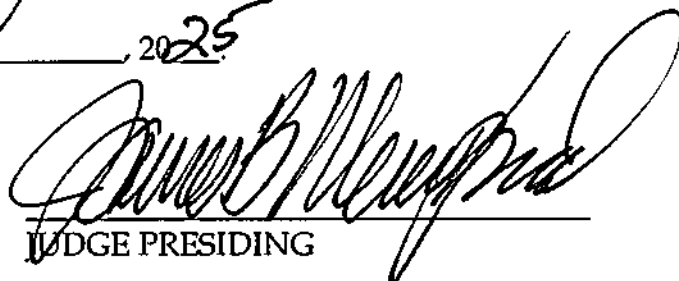
The Court proceeding is set on the 29 day of April, 2025 at  
9:00 o'clock a.M.

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](http://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](mailto: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 22<sup>nd</sup> day of April, 2025

  
JUDGE PRESIDING

**Automated Certificate of eService**

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

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Status as of 4/23/2025 3:52 PM CST

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



B

322-744263-23

FILED  
TARRANT COUNTY  
3/26/2024 3:19 PM  
THOMAS A. WILDER  
DISTRICT CLERK

**CAUSE NO. 322-744263-23**

**IN THE MATTER OF  
THE MARRIAGE OF**

**MORGAN MYERS  
AND  
CHARLES MYERS**

**AND IN THE INTEREST OF  
MARA MYERS AND CAROLINE  
MYERS, CHILDREN**

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**IN THE DISTRICT COURT**

**322ND JUDICIAL DISTRICT**

**TARRANT COUNTY, TEXAS**

**TEMPORARY ORDERS**

*LJC*  
On February 8, 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

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] [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] [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

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

By: 

Cooper I. 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

**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

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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

C

CAUSE NO.322-744263-23


IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
MORGAN MICHELLE MYERS	§	
AND	§	
CHARLES DUSTIN MYERS	§	322 <sup>ND</sup> 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 7<sup>th</sup> 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 7<sup>th</sup> 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

D



**From:** Charlie Vids [mailto:[chuckdustin12@gmail.com](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](mailto:Chuckdustin12@gmail.com)



Charlie Vids <chuckdustin12@gmail.com>

---

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

1 message

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**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" <TBAAllison@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



THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL AND PROTECTED FROM DISCLOSURE BY LAW. THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION OR COPYING IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT) AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA E-MAIL. THANK YOU.



7:59

N 17%



Morgan Myers



Last seen Nov 11 at 09:34 PM



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



Message Morgan Myers





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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

E



FUDSTOP &lt;chuckdustin12@gmail.com&gt;

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

9 messages

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**FUDSTOP** <chuckdustin12@gmail.com>

Fri, Mar 14, 2025 at 4:47 PM

To: "Lindsey K. Baker" &lt;LKBaker@tarrantcountytx.gov&gt;, Cooper Carter &lt;coopercarter@majadmin.com&gt;

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 &lt;chuckdustin12@gmail.com&gt;, Cooper Carter &lt;coopercarter@majadmin.com&gt;

Cc: "chuckdustin12@gmail.com" &lt;chuckdustin12@gmail.com&gt;

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*

322<sup>nd</sup> Court Coordinator

Tarrant County Family Law Center

200 E. Weatherford, 4<sup>th</sup> floor

Fort Worth, Texas 76196

Phone: (817) 884-1597

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**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]

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**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): Respondent 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]

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**Lindsey K. Baker** <LKBaker@tarrantcountytx.gov>  
To: FUDSTOP <chuckdustin12@gmail.com>  
Cc: Cooper Carter <coopercarter@majadmin.com>

Mon, Mar 17, 2025 at 12:01 PM

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 322<sup>nd</sup> District Court and Associate Court hears ALL matters in person and not by submission.

Thank you,

[Quoted text hidden]

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**FUDSTOP** <chuckdustin12@gmail.com>  
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>

Mon, Mar 17, 2025 at 3:53 PM

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]

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**Lindsey K. Baker** <LKBaker@tarrantcountytx.gov>  
To: FUDSTOP <chuckdustin12@gmail.com>

Mon, Mar 17, 2025 at 4:22 PM

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

[Quoted text hidden]

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**FUDSTOP** <chuckdustin12@gmail.com>  
To: "Lindsey K. Baker" <LKBaker@tarrantcountytx.gov>

Mon, Mar 17, 2025 at 4:22 PM

Thank you very much.

I hope you have a good evening.

Respectfully,

[Quoted text hidden]

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**Lindsey K. Baker** <LKBaker@tarrantcountytx.gov>  
To: FUDSTOP <chuckdustin12@gmail.com>

Mon, Mar 17, 2025 at 4:24 PM

You do the same.

[Quoted text hidden]

---

**Lindsey K. Baker** <LKBaker@tarrantcountytx.gov>  
To: FUDSTOP <chuckdustin12@gmail.com>, Cooper Carter <coopercarter@majadmin.com>

Wed, Mar 19, 2025 at 3:19 PM

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

Thank you.

[Quoted text hidden]



**Order Terminating Assignment.pdf**

330K

F

## 322ND FAMILY DISTRICT COURT

~~ASSOCIATE JUDGES REPORT~~ *Rendition*

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

CAUSE NUMBER: 322 - 744538-23322 - 744263-23

ITMOTMO/INRE

Morgan M. MyersvsCharles 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 9:00 am. 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. Muntz322nd ~~Clerk~~ Judge1-16-2024

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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

G

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  
AND  
CHARLES MYERS

§  
§  
§

IN THE DISTRICT COURT  
TARRANT COUNTY, TEXAS  
322<sup>ND</sup> 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 parties and failing to agree by the (☒Mother (☐Father (☐Other. The term "invasive" means elective surgical decisions.

The right to receive child support shall be by the (☒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.

☒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:\_\_\_\_\_

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

4. **Temporary Child Support:**

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



Medical Insurance on Child Provided by:

( )Mother ( )Father

Insurance Cost Paid by:

( )Mother ~~( )~~ Father

Uncovered Medical, Dental &amp; Vision Costs:

~~( )~~ Equally ( )Mother to apply for  
Medicaid

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 MAZDA3, his personal prop.

&amp; clothing 2023 MAZDA CX-8 (LEASED)

RESPONDENT to vacate home at 6641 ANNE COURT  
WATAUGA by MARCH 1, 2024Wife: 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 home\$RD for FEBRUARY  
& MARCH 2024

Wife: Her living expenses: her auto INSURANCE, her  
telephone payment. LEASE payment on home\$RD  
AFTER March 30, 2024

## 9. Temporary Injunctions:

☒ Mutual Temporary Injunctions as to Persons pursuant to the Texas Family Practice Manual.

☒ Mutual Temporary Injunctions as to Property pursuant to the Texas Family Practice Manual.

THE PARTIES TO COMMUNICATE THROUGHT APP CASE

## 10. MISCELLANEOUS:

☒ 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.

☒ 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.

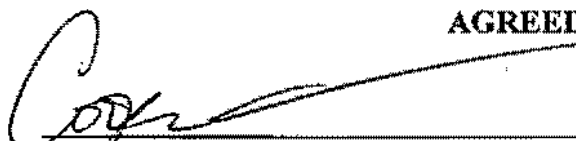
The parties are not to discuss the litigation or issues with the child(ren). This paragraph presumes the child(ren) is old enough to communicate with a party. The aforementioned sentence means that neither party shall discuss what occurred in Court including the testimony of any witness or witnesses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

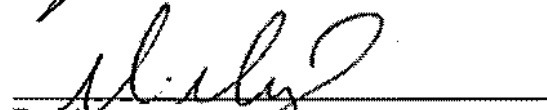
A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by DAN BACALIS.


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:

  
322<sup>ND</sup> Associate Judge

Date: FEBRUARY 1, 2024

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Envelope ID: 84305097  
Filing Code Description: No Fee Documents  
Filing Description: AGD AJ REP  
Status as of 2/8/2024 3:12 PM CST

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
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CHARLES MYERS		chuckdustin12@gmail.com	2/8/2024 2:29:20 PM	SENT

H

NO. 322-744263-23

IN THE 322<sup>nd</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN THE INTEREST OF <i>M.E.M., C.R.M., two children</i> <b>MORGAN MICHELLE MYERS</b>	
Petitioner,	
<b>CHARLES DUSTIN MYERS,</b>	Plea to the Jurisdiction
Respondent.	
2025-04-24	

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 14<sup>th</sup> 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](mailto: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

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**No. 02-25-00166-CV**  
**EN BANC**

**04-21-2025**

No. 02-25-00166-CV  
IN THE  
SECOND JUDICIAL DISTRICT COURT OF APPEALS  
AT FORT WORTH, TEXAS

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IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

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On Petition for Writ of Mandamus  
to the 322<sup>nd</sup> 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  
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**ISSUES PRESENTED FOR RECONSIDERATION****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.—Austin 2000, 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 1<sup>st</sup>, 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 1<sup>st</sup>, 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)

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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@tarrantcountytexas.gov](mailto:LKBaker@tarrantcountytexas.gov)

**Real Party In Interest**

Morgan Michelle Myers

Real Party in Interest

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**COUNSEL FOR REAL PARTY IN  
INTEREST****Cooper L. Carter**

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A



**In the  
Court of Appeals  
Second Appellate District of Texas  
at Fort Worth**

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No. 02-25-00166-CV

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IN RE CHARLES DUSTIN MYERS, Relator

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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

**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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Filing Description: Motion for Rehearing En Banc (First of three)

Status as of 4/21/2025 2:34 PM CST

**Case Contacts**

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**233-765358-25**

**PETITIONER'S  
OBJECTION TO  
CONSOLIDATION**

**03.24.25**

233-765358-25

FILED  
TARRANT COUNTY  
3/24/2025 12:46 PM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 233-765358-25

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

Petitioner,

**MORGAN MICHELLE MYERS,**

Respondent.

PETITIONER'S OBJECTION TO  
CONSOLIDATION

2025-03-24

**INTRODUCTION**

1. Texas law does generally **require consolidation of divorce and custody matters** to avoid conflicting parallel litigation. Under Family Code § 6.407, if a SAPCR involving the child is already pending in one court when a divorce is filed in another court, the SAPCR must be **transferred to the divorce court** so that one judge handles everything. Likewise, if the parents are in the middle of a divorce, any new custody suit typically should be joined into that divorce case instead of proceeding separately. The policy behind this is to have one court speak on all parent-child issues at a time, preventing inconsistent orders. In a normal scenario, if Parent A filed for divorce (including child custody) in Court X, Parent B would **not be allowed to file a separate SAPCR in Court Y** at the same time – the law would mandate that the child's case be heard in the first-filed divorce court.

2. So, generally, an active divorce case would mean any custody claims belong in that lawsuit, not in a new, independent suit elsewhere.

3. However, § 6.407 assumes the initial divorce suit is properly filed and being pursued. Its joinder and transfer rules are meant to coordinate *valid, concurrent* proceedings. It does **not explicitly address** a situation where the original divorce/SAPCR is essentially a sham or has stalled out. In your case, while technically the divorce case exists, it was filed in bad faith and has produced no valid orders or final judgment. This puts it outside the typical scenario § 6.407 contemplates. If the original case is on track to be dismissed or is proven to be jurisdictionally defective, there may soon **be no “pending” case to join into**. Thus, the usual mandatory joinder rule may not pose a long-term barrier, especially if you move to dismiss the old case for lack of prosecution. In short, **ordinarily you must litigate child issues in the divorce suit**, but when that suit is effectively defunct or void, the rationale for mandatory joinder falls away.

## **II. Dominant Jurisdiction and Exceptions for Bad-Faith First Filings**

4. Even when no final order exists, Texas follows a “first in time” rule for parallel cases: the court where a suit is first filed generally has dominant jurisdiction, meaning it has the primary right to proceed, and any later-filed suit involving the same parties and issues should be abated (paused) or dismissed. Applied here, because the divorce case was filed earlier, a new SAPCR in another court would normally face a plea in abatement from the first filer. The second court would typically defer to the first-filed court’s authority over the matter. **But importantly, Texas law also recognizes exceptions** to the first-filed rule in cases of inequitable conduct. If the person who filed the first suit did so *merely to gain an upper hand* (for example, to lock in a preferred venue or harass the other parent) **without any genuine intent to prosecute the case**, that behavior can **estop** (prevent) them from claiming the benefits of dominant jurisdiction.

5. Here, this is precisely what has occurred. COOPER L. CARTER, attorney for Respondent, has not prosecuted the first-filed case in over *eight months*. Her authority remains

in question under rule 12 of the Texas Rules of Civil Procedure, and hasn't filed the mandatory **notice of remand** after federal removal, which occurred back in December of 2024. This procedurally prevents the case from moving forward until this requirement is met, which has not only been pointed out to Ms. Carter, but has been wholly disregarded.

6. Now, Ms. Carter is before this court seeking to consolidate the SAPCR suit filed and captioned above back into the original suit *in which she has not been prosecuting*. Such action would further prejudice the children, and Ms. Carter should have to explain why she has failed to prosecute the main case, but yet can show up here and request consolidation. If Ms. Carter were genuinely looking to uphold the best interests of the children in this case, she wouldn't allow their well-being to hang in the balance within the originally filed case – but she has been – which is why this SAPCR was brought before this court.

7. Further, The Texas Supreme Court in *Curtis v. Gibbs* explained that a first filer's bad faith or fraud can remove the shield of the first-filed rule and allow a later suit to go forward. This also applies here. Ms. Carter's client initiated the divorce action in bad faith, and waived the 60-day waiting period for divorce claiming an active order of protection was in effect against the undersigned. This was elected for the *sole purpose* of gaining an unfair advantage in the divorce proceedings. Once this advantage was gained, she stopped prosecuting the suit.

8. Generally, if *Suit 1* was essentially a placeholder or manipulation (filed “merely to obtain priority, without a bona fide intention to prosecute the suit” and the filer's conduct kept *Suit 2* from being filed sooner, a court can find that *Suit 1* was an inequitable sham. In that event, the second court may **deny the plea in abatement and take the case**, effectively jumping past the first court. *Id.* Here, the facts suggest the prior divorce action was in bad faith and then abandoned – precisely the kind of scenario in which Texas courts allow an exception to the



“first-filed” rule. The Respondent in this matter had no serious intent to pursue the divorce/SAPCR (e.g. they filed to harass or to get temporary orders, then let the case languish), giving this court the discretion to refuse to abate/consolidate this SAPCR. The first court’s **dominant jurisdiction dissolves if the first suit was a null effort**. Therefore, given the circumstances, the opposing counsel should have to explain the reasoning behind her failure to prosecute before consolidation ordered under the assertion that it is “mandatory”.

### **III. Filing a New SAPCR in a Different Court Under These Circumstances**

9. Given the above, **nothing in Texas law absolutely bars the undersigned from filing a new SAPCR** for his children in this court, because the original case truly produced no final orders and is effectively moribund. Texas Family Code § 155.001(d) explicitly provides that if no final order has been rendered in a SAPCR, any *subsequent suit* regarding the child is simply treated as a new original proceeding.

9. That means the undersigned legally permitted to start fresh with a new custody suit because the first case never culminated in a final judgment. Additionally, the Texas Supreme Court has described a subsequent SAPCR in these circumstances as “a **new suit** in which no court has continuing exclusive jurisdiction”. *Curtis v. Gibbs*, 511 S.W.2d 263, 267 (Tex. 1974) (orig. proceeding) - confirming that a pending-but-unresolved prior case does not freeze the undersigned out of seeking relief from this court on behalf of his children.

### **IV. The Old Case Faces Statutory Dismissal for Failure to Prosecute**

10. Interestingly, the first case has already had a motion to dismiss for want of prosecution filed. Unfortunately, due to Ms. Carter’s inability to prosecute the case, it remains in procedural limbo never properly remanded from federal court. So even if the cases were

consolidated, she would have no ability to proceed with the litigation, effectively putting this scenario back in the same spot, which would be prejudicial to the children.

11. Under the *Curtis v. Gibbs* line of cases, the new court has authority to determine if the first filer's conduct was inequitable. The Petitioner in this matter has not received any counter argument or denial regarding the claims of the Respondent's inequitable conduct, only continuous attempts to subvert justice for the children named in this suit.

12. The key point is that **no “continuing, exclusive” jurisdiction binds the undersigned or the children to the old case**, and an **abandoned/invalid suit should not prevent a parent from protecting their child's interests in a new forum**. The law intends for one court at a time to handle a child's case, but it does not reward a party who tried to game the system by filing first and then dropping the ball. The undersigned has proceeded diligently and transparently in the new SAPCR, and Texas law provides a path for him to do so.

#### **IV. CONCLUSION**

13. Because the prior divorce/SAPCR never resulted in a valid final order (and its only interim orders are void), that court **never obtained continuing, exclusive jurisdiction** over the children. *In the INTEREST OF A.F., W.J., A.J., and J.J., Children* No. 02-19-00117-CV. A parent in this situation is generally free to initiate a new SAPCR as an original proceeding in the appropriate court. TEX. FAM. CODE 155.001(b)(2). While Texas law usually tries to funnel all custody matters into one court, it will not force you to remain tethered to a lawsuit that was filed in bad faith and then abandoned. The doctrines of continuing exclusive jurisdiction and mandatory joinder **do not bar a new suit** when the original case is effectively *a nullity*. Here, that is precisely the case, and until these points are rebutted by the opposing party, they prevail.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS



817-546-3693

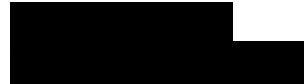
CHUCKDUSTIN12@GMAIL.COM

**CERTIFICATE OF SERVICE**

Petitioner, Charles Dustin Myers, hereby certifies that a true and correct copy of the foregoing PETITIONER'S OBJECTION TO CONSOLIDATION was served on Respondent's counsel of record, Cooper L. Carter, via the via email to cooperlcarter@majadmin.com (email address on file) on this 24th day of March, 2025, in accordance with the Texas Rules of Civil Procedure and to Petitioner, MORGAN MICHELLE MYERS, through the Electronic Filing Manger in accordance with Texas Rules of Civil Procedure 21a to her email address MORGANMW02@GMAIL.COM.

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS



ChuckDustin12@gmail.com

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Pro Se

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MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/25/2025 11:34:47 AM	SENT



**322-744263-23**

**RESPONDENT'S  
PRE-OBJECTION  
TO  
CONSOLIDATION**

**04.01.25**

322-744263-23

FILED  
TARRANT COUNTY  
4/1/2025 12:00 AM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 322-744263-23

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

Petitioner,

**CHARLES DUSTIN MYERS,**

Respondent.

2025-03-31

RESPONDENT'S PRE-OBJECTION TO  
CONSOLIDATION**TO THE HONORABLE JUDGE OF THIS COURT:**

Charles Dustin Myers ("Respondent"), acting **pro se**, files this Objection to the attempted consolidation of the newly filed Suit Affecting Parent-Child Relationship (SAPCR) (Cause No. 233-765358-25) with the above-numbered case, and moves for declaratory relief regarding the existing orders and for dismissal of the dormant divorce action for want of prosecution. In support, Respondent shows the Court the following unopposed facts and demonstrates that consolidation would perpetuate procedural abuses, violate the children's best interests, and deny due process. Respondent further provides legal authority under the Texas Rules of Civil Procedure, Texas Family Code, and controlling case law to support the relief requested. The detriment to the children that has been ongoing cannot continue to be disregarded simply because the Respondent is pro-se. The following facts support this claim:

## I. STATEMENT OF FACTS

### A. Ongoing Harm to the Children

1. The two children of the parties are suffering ongoing and severe harm due to Petitioner's actions. They are being subjected to **psychological manipulation and medical neglect** by Petitioner, Morgan Michelle Myers, resulting in deteriorating mental health and emotional wellbeing. For instance, the children are being *gaslighted* by Petitioner into the false belief that the divorce case has already been finalized, causing confusion and distress. These allegations – including **psychological harm, medical neglect, emotional alienation, and academic decline** – are well-documented in exhibits previously provided to Petitioner's counsel. To date, neither Petitioner nor her counsel has refuted or even responded to these serious charges of ongoing harm to the children.

### B. Children Left in Unsafe Conditions

2. Petitioner has repeatedly left the young children home alone at night without any adult supervision. This creates an obvious and unacceptable safety risk. Respondent has raised this issue, yet Petitioner and her counsel have offered no denial or explanation. At present, the children have been removed from Respondent's daily care and placed with their elderly great-grandparents. This abrupt change in living situation occurred after Respondent – their father – was **unlawfully locked out** of the family home on March 6, 2024. Since that date, Respondent has been prevented from accessing his home and caring for the children, disrupting the only stable parenting they have known.

### C. Unlawful Lockout and Resulting Damages



3. Respondent's exclusion from the home and the children's lives was done under color of "current orders" that Petitioner obtained in the divorce action. Those orders were procured through **facially inconsistent and procedurally improper pleadings**, as detailed further below. Petitioner's unilateral actions have caused Respondent significant harm: he has suffered approximately **\$110,500 in verifiable financial damages** due to the unlawful lockout, loss of use of the residence, and the interruption of his parent-child relationship. This damage continues to accrue as the Respondent remains barred from his home and from normal contact with the children. Opposing counsel and Petitioner have been provided financial records and business earnings showing these damages, yet have provided no response or acknowledgement of these damages.

#### **D. Facially Void and Inconsistent Orders**

4. The "current orders" governing possession of the children were obtained by Petitioner through pleadings and procedures that are facially inconsistent and legally inadequate. On their face, the orders claim consent of all parties yet only bear the signatures of the Petitioner and her Counsel. These orders were entered despite clear consent being absent, which in effect has **dismantled the prior status quo** for the children under the guise of these questionable orders, even though Respondent contends – and will demonstrate – that these orders have *no valid legal effect*. Neither Petitioner nor her counsel has offered any substantive response or justification for the inconsistencies surrounding the creation of these orders, effectively conceding the issue by silence.

#### **E. Children's Best Interests Thwarted**

5. Since obtaining these dubious orders, Petitioner has actively **alienated the children from Respondent** and deprived them of the stable, loving care he consistently provided since birth. The eldest child's academic performance has plummeted, and both children are emotionally estranged from both parents – a direct result of Petitioner's interference with Respondent's access and her neglect of the children's emotional needs. Petitioner's actions have upended the children's **best interests**, which under Texas law should be the paramount consideration in any proceeding involving minors. Respondent has fought tirelessly for over a year to restore stability and to protect the children, but those efforts have been stymied by procedural delays and Petitioner's lack of cooperation.

#### **F. Procedural History and Counsel's Inactivity**

6. The underlying divorce case has languished without prosecution for over a year. Petitioner's attorney of record, **Cooper L. Carter**, effectively abandoned the case after April 24, 2024. On that date, Ms. Carter filed a Motion for Pre-Trial Conference – the *last* action she took in this matter until very recently. In the **eleven months** following that filing, Ms. Carter filed no pleadings, made no court appearances, and utterly failed to advance the case toward trial or resolution. During this period of dormancy, Respondent (pro se) repeatedly sought relief to address the children's situation, yet **Ms. Carter never filed a single objection, response, or argument** to counter Respondent's motions or requests for relief. Serious and well-documented allegations – including child endangerment and de facto custody interference – went completely unanswered by Petitioner and her counsel for over a year.

#### **G. Failure to Engage in Discovery – Deemed Admissions**

7. During the divorce litigation, Respondent properly served Petitioner with written discovery, including Requests for Admissions under Texas Rule of Civil Procedure 198. Petitioner's counsel **failed to respond or object to these Requests for Admissions within the time required by law**, resulting in those matters being deemed **admitted by operation of law**. Thus, critical facts are conclusively established against Petitioner – for example, facts regarding the children's neglect and the lack of a final divorce decree may have been admitted, converting marital assets, and fabricating family violence – further prejudicing Petitioner's position. Despite the grave effect of these deemed admissions (which have been pointed out to Ms. Carter), she made no effort to withdraw or amend them and filed no responses whatsoever, effectively conceding their truth.

#### **H. Rule 11 and Rule 237a Violations**

8. Throughout the litigation, there has been no valid Rule 11 agreement filed that would excuse Petitioner's obligations or justify the prolonged inaction. Any suggestion of an agreed status quo or private arrangement is refuted by the absence of a signed writing or on-record agreement (as required by Tex. R. Civ. P. 11). Moreover, Respondent removed the case to federal court to seek protection of his rights. The case was later remanded to this Court, but **Petitioner's counsel failed to comply with Tex. R. Civ. P. 237a** upon remand. Specifically, counsel did not file the required certified copy of the federal remand order with the clerk and did not provide Respondent with the mandatory written notice of the remand. Ms. Carter's neglect of this basic procedural duty prevents the case from moving forward to a final trial setting and further exemplifies her lack of diligence.

### **I. Challenge to Counsel's Authority (Rule 12)**

9. Given Ms. Carter's persistent non-communication and inaction, and that all pleadings filed in this matter have been on her behalf by a non-party, Respondent filed a motion under Tex. R. Civ. P. 12 challenging whether Ms. Carter truly has authority to represent Petitioner and clear up the ambiguity surrounding her representation. Ms. Carter has not meaningfully corresponded with Respondent at all during the litigation – she is **unreachable by phone or email**, is not properly registered for e-filing notifications on the re:SearchTX platform, and even lacks a current working phone number or email on file with the State Bar of Texas. Such a complete breakdown in participation raises the question of whether Petitioner has been informed or is even aware of the current status of the case given the children are being told the divorce is finalized. Respondent's Rule 12 motion puts Ms. Carter to the burden of proving her authority to act; tellingly, **in the 14 months of litigation Ms. Carter has yet to produce any client authority or engagement**, and she ignored the Rule 12 challenge just as she ignored every other filing. Under these circumstances, Respondent asserts Ms. Carter may no longer be authorized to represent Petitioner's interests – if she ever was – and that her filings should be stricken if she cannot promptly show authority as required by law. Respondent is under no obligation to set any matter for hearing because doing so would waive her obligations to fulfill rule 237a of the Texas Rules of Civil Procedure.

### **J. Sudden Appearance to Block Emergency Relief**

10. After nearly a full year of silence and inactivity, Ms. Carter abruptly resurfaced only when Respondent sought emergency relief for the children in a new proceeding. In March of 2025, Respondent, desperate to address the children's worsening

situation, filed a new SAPCR in the **233rd District Court** (Cause No. 233-765358-25) and obtained a hearing setting for an emergency Temporary Restraining Order to protect the children. The very first involvement by Ms. Carter since April 2024 was to **appear at the eleventh hour in the 233rd District Court and object to the TRO hearing through a phone call without ever responding to the TRO or arguing against it.** Simultaneously, she filed a Motion to Consolidate the new SAPCR case back into the old 322nd District Court divorce case – a case that has been dormant and effectively stalled under void orders. In doing so, Ms. Carter offered no substantive rebuttal to any of Respondent’s factual allegations (1–9 above). She provided no explanation for her prolonged absence or her client’s failures and inconsistencies, and **no justification as to how consolidation would serve the children’s best interests.** Her sole aim appears to be procedural: to drag the new child-focused case into the moribund divorce proceeding, effectively keeping the children in legal limbo and delaying any real relief.

#### **K. No Opposition on the Merits**

11. Over the **14 months of litigation**, Petitioner and Ms. Carter have **never filed a single pleading addressing the merits** of Respondent’s claims or the children’s needs. They have not objected to evidence, not answered discovery (beyond the deemed admissions), not responded to motions, and not presented any competing evidence or legal argument. Their pattern is one of total silence on substance, interrupted only by a procedural maneuver to avoid a hearing. This stands in stark contrast to Respondent’s detailed filings and evidence chronicling the children’s plight. Accordingly, the factual allegations enumerated above stand **unopposed and uncontroverted** in the record of both the 322nd and 233rd District Court matters. The Court “cannot continue to ignore”

these undisputed facts, as they demand urgent action for the sake of the children's welfare.

### **L. Urgency of Relief**

12. As repeatedly stated - every day that passes without corrective action is a day in which the children remain in an unstable, harmful environment. Respondent has relentlessly pursued lawful avenues to restore the prior stable status quo for the children, only to be met with procedural stonewalling. It would be *highly prejudicial* to reward Petitioner and her counsel's negligence and gamesmanship by allowing further delay through consolidation. Indeed, to do so would **blatantly disregard Respondent's rights** and, more importantly, the **children's best interests**. The time has come for the Court to recognize that Petitioner's counsel – despite holding a law license – has forfeited any entitlement to deference through her conduct. Respondent's self-represented status should no longer serve as an excuse to deny or defer relief that the children so desperately need.

*These facts provide the factual foundation for Respondent's objections and requests for relief. With these unchallenged facts in mind, Respondent now turns to the legal reasons why consolidation must be denied, the prior orders declared void, and the dormant case dismissed, in order to protect due process and the best interests of the children.*

## **II. VOIDNESS OF THE CURRENT ORDERS**

13. The "Current Orders" Were Improperly Obtained and Are Void for Lack of Consent and Inconsistent Pleadings. The orders under which Petitioner has been operating – specifically those used to exclude Respondent from the home and curtail his possession of the children – are fundamentally flawed and void. It appears these orders

were presented to the Court as agreed or uncontested, yet the record reflects that Respondent never gave knowing consent to any such final settlement. Under Texas law, any judgment based upon a purported agreement of the parties requires “unequivocal consent at the time of rendition”, and if a party withdraws consent before the judgment is rendered, the judgment is void. See *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951) (holding that when a trial court has knowledge that one party does not consent to a judgment, it is error to render a judgment purportedly by agreement; such a judgment is a nullity). Likewise, *Padilla v. LaFrance*, 907 S.W.2d 454 (Tex. 1995) confirms that a trial court **cannot render an agreed judgment after a party has withdrawn consent to a settlement**. In short, if one party withheld or withdrew consent, the only method to resolve the dispute is a trial on the merits, not entry of an “agreed” order.

14. Here, the facial inconsistencies in Petitioner’s pleadings and the circumstances of how the orders were procured leave no room for logic that he would agree to his children’s and his own detriment. Respondent has actively opposed the terms that locked him out of his home and separated him from the children. Petitioner misrepresented to the Court that an agreement existed alongside her counsel and it was rendered without consent. Such an order is **void ab initio** under the *Burnaman* and *Padilla* line of cases. Any decree or order dividing rights or restricting Respondent that was entered without a proper hearing or true agreement violates Respondent’s due process rights and cannot stand. Respondent seeks a declaratory judgment from this Court that **any orders affecting conservatorship, possession, or property division that were not rendered after a valid hearing or with proper consent are void and of no legal effect**. This declaration is necessary to clarify the parties’ legal position and to remove the cloud of

these improper orders from the case, and *immediately restore his right to his residence pending a hearing on the merits to satisfy the best interests of the children.*

**B. Lack of Judicial Adoption (Tex. Fam. Code § 201.013)**

15. Even if Petitioner’s claim for consent somehow survives despite the absence of Respondent’s signature – they remain facially void because they were issued by an Associate Judge and never properly adopted or signed by the referring District Court. Under Texas Family Code § 201.013(b), if no timely request for a de novo hearing is filed after an associate judge’s proposed order, that proposed order **“becomes the order of the referring court only on the referring court’s signing”** the order. In this case, there is no record that the 322nd District Court Judge ever signed or entered a final order adopting the Associate Judge’s recommendations regarding custody or property. If the District Judge did *not* sign an order, then no final order exists – the associate judge’s ruling, while perhaps enforceable *interim*, never achieved the status of a final judgment of the court and has *no legal effect*.

16. This may explain why the Texas OAG attempted to intervene in June of 2024 and has since disappeared from pursuing relief.

17. Therefore, they should be declared void or vacated due to the lack of proper adoption, lack of findings, and for the continuous and irreparable harm they continue to inflict on the children and Respondent.

**C. No “Final Order” Rendered – No CEJ in the 322nd Court**

18. Critically, because of the above defects, **no final order has ever been rendered in the divorce case** concerning the parent-child relationship (or the divorce



itself). Texas Family Code § 155.001(a) provides that a court acquires **continuing, exclusive jurisdiction** (CEJ) over child matters “**on the rendition of a final order**” in a suit affecting the parent-child relationship. Conversely, § 155.001(d) states: “**Unless a final order has been rendered by a court of continuing, exclusive jurisdiction, a subsequent suit shall be commenced as an original proceeding.**”

19. In this case, the 322nd District Court never rendered a final order resolving the SAPCR or divorce – the orders in place are interlocutory and void. Therefore, the 322nd never acquired continuing, exclusive jurisdiction over the children, and the new SAPCR Respondent filed in 2025 was properly “**commenced as an original proceeding**” under § 155.001(d). This point cannot be overstated: **there is currently no valid final judgment in the divorce case.** The divorce remains unadjudicated and the parent-child issues remain unresolved by any final decree. Petitioner’s counsel’s insistence that the new SAPCR must be consolidated into the divorce case (as if that court had dominant jurisdiction) misstates the law. Because no final order exists, the 233rd District Court is not barred from proceeding with the SAPCR. In fact, the Family Code explicitly allows a new original suit in these circumstances.

20. Respondent had every right to file a new petition to protect his children when it became clear the old case was mired in procedural limbo. Accordingly, this Court should declare that the prior orders have no legal effect and **confirm that the 322nd District Court lacks continuing jurisdiction** due to the absence of any final order. This declaratory relief will clarify that the new SAPCR case may proceed on its own merits, unencumbered by the baggage of the defunct divorce proceeding that remain a one-sided case with no ability to reach final trial, as explained above.

### **III. OBJECTION TO CONSOLIDATION**

21. Respondent unequivocally objects to the consolidation of the new child custody case (SAPCR) with the dormant divorce case and asks this Court to deny any such motion to consolidate. Consolidation at this juncture would be illogical, prejudicial, and contrary to Texas law and equity. The following legal grounds support sustaining Respondent's objection:

#### **A. The First-Filed Divorce Case Does Not Have "Dominant Jurisdiction"**

22. Generally, when two suits involving the same subject matter are pending in different courts of equal jurisdiction, the court in which the suit was first filed has dominant jurisdiction and the latter is typically abated. *See Wyatt v. Shaw Plumbing Co.*, 760 S.W.2d 245, 247 (Tex. 1988) (citing *Cleveland v. Ward*, 116 Tex. 1, 285 S.W. 1063 (1926)). However, Texas law recognizes critical exceptions to the "first-filed" rule. The Texas Supreme Court in *Wyatt* reiterated three well-established exceptions: "(1) conduct by a party that estops him from asserting prior active jurisdiction; (2) lack of persons to be joined if feasible; and (3) lack of intent to prosecute the first lawsuit." (quoting *V.D. Anderson Co. v. Young*, 101 S.W.2d 798 (Tex. 1937); *Curtis v. Gibbs*, 511 S.W.2d 263 (Tex. 1974)). If any of these exceptions apply, the court with the first filing does *not* have dominant jurisdiction, and the second court may proceed. *Wyatt*, 760 S.W.2d at 248.

23. Here, at least **two** of the exceptions squarely apply, both flowing from Petitioner's and Ms. Carter's conduct in the divorce case.

#### **B. Estoppel by Conduct**

24. Petitioner's actions (through her counsel) should *estop* her from claiming the benefit of the first-filed divorce case. She allowed that case to become completely dormant and failed to notify the Court or Respondent of the case's status after the federal remand. By **failing to comply with Rule 237a's notice requirements** and effectively concealing the revival of the state case from proceeding on the merits, consolidation is inappropriate without some form of input from the opposing side.

25. Petitioner's counsel also did nothing to set hearings or trial, effectively representing that she had abandoned the case. Petitioner cannot now, at the last minute, resurrect that case to block a new one – equity and fair play will not permit a party to sleep on her rights and then use the prior filing as a weapon. Petitioner's conduct is precisely the kind that warrants estoppel from asserting dominant jurisdiction.

### **C. Lack of Intent to Prosecute the First Suit**

26. Perhaps the most glaring exception is the third exception. Petitioner demonstrated a "lack of intent to prosecute the first lawsuit." *Young*, 128 Tex. at 636-37, 101 S.W.2d at 800-01; see also *Curtis*, 511 S.W.2d at 267. For nearly a year, she took no action to advance the divorce. No discovery, no responses, no settings – nothing. Such extended inaction is tantamount to an intention not to pursue the case at all. Texas courts have found that when a first-filing party shows no real intent to prosecute their case, a second case can proceed notwithstanding the first-filed rule. *See, e.g., Wyatt*, 760 S.W.2d at 248 (recognizing lack of intent to prosecute as an exception).

27. In the present situation, Petitioner only "revived" the divorce case as a strategic ploy to derail Respondent's emergency action in the second case. This

opportunistic and belated move underscores that Petitioner's interest lies not in diligently prosecuting her first suit, but in obstructing Respondent's efforts elsewhere. The first case was effectively dead on the docket; there was **no genuine intent to prosecute it** until Respondent's new filing prompted a defensive response. This swift action was done solely to avoid accountability from the court that the Respondent has diligently exposed without argument.

28. Because of these exceptions, the 322nd District Court cannot be said to have dominant jurisdiction. Petitioner forfeited any priority through her own lack of diligence. Therefore, there is **no legal basis to consolidate** the new case into the old one; the usual policy of avoiding conflicting jurisdictions must yield to the reality that the first case was moribund and is rife with procedural defects. Indeed, the 233rd District Court (new SAPCR) is the appropriate forum to hear the current disputes because that case was initiated specifically to address the children's urgent needs, free from the entanglements of the stalled divorce.

29. The only counter argument anticipated by the opposition is that the fingers will point towards the undersigned, which is nothing more than an excuse for failure to participate in Respondent's quest seeking relief at every available opportunity to advocate for his children. Surely a licensed attorney could put forth a legal argument against an unruly pro-se litigant – yet here – there exists only silence.

#### **D. Consolidation Would Reward Procedural Abuse**

30. Even apart from dominant jurisdiction principles, this Court has discretion to deny consolidation when it would prejudice a party or not further the interests of justice.

Tex. R. Civ. P. 174(a) permits consolidation of actions involving common questions of law or fact, but only “to avoid unnecessary costs or delay.” Here, consolidation would do the opposite – it would inflict further delay and costs and gravely prejudice the children’s welfare. The new SAPCR was filed to obtain immediate relief (such as restraining orders or modified custody) to protect the children. That relief has already been delayed by Petitioner’s maneuver; consolidating into the divorce would likely cause weeks or months of additional delay as the tangle of the divorce procedure is sorted out (especially if the Court must resolve questions about void orders, jurisdiction, or counsel’s status in that case).

31. The **best interests of the children** is the “primary consideration” in any proceeding affecting them. *Tex. Fam. Code § 153.002*. It is patently **not** in the children’s best interest to postpone substantive relief on issues of their safety and wellbeing so that an old divorce action can be resurrected. The children should not be made to suffer further harm just because Petitioner’s counsel neglected her duties for a year. Consolidation would effectively **reward Petitioner for her neglect** – she would succeed in further delaying a reckoning on her harmful conduct, all while the children remain in a detrimental situation. Such an outcome would be unjust.

#### **IV. PETITIONER’S COUNSEL’S MISCONDUCT**

32. The Court should also take notice of the conduct of Petitioner’s counsel, Cooper L. Carter, which has significantly contributed to the procedural morass and denial of due process in this matter. Ms. Carter’s behavior not only prejudices Respondent but also **violates basic professional obligations**. Respondent highlights the following and requests appropriate relief:

**A. Failure to Respond and Show Authority (Tex. R. Civ. P. 12)**

33. As described, Respondent has challenged Ms. Carter's authority to act on Petitioner's behalf by motion under Rule 12 in September of 2024. To date, Ms. Carter has not responded to this challenge. Texas Rule of Civil Procedure 12 requires an attorney, upon such a motion, to prove her authority to act for the client or else be barred from further participation. When an attorney fails to appear or fails to carry this burden, the court "shall" strike the attorney's pleadings and bar her from representing the client in that case. In *TransAmerica Corp. v. Braes Woods Condo Ass'n*, for example, a verified motion to show authority was granted when a question arose about a corporation's capacity; the trial court dismissed the attorney and struck the pleadings filed without proper authority.

34. Here, Ms. Carter's complete absence and unavailability strongly suggest she may not have her client's authorization or active direction. It is even conceivable that Petitioner herself has not been kept apprised by Ms. Carter, given the lack of communication. Respondent requests that the Court **require Ms. Carter to promptly prove her authority**. If she fails, the Court should strike any consolidation motion or other pleadings she filed and preclude her from further advocacy in this matter. The practical effect would render Petitioner unrepresented – a status Petitioner is effectively in already, due to Ms. Carter's dereliction. While Respondent takes no pleasure in Petitioner potentially losing counsel, the integrity of the proceedings demands that only duly authorized representatives be allowed to act.

**B. Violations of Discovery Obligations (Tex. R. Civ. P. 193, 198)**

35. Ms. Carter's neglect of discovery – particularly her failure to answer Requests for Admissions – has materially harmed the truth-finding process. By operation of Rule 198, Petitioner is deemed to have admitted every fact in the Request for Admissions that was unanswered. These deemed admissions are dispositive of key issues. Ms. Carter's failure to perform the most basic task of responding to discovery is a violation of her duties under Tex. R. Civ. P. 193.2 and 193.5 (to timely amend or respond) and has prejudiced her own client's case. In fact, her inaction practically concedes Respondent's claims and allegations. The Court should treat the deemed admissions as conclusively established in considering this Objection and the underlying merits – meaning that, for purposes of this objection, Petitioner has admitted the truth of the allegations in Section I, and can be admitted as summary judgment evidence, which remains un-opposed and sits as the oldest filed motion on this court's docket. (Filed and Served February 22, 2024). Furthermore, the Court should impose sanctions under Tex. R. Civ. P. 215 for the discovery abuse, although Respondent's primary goal is not monetary sanctions but to ensure the facts are recognized as admitted due to Ms. Carter's failure.

### **C. Abuse of Process**

36. Ms. Carter's sudden filing of a Motion to Consolidate after a year of dormancy appears to be a textbook example of using legal process for delay and to burden an opponent, rather than for a legitimate purpose. Rule 13 of the Texas Rules of Civil Procedure forbids filings that are groundless and brought in bad faith or to harass. Likewise, Rule 3.02 of the Texas Disciplinary Rules of Professional Conduct states that a lawyer "shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter." By her own inaction, Ms.

Carter allowed an emergency to develop; by reappearing only to procedurally thwart Respondent's TRO in the 233rd, she acted to unreasonably delay the adjudication of the emergency.

37. There was no substantive justification given for consolidation – no claim that resources would be saved or justice served – only a tactic to avoid an immediate hearing. This conduct comes perilously close to violating Rule 13's prohibitions on bad-faith pleadings and warrants the Court's scrutiny. Respondent respectfully submits that the Court should consider **sanctioning Petitioner's counsel** for this behavior, which has had the effect of prolonging the children's exposure to harm and multiplying litigation for no good reason. Sanctions could include an award of fees and expenses to Respondent (though pro se, Respondent has expended considerable time and resources), or fines payable to the Court, or any order deemed just to deter such tactics. At the very least, the lack of any substantive merit in the consolidation request should prompt the Court to deny it summarily.

38. In fact, the consolidation motion will likely resemble something similar to *Exhibit 1*, the only attached exhibit in this document, as all claims and exhibits supporting these allegations have been in the possession of the opposing party for several months without any objection, communication, or argument against them. The exhibit resembles a cookie-cutter motion that provides no substance into the core issues of the case.

39. Lastly, Respondent notes that because Petitioner's counsel has not filed any **substantive answer or response** to the merits of Respondent's claims in over a year, the Court is effectively presented with a one-sided record of harm to the children. If consolidation is denied and the divorce case is dismissed or left idle, the Court overseeing



the SAPCR (whether this Court or the 233rd) should move with urgency to address custody and safety. Respondent urges that any procedural disputes be resolved forthwith so that the focus can return to the children. **Or better yet, end this nightmare immediately by declaring the current orders void, which resolves the entire suit in favor of the children, and causes no harm to the Petitioner.**

40. Petitioner, having failed to rebut any allegations, should not be permitted further delay. This Court has the power to prevent further injustice and harm by swiftly granting the un-opposed relief sought by the Respondent which should have been granted on March 28, 2025. Every additional day of inaction is a day of potential damage to the children's psyche and development. Respondent respectfully asks the Court to remember that the paramount concern is the children's best interests and their right to a safe, stable home – a right which has been denied to them for too long during these procedural wranglings.

#### **V. PRAYER FOR RELIEF**

**WHEREFORE, PREMISES CONSIDERED,** Respondent **Charles Dustin Myers** prays that the Court grant the following relief for the reasons set forth above:

- i. Deny Petitioner's Motion to Consolidate the new SAPCR case (No. 233-765358-25) with the instant divorce case. Instead, allow the SAPCR to proceed separately in the interest of justice and the children's welfare, or in the alternative, abate the SAPCR only until such time as this Court disposes of the divorce case (as requested below).

- ii. Enter a declaratory judgment that any orders entered in this divorce action that purported to resolve conservatorship, possession, or property issues are **void and/or of no legal effect** due to lack of proper consent, notice, or final adoption by the Court. Specifically, declare that no final order was rendered in this cause, that the March 14, 2024 “agreed orders” which claim consent despite missing signatures do not constitute a final adjudication, and that they cannot be enforced as a final judgment.
- iii. Dismiss the divorce action (Cause No. 322-744263-23) in its entirety for want of prosecution pursuant to Tex. R. Civ. P. 165a and the Court’s inherent authority.
- iv. Although a serious step, the Respondent prays that the Court consider **referring Ms. Carter’s conduct to the appropriate disciplinary committee** of the State Bar of Texas for investigation. The Court’s findings of fact or a simple referral letter could highlight the issues: prolonged neglect, failure to follow court rules (Rule 237a, etc.), failure to maintain current contact information, and usage of a dormant case to obstruct justice. Such a referral may be warranted to protect the integrity of the legal process, especially in sensitive family law matters, or in the alternative, require a response to this objection.
- v. Grant such other and further relief as the Court finds just and proper, whether at law or in equity. Respondent also asks that the Court **take judicial notice** of the contents of the court’s file in this cause and (if

applicable) the new SAPCR cause, to the extent needed to corroborate the claims herein.

Respectfully submitted,

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
PRO-SE

**CERTIFICATE OF SERVICE**

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

A copy of this objection has been served to MORGAN MICHELLE MYERS through her EFM registered under [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

A copy of this objection has been provided to COOPER L. CARTER through her email [COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

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

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
PRO-SE

# EXHIBIT 1

233-765358-25

FILED  
TARRANT COUNTY  
3/20/2025 8:38 AM  
THOMAS A. WILDER  
DISTRICT CLERK

**NO. 233-765358-25**

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
M■■■■ M■■■■ AND C■■■■	§	233RD JUDICIAL DISTRICT
M■■■■,		
	§	
CHILDREN	§	TARRANT COUNTY, TEXAS

**NO. 322-744263-23**

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
MORGAN MYERS	§	322 <sup>ND</sup> JUDICIAL DISTRICT
AND	§	
CHARLES MYERS	§	
	§	
AND IN THE INTEREST OF	§	
M■■■■ M■■■■ AND	§	TARRANT COUNTY, TEXAS
C■■■■ M■■■■		

**MOTION TO CONSOLIDATE**

This Motion to Consolidate the above lawsuits is brought by MORGAN MYERS, who shows in support:

1. These lawsuits involve common questions of law or of fact as the parties have a current divorce case pending in the 322<sup>nd</sup> Judicial District Court, Cause No. 322-744263-23.
2. It would serve the convenience of the Court, litigants, and counsel and would avoid multiplicity of suits, duplication of testimony, and unnecessary expense and delay to have these lawsuits consolidated for trial.

MORGAN MYERS prays that the Court grant the Motion to Consolidate and consolidate these lawsuits under the older and lower cause number.

Respectfully submitted,

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

By: /s/ Cooper L. Carter  
Cooper L. Carter  
State Bar No. 24121530  
coopercarter@majadmin.com  
Attorney for MORGAN MYERS

**Certificate of Service**

I certify that a true copy of this Motion to Consolidate was served in accordance with rule  
21a of the Texas Rules of Civil Procedure on the following on March 20, 2025:

CHARLES MYERS by electronic filing manager.

/s/ Cooper L. Carter  
Cooper L. Carter  
Attorney for MORGAN MYERS

**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.

Roderick Marx on behalf of Cooper Carter  
Bar No. 24121530  
MAJFIRM@YAHOO.COM  
Envelope ID: 98671723  
Filing Code Description: Motion (No Fee)  
Filing Description: MOTION TO CONSOLIDATE  
Status as of 3/20/2025 4:52 PM CST

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/20/2025 8:38:49 AM	SENT

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/20/2025 8:38:49 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/20/2025 8:38:49 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	3/20/2025 8:38:49 AM	SENT

**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: 99055452  
Filing Code Description: Request  
Filing Description: PRE-OBJECTION TO CONSOLIDATION  
Status as of 4/1/2025 3:29 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/31/2025 7:59:33 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	3/31/2025 7:59:33 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	3/31/2025 7:59:33 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/31/2025 7:59:33 AM	SENT





**322-744263-23**

**RESPONDENT'S STATEMENT**

**04.01.25**

322-744263-23

FILED  
TARRANT COUNTY  
4/1/2025 12:00 AM  
THOMAS A. WILDER  
DISTRICT CLERK

IN THE 322<sup>nd</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS

**ITMOMO**

*And in the interest of M.E.M. & C.R.M., two children)*

**MORGAN MICHELLE MYERS**

Petitioner,

**CHARLES DUSTIN MYERS,**

Respondent.

2025-03-31

RESPONDENT'S STATEMENT

**TO THE HONORABLE COURT:**

Respondent, CHARLES DUSTIN MYERS, respectfully submits this statement to the Court, acknowledging first the gravity and complexity inherent in adjudicating matters of Family Law. The Respondent's numerous pleadings, motions, notices, objections, and carefully prepared exhibits submitted to this Court were borne not out of defiance, but rather from profound respect for this judicial process and a dedicated attempt to bridge the pro-se divide thrust upon him.

Every zealous effort undertaken by the Respondent has been guided by a simple, undeniable reality: the well-being and best interests of two minor children. The Respondent urges the Court to momentarily step into the shoes of these children, who, at the end of each school day, exit their classrooms only to find neither parent awaiting their arrival to guide them safely home. Once home, they find no father present to assist them with homework, to engage them in play, or simply to inquire about their day and ensure their academic and emotional needs are met.

Instead, these children must rely on their great-grandparents or their aunt for daily care—arrangements that, while filled with love, impose upon their caregivers' responsibilities that disrupt the natural grandparental dynamic and strain family resources and roles unnecessarily. This very scenario was expressly outlined in the Respondent's initial pleading to the Court, highlighting a profound shift away from the stable, nurturing environment the children previously enjoyed. *EXHIBIT 1*

While the language of the law is objective, Family Law acknowledges and indeed calls upon the human dimension of every case. The emotional appeal here is not frivolous, but rather a

genuine representation of the stark contrast between the children's former stable environment and the instability they currently endure. Respondent's advocacy, although passionate, has been meticulously crafted to illustrate clearly that alternatives exist which restore this stability without risk of harm or endangerment. The driving force behind the current situation is not a legitimate threat of harm but rather fear of accountability by the Petitioner.

The Respondent's zealotry, potentially misinterpreted as contemptuous, is instead a testament to his unwavering commitment to the well-being of his children. Restoring their previous status quo is essential for their educational, emotional, and developmental stability. If necessary, the Respondent stands ready to demonstrate his accountability through daily status reports or any other means this Court deems appropriate, confident that the Court will observe a swift and meaningful recovery in both the children's and Respondent's lives, socially, emotionally, and financially.

To the Petitioner, this resolution poses no disproportionate detriment. The Respondent harbors no animosity toward her, has never inflicted harm upon her or their children, and has consistently prioritized their collective welfare.

Ultimately, CHARLES DUSTIN MYERS, the litigator, arose from the necessity faced by CHARLES DUSTIN MYERS, the father and individual unjustly characterized from the outset as a criminal, an abuser, and a threat. Fully aware of the uphill battle inherent in self-representation, he chose this path not merely for himself, but expressly for the sake of his children and the preservation of their right to familial stability and emotional well-being, which is at risk each day.

In closing, Respondent respectfully recalls his initial pleading to this Court, wherein he proposed a comprehensive parenting plan designed specifically to preempt precisely the instability and emotional distress that has now come to pass. Had this proactive and well-reasoned parenting plan been enacted from the outset, the turmoil now confronting this Court and this family could have been avoided, but it remains unopposed. Respondent renews his plea for the Court to revisit and adopt this original proposal, thereby safeguarding the well-being of the children, restoring familial harmony, and reaffirming the fundamental objectives and compassionate foundations of Family Law.

Respectfully submitted,

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

#### CERTIFICATE OF SERVICE

Pursuant to Rule 21a of the Texas Rules of Civil Procedure, this statement was served on all parties of record via the EFM, and the email of opposing counsel

/s/ Charles Dustin Myers

**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: 99075685

Filing Code Description: Notice

Filing Description: Respondent's Statement

Status as of 4/1/2025 3:29 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/31/2025 12:31:36 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	3/31/2025 12:31:36 PM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	3/31/2025 12:31:36 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/31/2025 12:31:36 PM	SENT



**233-765358-25**

**PETITIONER'S  
STATEMENT**

**04.01.25**

233-765358-25

FILED  
TARRANT COUNTY  
4/1/2025 12:00 AM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 233-765358-25

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

Petitioner,

**MORGAN MICHELLE MYERS,**

Respondent.

2025-03-31

Petitioner's Statement

**TO THE HONORABLE COURT:**

CHARLES DUSTIN MYERS, Petitioner in the above filed case, files this

Request for Declaratory Judgement, and in support thereof shows the following:

**I. STATEMENT OF FACTS**

1. Petitioner, representing himself pro-se, removed cause number 322-744263-23 to the Northern District of Texas on December 6, 2024. (No. 4:24-CV-01185-O)

2. The case was remanded on December 8, 2024, for lack of subject matter jurisdiction. *Exhibit 1*

3. Rule 237a of the Texas Rules of Civil Procedure states:

“When *any cause* is removed to the Federal Court and is afterwards remanded to the state court, *the plaintiff shall file* a certified copy of the order of remand with the clerk of the state court and shall forthwith give written notice of such filing to the attorneys of record for all adverse parties.” (emphasis added)

4. This places the obligation on COOPER L. CARTER to file with the clerk of the state court a certified notice of remand, which she has failed to do as of March 31, 2025, nearly three months later.

5. COOPER L. CARTER's authority to represent MORGAN MICHELLE MYERS has been in question since September 20, 2024, in cause number 322-744263-23 and is similarly in question in the instant case.

6. COOPER L. CARTER has never filed a pleading on MORGAN MICHELLE MYERS' behalf in either this court or the 322<sup>nd</sup> district court since she was allegedly retained on January 22, 2024, in her individual capacity over *fourteen months ago*.

7. RODERICK D. MARX has filed every pleading on behalf of COOPER L. CARTER in both this matter and the divorce matter.

8. RODERICK D. MARX has not made an appearance or otherwise been named as a party in either suit.

9. Neither RODERICK D. MARX nor COOPER L. CARTER have filed any response to any pleadings served to them by CHARLES DUSTIN MYERS.

10. Neither RODERICK D. MARX nor COOPER L. CARTER have filed any pleading since April 24, 2024, in the divorce matter, nearly *twelve months ago*.

11. COOPER L. CARTER has left the 322<sup>nd</sup> District Court without any ability to proceed to final trial, thereby resulting in an inevitable dismissal for want of prosecution. *Exhibit 2*

12. COOPER L. CARTER's EFM is registered to her prior employer's email address, which has been pointed out several times by Petitioner. *Exhibit 3*

13. The 322<sup>nd</sup> District Court of Tarrant County does not have continuous exclusive jurisdiction of the minor children.

14. The Petitioner opened a separate SAPCR before this court in March of 2025.

15. Without any submissions from Respondent since April 24, 2024, COOPER L. CARTER suddenly submits pleadings to this court claiming bad faith and answers with a general denial.

16. COOPER L. CARTER has not provided a response to the EMERGENCY TRO, yet feels it is appropriate to influence the proceedings with false promises to the tribunal. *Exhibit 4*

17. On March 28, 2025, the Petitioner arrived at the 233<sup>rd</sup> District Court to present his emergency TRO as scheduled with the Court Coordinator on March 27, 2025. *Exhibit 5*

18. The Petitioner was then told to contact COOPER L. CARTER by the Court Coordinator to select dates for the TRO hearing prior to his presentation once he arrived at the court. *Exhibit 6*

19. The parties selected April 10, 2025, to have the hearing, and the Petitioner went before the Associate Judge to present his emergency TRO. *Exhibit 7*

20. Prior to being called up to present, the Associate Judge left the room and conversed with the court coordinator.

21. When she returned, Petitioner was called up to present the emergency TRO.

22. Before getting a chance to speak, the Associate Judge informed the Petitioner that COOPER L. CARTER had filed the consolidation motion in the wrong court and would be filing one with the 322<sup>nd</sup> District Court.

23. The Petitioner was denied an opportunity to present his emergency TRO and was told to instead file the pleading with the 322<sup>nd</sup> District Court.

24. The Petitioner then reminded the Associate Judge that the 322<sup>nd</sup> District Court does not have the ability to proceed on the merits lacking a certified notice of remand pursuant to Rule 237a.



25. The Associate Judge disagreed and refused to hear the emergency TRO.

26. At the close of business on March 28, 2025, nothing was ever filed with the 322<sup>nd</sup> District Court by COOPER L. CARTER.

27. Petitioner and the children in this suit were denied due process outright despite being correct in his legal position.

28. Petitioner's detriment to his position is the fact that he is self-represented.

29. Respondent's detriment to her position is the lack of prosecution or defense.

## **II. ARGUMENT**

30. When it comes to remand, the obligation falls on the *plaintiff* to file with the state court a certified copy of the order of remand. TEX. R. CIV. P. 237a; see also *Kashan v. McLane Co.*, NO. 03-11-00125-CV, 7 (Tex. App. Jun. 7, 2012) (holding that rule 237a's notice requirements cannot be satisfied by the district court, but must come from the *plaintiff*.)

31. This prevents any trial on the merits, and prevents any relief to the Petitioner and his children.

32. All other facts supported by evidence have already been provided to COOPER L. CARTER yet continues to not engage and instead call in favors from the bench.

## **III. CONCLUSION**

Petitioner traveled to this court with a prepared emergency supported by exhibits only to be turned away at the eleventh hour due to his self-represented status and in the face of no real opposition. The children were denied due process outright, and now have been left without a remedy. The proper course of action should have been to hear the TRO and put in place protections for the minor children pending any promises of consolidation.

The above statement of facts, unless promptly rebutted by COOPER L. CARTER, warrant immediate relief as duly requested in the emergency TRO through a declaratory judgement, and this court should proceed with the hearing date originally set for April 10<sup>th</sup>, 2025, and the emergency TRO should be GRANTED without further delay.

COOPER L. CARTER disrupted much needed relief for the minor children in this case with false promises delivered to the tribunal that directly undermined the Petitioner's due process rights. COOPER L. CARTER is fully aware that she cannot file anything in 322<sup>nd</sup> District Court because in doing so she would be acting *ultra vires*.

Petitioner reasserts his position that COOPER L. CARTER is acting without authority, has no ability to comply with 237a of the Texas Rules of Civil Procedure, and cannot explain how she is able to abandon a case for nearly a full calendar year, yet can suddenly show up to defend her alleged client before this court for the sole purpose to prevent Petitioner's emergency TRO from being heard, which was permitted despite being told he could present the motion. In what sense is this appropriate when children are involved? Does the attorney's license give her a free pass to thwart the rules and litigate in bad faith?

It may be a needle in the haystack, but this case defies the initial presumption that pro-se litigants are not as equipped or as capable as licensed attorneys, and it is no fault of COOPER L. CARTER. The Petitioner reminds the court that the true culprit responsible for this circumstance remains the puppet master hiding in the background – the Respondent – and yet Petitioner wishes no harm to her because this litigation is about the children. The children need their mother, but they also need their father.

Perhaps the zealous passion has been misunderstood for contempt by the tribunal, but Petitioner's motive runs parallel to that set forth in the Texas Family Code. However, despite the procedural quagmire, the anomalies, the pro-se status, the solution remains simple:

Grant the relief. Nobody has argued against it, Texas law demands it, and the best interests of the Children depend on it. There remains no logical or legal basis to give COOPER L. CARTER any further deference in the face of Petitioner's self-represented status. Petitioner welcomes any response from

COOPER L. CARTER to the contrary. If such response were to be filed, it would be the first in over fourteen months of litigation.

If approached from a logical standpoint, the situation can be interpreted as such:

- i. COOPER L. CARTER is shackled by Rule 12 and Rule 237a of the Texas Rules of Civil Procedure from reaching final trial.
- ii. The 322<sup>nd</sup> District Court is shackled from proceeding due to Cooper L. Carter's failure to prosecute.
- iii. The Petitioner is shackled from his home, his children's daily lives, and his place of business under facially void orders that claim consent.
- iv. Most critically, the children are shackled in a situation that is not in their best interests and continue to suffer irreparable harm without any opportunity for relief and without any lawful basis.

Indeed, that leaves just one party un-chained from this situation:

**the Respondent.** Petitioner rests his case.

#### **IV. PRAYER**

WHEREFORE promises considered, the Petitioner, CHARLES DUSTIN MYERS, requests the following expedited relief:

1. Take judicial knowledge that COOPER L. CARTER disrupted an emergency in bad faith and failed to fulfill her promise.
2. Grant the emergency TRO without delay and keep the original hearing date set for April 10<sup>th</sup> as agreed by the parties on March 28<sup>th</sup>, 2025.
3. Give no further deference to attorney COOPER L. CARTER, who has not prosecuted nor defended her position, and require a written response.

4. Provide any further relief that the court deems appropriate given the extraordinary circumstances of this case.

Respectfully submitted,

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

### **CERTIFICATE OF SERVICE**

Petitioner, CHARLES DUSTIN MYERS, confirms that on 03/31/2025, a copy of this PETITIONER'S STATEMENT was served on the following party of record through their account registered under the Electronic Filing Manager pursuant to Rule 21a of the Texas Rules of Civil Procedure:

MORGAN MICHELLE MYERS, Respondent, at:

MORGANMW02@GMAIL.COM

A copy of the above pleading was also served to:

COOPERCARTER@MAJADMIN.COM

Respectfully submitted,

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

**Automated Certificate of eService**

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

Envelope ID: 99125522  
Filing Code Description: Notice  
Filing Description: Petitioner's Statement  
Status as of 4/1/2025 3:16 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/1/2025 11:18:44 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	4/1/2025 11:18:44 AM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	4/1/2025 11:18:44 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/1/2025 11:18:44 AM	SENT



**322-744263-23**

**NOTICE OF  
CONTINUED  
OBSTRUCTION**

**03.11.25**

322-744263-23

FILED  
TARRANT COUNTY  
3/11/2025 2:23 PM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 322-744263-23  
IN THE 322<sup>ND</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS

**Morgan Michelle Myers,**

Petitioner,

v.

NOTICE OF CONTINUED  
OBSTRUCTION

**Charles Dustin Myers,**

Respondent

AND IN THE INTEREST OF  
M.E.M and C.R.M., two minor children

2025-03-11

TO THE 322<sup>ND</sup> DISTRICT COURT OF TARRANT COUNTY:

Respondent, CHARLES DUSTIN MYERS, a party to the above captioned case,  
respectfully submits this notice in furtherance of the continued obstruction of justice taking place  
within this matter, and in support thereof, shows the following:

**I. FAILURE TO ACT**

Court staff has unquestionably reviewed the motions, requests, and notices submitted and  
accepted by the court, yet the following remain unaddressed by either the opposing party or the  
court:

**1. Motion for Partial Summary Judgment**

1. **Envelope ID:** 84786327
2. **Date Filed:** February 22, 2024
3. **Date Reviewed:** February 22, 2024
4. **Status:** Unopposed, No Ruling

**2. Rule 12 Motion to Show Authority**

1. **Envelope ID:** 92285306
2. **Date Filed:** September 20, 2024
3. **Date Reviewed:** September 20, 2024
4. **Status:** Unopposed, No Ruling (Challenges Opposing Counsel's Legal Authority)

**3. Emergency Motion for Temporary Orders**

1. **Envelope ID:** 92510702
2. **Date Filed:** September 26, 2024
3. **Date Reviewed:** September 27, 2024
4. **Status:** Unopposed, No Ruling

**4. Request for Oath of Office Records (Tex. Gov't Code §§ 25.0017-18)**

1. **Envelope ID:** 94002696
2. **Date Filed:** November 6, 2024
3. **Date Reviewed:** November 6, 2024
4. **Status:** Unanswered by Court

**5. Motion to Compel Discovery**

1. **Envelope ID:** 94352460



2. **Date Filed:** November 15, 2024
  3. **Date Reviewed:** November 15, 2024
  4. **Status: Unopposed, No Ruling**
6. **Unopposed Motion to Dismiss for Lack of Jurisdiction**
  1. **Envelope ID:** 98154415
  2. **Date Filed:** March 6, 2025
  3. **Date Reviewed:** March 7, 2025
  4. **Status: Unopposed, No Ruling**
7. **Proposed Order on Unopposed Motion to Dismiss for Lack of Jurisdiction**
  1. **Envelope ID:** 98154415
  2. **Date Filed:** March 6, 2025
  3. **Date Reviewed:** March 7, 2025
  4. **Status: Unopposed, No Ruling**
8. **Notice of New Information**
  1. **Envelope ID:** 98096003
  2. **Date Filed:** March 5, 2025
  3. **Date Reviewed:** March 6, 2025
  4. **Status: No Response from Court**
9. **Request for Immediate Ruling**
  1. **Envelope ID:** 97927313
  2. **Date Filed:** February 28, 2025
  3. **Date Reviewed:** March 3, 2025
  4. **Status: No Response from Court**

**10. Objection and Request for Judicial Notice**

1. **Envelope ID:** 97716806
2. **Date Filed:** February 24, 2025
3. **Date Reviewed:** February 24, 2025
4. **Status:** No Response from Court

**11. Motion to Sign Order**

1. **Envelope ID:** 97615800
2. **Date Filed:** February 20, 2025
3. **Date Reviewed:** February 21, 2025
4. **Status:** Unopposed, No Ruling

**12. Emergency Ex-Parte Motion**

1. **Envelope ID:** 97158349
2. **Date Filed:** February 10, 2025
3. **Date Reviewed:** February 10, 2025
4. **Status:** Unopposed, No Ruling

**13. Motion to Dismiss**

1. **Envelope ID:** 96596367
2. **Date Filed:** January 24, 2025
3. **Date Reviewed:** January 27, 2025
4. **Status:** Unopposed, No Ruling

**14. Notice of Loss of Employment**

1. **Envelope ID:** 96466032
2. **Date Filed:** January 22, 2025

**3. Date Reviewed:** January 22, 2025

**4. Status:** No Acknowledgment by Court

**15. Case Memo / Plea for Judicial Review**

1. **Envelope ID:** 96151209
2. **Date Filed:** January 13, 2025
3. **Date Reviewed:** January 13, 2025

*See Exhibit I.*

**II. LEGAL VIOLATIONS BY FAILURE TO RULE ON MOTIONS**

**1. Failure to Rule on Unopposed Motions Violates Texas Law**

- A. Texas courts have a duty to **rule on properly filed motions within a reasonable time** (*In re Blakeney*, 254 S.W.3d 659 (Tex. App.—Texarkana 2008)).
- B. Courts **cannot ignore motions indefinitely**, especially **when they remain unopposed** (*In re Bonds*, 57 S.W.3d 456 (Tex. App.—San Antonio 2001)).

**2. Due Process Violations (14th Amendment, U.S. Constitution; Article I, § 19, Texas Constitution)**

- A. The Court's refusal to **issue rulings or set hearings deprives Respondent of due process rights**.
- B. The failure to act on **Rule 12 Motion to Show Authority** means opposing counsel **may be practicing unlawfully**, rendering all their filings void.

**3. Failure to Act on Emergency Motions & Summary Judgment**

- A. The Court's inaction on **emergency motions for custody and residence** is a **direct failure of its duty to prioritize the best interest of children** (Tex. Fam. Code § 153.002).
- B. **The Court has no discretion to ignore properly filed summary judgment motions**, especially when unopposed (Tex. R. Civ. P. 166a(c)). There is no genuine issue of material fact, and the Respondent is entitled to relief as a matter of law.

**III. CONTINUED SILENCE FROM OPPOSING PARTY DESPITE GLARING MISUSE  
OF THE LEGAL SYSTEM**

1. The opposing party in this case has refused to prosecute for over four months.
2. The Petitioner in this case has unquestionably deceived this court into relying on false claims of indigency and false claims for protection.
3. The Respondent has filed over 4,700 pages of documents that have been ignored outright by the court, the opposing party, and court staff.
4. The Petitioner continues to neglect the children medically, continues to escape accountability for her egregious actions, and has offered no rebuttal or defense against any of the claims made against her.
5. The Respondent continues to suffer monetary damages each day this situation persists without resolution.
6. The court has been given ample information to justify an immediate ruling as required by law, yet the Respondent continues to be stonewalled.

7. The current temporary orders state all parties agree to the terms of the order, reference a hearing not found on the docket sheet, yet continue to remain in effect despite several pleas for correction being submitted and reviewed by court staff.

#### **IV. CONCLUSION**

Respondent reasserts that Texas Law prevents such scenarios such as what is occurring in this case from happening, yet it continues unaddressed. Respondent only asks of this court, the reviewing staff, and any reviewing judicial officer that Texas laws be followed, and that this situation be immediately corrected. The systemic abuse faced by the Respondent has damaged the children's well-being and permitted the Petitioner to continue to get away with her immoral actions that have placed fraud upon this court without consequence.

Respondent urges this court to make swift, corrective decisions that are warranted by setting immediately ruling upon the pending motions before it and granting the long overdue relief that is both necessary and justified.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

[REDACTED]

817-546-3693

PRO SE

CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that this Notice of Continued Obstruction has been filed with the electronic filing manager and served on the parties of record on this 11<sup>th</sup> day of March, 2025, including:

COOPER L. CARTER, counsel for petitioner, at the email address

[COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

MORGAN MICHELLE MYERS, petitioner, at the email address

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

HOLLY HAYES, intervenor, at the email address

[csd-legal-914@oag.texas.gov](mailto:csd-legal-914@oag.texas.gov)

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)



817-546-3693

PRO SE

**EXHIBIT 1**  
**CASE RECORDS SHOWING**  
**FILINGS HAVE BEEN**  
**REVIEWED**

Envelope#	Status	Date Reviewed	Filing Title
98154415	Accepted	03/07/2025 09:21:18	UN-OPPOSED MOTION TO DISMISS FOR LACK OF JURISDICTION
98154415	Accepted	03/07/2025 09:21:18	ORDER ON UN-OPPOSED MOTION TO DISMISS FOR LACK OF JURISDICTION
98096003	Accepted	03/06/2025 09:21:30	Notice of New Information
97927313	Accepted	03/03/2025 09:15:37	Request for Immediate Ruling
97716806	Accepted	02/24/2025 01:58:32	Objection and Request for Judicial Notice
97615800	Accepted	02/21/2025 04:24:52	MOTION TO SIGN
97615800	Accepted	02/21/2025 04:24:52	Proposed order on Motion to Sign
97158349	Accepted	02/10/2025 03:24:13	EMERGENCY EX-PARTE MOTION
96596367	Accepted	01/27/2025 08:52:38	MOTION TO DISMISS
96466032	Accepted	01/22/2025 12:52:18	NOTICE OF LOSS OF EMPLOYMENT
96151209	Accepted	01/13/2025 04:29:58	CASE MEMO / PLEA FOR JUDICIAL REVIEW
95752784	Accepted	12/31/2024 02:44:34	Notice of Related Case
94808633	Accepted	12/02/2024 11:28:27	Notice of Removal to the Northern District of Texas
94352460	Accepted	11/15/2024 03:24:38	Motion to Compel Discovery
94352460	Accepted	11/15/2024 03:24:38	Proposed order to motion to compel discovery.
94247500	Accepted	11/14/2024 07:11:28	Notice of Intent to Remove
94129305	Accepted	11/14/2024 07:04:54	MOTION TO ENTER JUDGEMENT
94129305	Accepted	11/14/2024 07:04:54	Joint Motion to Recuse - Original unmodified version
94129305	Accepted	11/14/2024 07:04:54	Proposed Order
94002696	Accepted	11/06/2024 02:54:38	Request for oath of office records pursuant to Tex. Gov't Code
93873858	Accepted	11/04/2024 08:55:18	Pre-Trial Motion in Limine
93873858	Accepted	11/04/2024 08:55:18	PT Motion in Limine - Proposed Order
93024186	Accepted	10/10/2024 02:21:05 PM	
92989465	Accepted	10/10/2024 09:40:47	Notice
92846417	Accepted	10/07/2024 10:44:04	Joint Motion to Recuse
92536276	Accepted	09/27/2024 12:28:21	First Amended Motion for Temporary Orders
92510702	Accepted	09/27/2024 10:19:48	EM. MOTION FOR TEMPORARY ORDERS
92510702	Accepted	09/27/2024 10:19:48	Proposed order
92285306	Accepted	09/20/2024 04:32:40	RULE 12 MOTION TO SHOW AUTHORITY
92285306	Accepted	09/20/2024 04:32:40	ORDER ON RULE 12 MOTION
92242806	Served		Request for Discovery - Disclosures, Production, and Admissions
92037775	Accepted	09/16/2024 08:06:54	First Amended Motion for Rehearing
91870680	Accepted	09/11/2024 08:05:20	Motion for Rehearing on Petition for Writ of Mandamus
89507709	Accepted	07/05/2024 10:32:14	Second Amended Counterpetition for Divorce
89346219	Accepted	07/01/2024 08:10:48	Objection to Title-IV Intervention
89091273	Accepted	06/24/2024 11:30:32	MOTION FOR JOINDER OF PERSONS NEEDED FOR JUSTICE
88437727	Accepted	06/04/2024 04:24:28	NOTICE OF NEW INFORMATION
87744655	Accepted	05/15/2024 07:32:12	Notice
87683712	Accepted	05/13/2024 04:53:42	Petition for Review
87240622	Accepted	05/01/2024 09:43:22	Notice of Completion - Children in the Middle
87125461	Accepted	04/29/2024 08:29:13	Motion for En Banc Reconsideration
87125461	Accepted	04/29/2024 08:29:13	CERTIFIED APPENDIX
87035976	Accepted	04/25/2024 09:03:41	Objection to Motion for Pre-trial Conference
86982030	Accepted	04/24/2024 08:12:33	Supplemental Appendix
86818148	Accepted	04/18/2024 02:55:14	Emergency Motion for Rehearing, or, in the Alternative, Leave
86388287	Accepted	04/08/2024 10:37:08	PETITION FOR WRIT OF MANDAMUS AND CLERK'S RECOMMENDATION
86388287	Accepted	04/08/2024 10:37:08	MOTION FOR EMERGENCY RELIEF W/ PETITION OF MANDAMUS
86300241	Accepted	04/05/2024 06:17:14	FIRST AMENDED NOTICE OF FILING OF ORIGINAL PROCEEDING
86233566	Accepted	04/04/2024 07:25:22	NOTICE OF FILING ORIGINAL PROCEEDING AND MOTION TO DISMISS
85994064	Accepted	03/27/2024 07:23:02	Request for Findings of Fact and Conclusions of Law
85894466	Accepted	03/26/2024 09:00:11	Request for Clerk to Prepare Record



85891537	Accepted	03/26/2024 07:11:16	Second Amended Notice of Judicial Review
85882470	Accepted	03/26/2024 07:02:57	First Amended Notice of Judicial Review
85801376	Accepted	03/21/2024 01:07:46	Notice of Judicial Review
85268609	Accepted	03/07/2024 01:32:26	Writ of Re-Entry//FV
85164173	Accepted	03/04/2024 02:35:46	Respondent's Required Initial Disclosures
85135431	Accepted	03/04/2024 09:02:26	Notice / Unsworn Declaration
84786327	Accepted	02/22/2024 11:58:36	Motion for Partial Summary Judgement
84786327	Accepted	02/22/2024 11:58:36	Proposed Order for the Motion for Partial Summary Judgement
84529722	Accepted	02/15/2024 10:45:37	RESPONDENT'S ANSWER TO PETITIONER'S FIRST AMENDED PETITION
84359156	Accepted	02/09/2024 04:25:56	EMERGENCY MOTION TO RECONSIDER EVIDENCE AND
84172349	Accepted	02/06/2024 04:09:22	Notice of Change in Legal Representation in Case No. 322-74
83461559	Accepted	01/17/2024 09:10:36	Contestation of Divorce Petition - Counter Petition
83182461	Accepted	01/08/2024 03:15:56	ORDER OF DISMISSAL//PENDING PROCESSING//FV
83155607	Accepted	01/08/2024 10:32:57	BY DEFN PRO SE//NO ORDER ATTACHED//SET FOR 01.17.24
83152990	Accepted	01/08/2024 12:30:26	Motion of Continuance
83059711	Accepted	01/04/2024 11:36:26	Motion to Consolidate
82998767	Accepted	01/02/2024 04:13:31	Answer to Protective Order
82977358	Accepted	01/02/2024 07:40:21	FILED BY DEFN/ PRO SE/ WITH EXHIBITS// MDF

EEDING AND MOTION FOR EMERGENCY TEMPORARY RELIEF

**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: 98325035

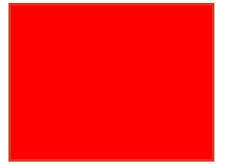
Filing Code Description: Notice

Filing Description: Notice of Continued Obstruction

Status as of 3/12/2025 1:11 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/11/2025 2:23:42 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	3/11/2025 2:23:42 PM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	3/11/2025 2:23:42 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/11/2025 2:23:42 PM	SENT



**322-744263-23**

**NOTICE OF  
SUBMISSION**

**03.14.25**

322-744263-23

FILED  
TARRANT COUNTY  
3/14/2025 1:21 PM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 322-744263-23  
IN THE 322<sup>ND</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS

**Morgan Michelle Myers,**

Petitioner,

v.

**Charles Dustin Myers,**

Respondent

AND IN THE INTEREST OF  
M.E.M and C.R.M., two minor children

2025-03-14

NOTICE OF SUBMISSION

TO THE HONORABLE COURT:

Notwithstanding the procedural pitfalls of this case, Respondent, CHARLES DUSTIN MYERS, requests the court to take judicial notice of the following undisputed facts and grant summary judgment in his favor without delay.

Given the case's procedural status, this notice alongside the Summary Judgment and proposed order should be forwarded immediately to Daivd L. Evans. Respondent is entitled to relief as a matter of law for the foregoing reasons:

## I. INTRODUCTION

1. On December 14<sup>th</sup>, 2023, Morgan Michelle Myers, Petitioner in this matter, requested an emergency ex-parte order of protection from this court claiming an emergency was present.

2. On December 15<sup>th</sup>, 2023, Morgan Michelle Myers took \$1,576 from the marital estate and transferred it to a third party, Dan Branthoover, to conceal its' final destination and to prevent Respondent from accessing the marital funds.

**Virtual Wallet Spend Statement**

For 24-hour information, sign on to PNC Bank Online Banking: [on.pnc.com](http://on.pnc.com)

Account Number: [REDACTED] - continued

For the period: 12/02/2023 to 01/02/2024  
 CHARLES MYERS  
 Primary account number: [REDACTED]-8826  
 Page 4 of 6

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**Banking/Debit Card Withdrawals and Purchases** - continued

Date	Amount	Description
12/15	1.33	3117 Debit Card Purchase Paypal *dkb575
12/18	1,576.00	3117 Debit Card Purchase Paypal *Dmb575
12/18	10.65	3117 Recurring Debit Card Microsoft*Xbox Game P

3. On December 17<sup>th</sup>, 2023, while in Oklahoma, the Petitioner instigated an eviction proceeding by having her grandmother serve the Respondent with an eviction notice stating the following grounds for eviction:

- i. Granddaughter getting divorced.
- ii. Protective order filed.
- iii. He must leave, she and the children must stay.

for eviction of Plaintiff's premises (including storerooms and parking areas) located in the above precinct. The address of the property is:

6641 Anne Ct. Watauga TX 76148

Street Address Unit No. (if any) City State Zip

**GROUND FOR EVICTION:** Plaintiff alleges the following grounds for eviction:

- ☐ **Unpaid rent.** Defendant(s) failed to pay rent for the following time period(s): \_\_\_\_\_. The amount of rent claimed as of the date of filing is: \_\_\_\_\_. Plaintiff reserves the right to orally amend the amount at trial to include rent due from the date of filing through the date of trial.
- ☒ **Other lease violations.** Defendant(s) breached the terms of the lease (other than by failing to pay rent) as follows: \_\_\_\_\_
- Morgan Myers has filed with the court for divorce from Charles Myers. Morgan Myers has also filed a protective order against Charles Myers with the court. Morgan Myers and the children will be allowed to stay at the property.**
- ☐ **Holdover.** Defendant(s) are unlawfully holding over by failing to vacate at the end of the rental term or renewal of extension period, which was the \_\_\_\_\_ day of \_\_\_\_\_.

**NOTICE TO VACATE:** Plaintiff has given Defendant(s) a written notice to vacate (according to Chapter 24.005 of the Texas Property Code) and demand for possession. Such notice was delivered on the 17th day of December, 2023 by this method:  
Hand delivered to Charles Myers

**SUIT FOR RENT:** Plaintiff ☐ does or ☒ does not include a suit for unpaid rent.

**ATTORNEY'S FEES:** Plaintiff ☐ will be or ☒ will not be seeking applicable attorney's fees. The attorney's name, address, phone and fax numbers are: \_\_\_\_\_



A CERTIFIED COPY  
ATTEST: 04/16/2024  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TE  
BY: /s/ Catherine Saenz

3. The eviction notice referenced a Protective Order that wasn't filed until December 22<sup>nd</sup>, 2023, showing clear collaboration and planning regarding the narrative for protection.

4. On December 18<sup>th</sup>, 2023, Petitioner filed for divorce, filed a statement of inability to afford court costs, and claimed that the case was uncontested. Despite claiming in the Petition that she had sought an emergency ex-parte order of

protection on December 14<sup>th</sup>, 2023, she also claimed that an active order of protection already was in effect against Respondent.

#### 9B. Pending Protective Order

- ☒ I have filed paperwork at the courthouse asking for a protective order against my spouse, but a judge has not decided if I should get it. I asked for a protective order on 12/14/2023  
Date Filed  
 in Tarrant County, Texas. The cause number is \_\_\_\_\_  
County State Cause Number  
 If I get a protective order, I will file a copy of it before any hearings in this divorce.
- ☐ My spouse has filed paperwork asking for a protective order against me, but a judge has not decided if my spouse will get it. My spouse asked for a protective order on \_\_\_\_\_  
Date Filed  
 in \_\_\_\_\_ County, \_\_\_\_\_. The cause number is \_\_\_\_\_  
County State Cause Number  
 If my spouse gets a protective order, I will file a copy of it before any hearings in this divorce.

#### 9C. Protective Order in Place

- ☐ I do have a protective order against my spouse. I got the protective order in \_\_\_\_\_ County, \_\_\_\_\_ State on \_\_\_\_\_  
County State Date Ordered  
 The cause number for the protective order is \_\_\_\_\_  
Cause Number  
 Either I have attached a copy of the protective order to this petition or I will file a copy of it with the court before any hearings in this divorce.
- ☐ My spouse does have a protective order against me. The protective order was made in \_\_\_\_\_ County, \_\_\_\_\_ State on \_\_\_\_\_  
County State Date Ordered  
 The cause number for the protective order is \_\_\_\_\_  
Cause Number  
 Either I have attached a copy of the protective order to this petition or I will file a copy of it with the court before any hearings in this divorce.

#### 10. Waiver of Waiting Period Based on Family Violence (Check only if applicable.)

- ☒ I ask the Court to waive the 60-day waiting period for divorce because: (Check one box.)
- ☐ My spouse has been convicted of or received deferred adjudication for a crime involving family violence against me or a member of my household.
- ☒ I have an active protective order or an active magistrate's order for emergency protection against my spouse because of family violence during our marriage. The order includes a finding that my spouse committed family violence.



A CERTIFIED COPY  
 ATTEST: 04/16/2024  
 THOMAS A. VALDER  
 DISTRICT CLERK  
 TARRANT COUNTY, TEXAS  
 BY: /s/ Catherine Sandoz



5. Further, notwithstanding the fabricated active protective order, Petitioner's deception went further when she fraudulently submitted her affidavit of inability to pay court fees when she claimed to be responsible for the 2023 MAZDA CX-5 payments, rent payments for the residence located at [REDACTED], and misrepresented her financial status regarding available funds in her checking account.

6. What is the value of your assets or property? ¿Cuál es el valor de sus bienes o propiedades?	
My property includes: Mis bienes Incluyen:	Value / Valor The value is the amount the item would sell for less the amount you still owe on it, if anything.  El valor de sus bienes es la cantidad por la que la propiedad o pertenencia se vendería, menos el monto que aún se adeuda, si lo hubiera.
➤ Cash Dinero en efectivo	\$ 0
➤ Bank accounts, other financial assets Cuentas bancarias, otros bienes financieros	
CHASE BANK	\$ 21.00
	\$
	\$
➤ Cars and boats (make and year) Automóviles, lanchas (modelo y año)	
MAZDA CX5 2023	\$ 451.00 / MONTH
	\$
	c

5. Since late 2021, the Respondent had made timely rent payments to Margie Wilson, the undersigned in the eviction suit, as evidenced below.

Time	Transaction ID	Amount
Mar 6, 2024, 6:24 AM	B.F838-4AD8-299D-A754	1,000.00
Mar 1, 2024, 6:23 PM	B.397E-D5A0-1447-5269	800.00
Feb 1, 2024, 10:35 AM	B.D5FF-4E63-A729-3538	800.00
Jan 1, 2024, 1:39 PM	B.2919-114A-3B1A-867C	500.00
Jan 1, 2024, 7:21 AM	B.72F8-B8B5-6E06-BBEA	800.00
Dec 3, 2023, 6:35 PM	B.E493-17A2-F32E-1A61	800.00
Dec 3, 2023, 2:42 AM	B.7F3D-B8A3-029E-EA2E	800.00
Oct 3, 2023, 8:10 AM	B.4667-8346-2080-6A01	800.00
Oct 1, 2023, 10:15 AM	B.95FD-F5F1-D0C0-EBB5	800.00
Sep 1, 2023, 11:59 AM	B.F434-CEDD-265B-D08D	800.00
Sep 1, 2023, 8:40 AM	B.26A3-87A4-19DF-6195	60.00
Aug 27, 2023, 10:54 AM	B.416D-E2EE-7296-5EDE	40.00
Aug 22, 2023, 12:19 PM	B.C6C2-BFFB-3E53-B8DA	40.00
Aug 1, 2023, 2:57 PM	B.5717-2883-FEE4-DD45	800.00
Jul 1, 2023, 1:35 PM	B.2467-3EE2-33DE-4124	800.00
Jun 29, 2023, 12:15 AM	B.FF21-A34D-E1E7-2A22	100.00
Jun 24, 2023, 6:16 AM	B.A94E-2B54-D61F-2697	60.00
Jun 20, 2023, 9:11 AM	B.E11D-2223-3858-EA1F	40.00
Jun 14, 2023, 7:10 PM	B.018D-EE3A-D26B-D2EB	800.00
Jun 1, 2023, 3:32 PM	B.8C04-4082-F2F8-77C5	800.00
May 8, 2023, 12:34 PM	B.9FC7-47F9-038C-532B	800.00
May 8, 2023, 12:30 PM	B.6E24-85CB-4B44-7AB7	800.00
May 5, 2023, 6:00 PM	B.FC35-DAA0-F22D-746E	800.00
May 1, 2023, 12:48 PM	B.43D2-A5D2-0775-EE4D	800.00
Apr 1, 2023, 8:15 PM	B.C3D6-A2E1-3EDF-1339	800.00

5. Rent was paid by the Respondent leading up to the day of his unlawful lockout by the Petitioner which occurred on March 6, 2024, when she ran inside the home while Respondent was walking the children to school.

## II. THE CURRENT ORDERS

6. On February 1<sup>st</sup>, 2024, the parties entered into an agreement which was signed as to form and substance by both parties through their attorneys of record.

7. As part of the agreement, the following provisions were ordered:

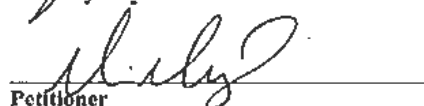
A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by Dan Bacalis.

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:

  
\_\_\_\_\_  
377<sup>ND</sup> Associate Judge

8. Immediately after signing the above agreement, the Respondent strategically terminated his legal representation due to the absurdity of settling and allowing the Petitioner to leverage her claims.

9. Most disturbing is that this settlement agreement permitted the Petitioner to *remove her children from their own home for an entire month* – a clear disregard for their well being – *and the court signed off on this*.

10. Further, this agreement was challenged via a motion to reconsider which was denied on March 14<sup>th</sup>, 2024, but Judge Kaitcer.

11. To date, no findings of fact or conclusions of law have been issued regarding this ruling despite notifying the court that they are past-due.

12. At the hearing on March 14<sup>th</sup>, 2024, the docket reflects only the Respondent appearing before the court.

13. Just prior to the hearing, Respondent was served the current orders by COOPER L. CARTER, not DAN BACALIS, just minutes before the hearing was to commence that was filed to challenge them.

14. Despite the agreement stating that a typed written order *shall* be prepared by Dan Bacalis, despite the 20 day time limit, and despite the five day review period that all parties and Judge Kaitcer agreed to - the orders were permitted to be prepared at the last minute by COOPER L. CARTER, well after the 20-day deadline, and despite the Respondent's consent not being present, he was ordered to sign the agreement in violation of Texas Law by 1:30 P.M. that same day.

322<sup>ND</sup> FAMILY DISTRICT COURT  
 322-744263-23  
 ASSOCIATE JUDGE'S REPORT  
 FOR TEMPORARY ORDERS

FILED  
 TARRANT COUNTY  
 3/26/2024 3:19 PM  
 THOMAS A. WILDER  
 DISTRICT CLERK

CAUSE NUMBER: 322 - 744263-23

IT MOTION/IN RE/TIO

<u>Myers</u>	§	IN THE DISTRICT COURT
_____	§	TARRANT COUNTY, TEXAS
_____	§	322 <sup>ND</sup> JUDICIAL DISTRICT

1. IT is ordered that Movant's motion for to vacate is denied.
2. It is ordered that Movant shall provide Mrs. <sup>Myers'</sup> ~~Myers'~~ attorney with a list of the technology he needs from the marital home, for his business.
3. It is ordered that the parties shall present a the Temporary Orders ~~by~~ regarding the ACR <sup>signed</sup> ~~filed~~ on 2/11/2024 by 1:30pm today.

15. The above order clearly shows two distinct handwritings – one from COOPER L. CARTER, and one from Judge Kaitcer – ‘for his business’ – showing a pre-determined outcome.

### III. CONCLUSION

16. There is no doubt that this matter is filled with deception and unethical practices. The Petitioner, in an effort to conceal her marital affair, had no problem taking her own children out of their home, falsifying her financial status after converting funds from the marital estate with the assistance of a third party,

claiming financial responsibility over property paid for by the Respondent, fabricating the existence of protective orders, instigating frivolous eviction suits, and falsifying the need for protection.

17. On December 22, 2023, Petitioner filed for a protective order despite already claiming to have one in effect in her original petition for divorce, yet text evidence clearly shows the Petitioner at home with Respondent on this same day – showing no need of protection as they continued to cohabit up until January 16<sup>th</sup>, 2024.

18. There exists no legal basis for the court's continued stonewalling.

19. Therefore, continued disregard for the well-being of the Children and Respondent's rights must cease.

20. Issue relief by granting summary judgment in Respondent's favor without delay.

Respectfully submitted,

*/s/ Charles Dustin Myers*

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

PRO-SE

CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that this NOTICE OF SUBMISSION has been filed with the electronic filing manager and served on the parties of record on this 14<sup>th</sup> day of March 2025, including:

COOPER L. CARTER, counsel for petitioner, at the email address

[COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

MORGAN MICHELLE MYERS, petitioner, at the email address

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

HOLLY HAYES, intervenor, at the email address

[csd-legal-914@oag.texas.gov](mailto:csd-legal-914@oag.texas.gov)

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

[REDACTED]

817-546-3693

PRO SE

**Automated Certificate of eService**

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

Envelope ID: 98476436

Filing Code Description: Notice

Filing Description: NOTICE OF SUBMISSION

Status as of 3/17/2025 8:14 AM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/14/2025 1:21:50 PM	SENT
Cooper L.Carter		coopercarter@majadmin.com	3/14/2025 1:21:50 PM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	3/14/2025 1:21:50 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/14/2025 1:21:50 PM	SENT





**233-765358-25**  
**MOTION TO STRIKE**  
**RESPONDENT'S**  
**ANSWER AND MOTION TO**  
**CONSOLIDATE**

**03.20.25**

233-765358-25

FILED  
TARRANT COUNTY  
3/20/2025 9:55 AM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 233-765358-25

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

Petitioner,

**MORGAN MICHELLE MYERS,**

Respondent.

2025-03-30

**MOTION TO STRIKE RESPONDENT'S  
ANSWER AND MOTION TO  
CONSOLIDATE****TO THE HONORABLE 233<sup>RD</sup> DISTRICT COURT:**

Petitioner, CHARLES DUSTIN MYERS, respectfully submits this motion to strike Respondent's answer and motion to consolidate, and in support thereof, would show the court the following:

**I. STATEMENT OF FACTS**

1. On March 20, 2025, Respondent, MORGAN MICHELLE MYERS, filed an answer entering a general denial for the claims made against her and a motion to consolidate.

2. The response alleges that it was necessary for the Respondent to acquire the services of Cooper L. Carter.

3. The Respondent's answer and motion to consolidate were filed on Cooper Carter's behalf by Roderick D. Marx, a party not named in either this suit or the related divorce suit (322-744263-23).

4. Roderick D. Marx has filed all pleadings on Cooper Carter's behalf because Cooper Carter's electronic filing manager credentials are registered under the law firm Cantey and Hangar, LLP. See Exhibit 1.

5. Respondent's answer and motion to consolidate are an attempt to subvert the relief the children desperately need, and failed to argue as to how these pleadings are in the best interests of the children.

A. Sudden Activity after Months of Delay

6. Respondent's Answer asserts the existence of a prior divorce case (Cause No. 322-744263-23) involving the parties as a basis to delay or abate this Suit Affecting Parent-Child Relationship (SAPCR). However, that divorce case has been stalled for months with no meaningful action by Respondent or her alleged counsel. Respondent's counsel has failed to diligently prosecute the divorce matter, and a dormant case cannot justify stalling this separate SAPCR proceeding. In short, the children's issues should not be put on hold due to an unrelated divorce case that remains inactive.

B. SAPCR Suit Focus (Lack of Child-Related Response)

7. This SAPCR is focused on the welfare and best interests of the children, yet the Respondent's Original Answer is devoid of any substantive response regarding the children. Respondent merely states that the information required under Texas Family Code §§154.181(b) and 154.1815 "will be provided at a later date" and then enters a general denial. No specific

conservatorship, support, or visitation issues are addressed at all. By failing to engage with the core child-related allegations in the Petition, Respondent's Answer is irrelevant to the central issues of this proceeding and provides the Court with nothing of substance on the SAPCR matters.

8. Respondent's Answer claims that it was "necessary for Respondent to secure the services of COOPER L. CARTER, a licensed attorney, to prepare and defend this suit". Yet the pleading was filed under the letterhead of **Marx, Altman & Johnson** (Attorney Roderick D. Marx's firm) and is electronically signed by Cooper L. Carter as "Attorney for Respondent". This inconsistency creates confusion as to who represents Respondent in this case. Texas practice expects clarity in counsel of record (see Tex. R. Civ. P. 8 requiring designation of lead counsel), but here Respondent's Answer sends mixed signals by invoking Mr. Carter's name and services while being filed through Mr. Marx's firm. Such a contradiction in representation is procedurally improper and fails to clearly identify the attorney in charge of Respondent's case.

9. In addition to the above, there are irregularities in the manner Respondent's Answer was filed. Upon information and belief, the Answer was submitted via an Electronic Filing Manager (EFM) account registered to Cooper L. Carter under the law firm **Cantey & Hanger**, which is not the firm appearing on the pleading. In other words, the electronic filing credentials used do not match the law firm or attorney officially listed on the document. This raises serious concerns about the validity of the filing and compliance with Texas e-filing rules (see Tex. R. Civ. P. 21(f)). Filings must be made by the attorney of record under their proper account for transparency and proper notice. Using an EFM account associated with a different firm (Cantey & Hanger) for a pleading filed under Marx, Altman & Johnson's banner is a procedural anomaly that calls into question whether Respondent's Answer was filed in accordance with the required

procedures. Further, the email address [COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM) associated with the pleadings filed in this court is **NOT** registered under the EFM in which they were filed.

10. **Texas Rule of Civil Procedure 21(f) requires that electronic filings be made through an authorized EFM account corresponding to the attorney of record.** The use of an account registered under one firm (Cantey & Hanger) to file pleadings under a different firm's name (Marx, Altman & Johnson) constitutes a procedural violation, undermining the validity of the filing and raising concerns about whether the attorney of record actually authorized or executed the filing.

11. This discrepancy calls into question the **legitimacy of Respondent's Answer** and warrants immediate review by the Court. Given the attorney filing the document **did not use their own credentials under which the pleading was submitted**, yet claimed her individual services were necessary, renders the filing as **procedurally defective and should be struck from the record** *sua sponte*.


#### **PRAYER FOR RELIEF**

12. Petitioner respectfully requests that the Court strike Respondent's Original Answer and motion to consolidate in its entirety *sua sponte*. Petitioner further requests that Respondent be required to refile any answer or responsive pleading in compliance with all applicable procedural rules – including proper attorney-of-record designation and use of correct electronic filing credentials – and to ensure that any such pleading addresses the substantive SAPCR issues regarding the children. Petitioner also prays for such other and further relief, at law or in equity, to which he may be justly entitled.

13. **WHEREFORE, PREMISES CONSIDERED**, Petitioner respectfully requests that the Court strike Respondent's Original Answer and Motion to Consolidate in its entirety as

procedurally deficient. Petitioner further requests that Respondent be required to refile any answer or responsive pleading in compliance with all applicable procedural rules – including proper attorney-of-record designation and use of correct electronic filing credentials – and to ensure that any such pleading addresses the substantive SAPCR issues regarding the children. Petitioner also prays for such other and further relief, at law or in equity, to which he may be justly entitled.

Respectfully submitted,

*/s/ Charles Dustin Myers*  
CHARLES DUSTIN MYERS  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
817-546-3693  
  
PRO-SE

# EXHIBIT 1

## Improper EFM registration

Public Service Contact List


First Name  
COOPER

Last Name  
CARTER

Email Address

Firm Name

Search

 Cooper Carter

ccarter@canteyhanger.com

Rows per page: 10 1-1 of 1 < >



CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that this Motion to Strike Respondent's Answer and Motion to Consolidate has been filed with the electronic filing manager and served on the parties of record on this 20<sup>th</sup> day of March 2025, including:

MORGAN MICHELLE MYERS, RESPONDENT

Via her email registered under the EFM: [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
817-546-3693  
[REDACTED]  
PRO-SE

Automated Certificate of eService

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

Envelope ID: 98676933  
Filing Code Description: Motion (No Fee)  
Filing Description: Motion to Strike  
Status as of 3/21/2025 8:47 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/20/2025 9:55:21 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	3/20/2025 9:55:21 AM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	3/20/2025 9:55:21 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/20/2025 9:55:21 AM	SENT



**233-765358-25**

**EMERGENCY EX-PARTE  
MOTION TO DECLARE  
JUDGMENT VOID AB  
INITIO AND FOR  
IMMEDIATE RE-ENTRY**

**03.20.25**

233-765358-25

FILED  
TARRANT COUNTY  
3/20/2025 12:18 PM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 233-765358-25

IN THE 233<sup>RD</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS**IN RE: M.E.M., C.R.M.,****\*\*CHARLES DUSTIN MYERS, \*\***

Petitioner,

Vs.

**MORGAN MICHELLE MYERS,**

Respondent.

**EMERGENCY EX-PARTE MOTION TO  
DECLARE JUDGMENT VOID AB INITIO  
AND FOR IMMEDIATE RE-ENTRY**

2025-03-20

**TO THE HONORABLE JUDGE OF THE 233<sup>RD</sup> DISTRICT COURT:**

1. For the preceding twelve months and fourteen days, Petitioner has been unlawfully Barred from entering his residence and has been cut out of his children's lives. On March 6<sup>th</sup>, 2024, while walking M.E.M and C.R.M. to school, Respondent unlawfully locked the Petitioner out of the matrimonial home and called the Watauga police department who came to assist in the dispute. When on scene at [REDACTED], Respondent produced an agreed associate judge's report where consent had been withdrawn and used it as a means to bar the Petitioner's entry to the home. With an emergency hearing date set for March 14<sup>th</sup>, 2024, the Petitioner took the advice of the officers and stayed with his father temporarily in Flower Mound, Texas to avoid unnecessary conflict.

2. On March 14<sup>th</sup>, 2024, the Petitioner appeared in person and was served a reduced copy of the orders he was in court to challenge and from which he withdrew his consent from. Despite

this, the orders were rendered anyway, effectively barring the Petitioner from his own home and Children's lives despite his consent not being present at the time of rendition.

3. The orders in question, attached hereto as **EXHIBIT 1**, are facially void and lack legal effect. Despite this, they continue to cause ongoing and irreparable harm, as further detailed below. Accordingly, Petitioner respectfully requests that this Court issue a declaratory judgment formally recognizing the invalidity of these orders which will simultaneously provide long-overdue relief to the children in this matter. In support of this request, the Petitioner shows as follows:

### **I. STATEMENT OF FACTS**

4. On page 1 of the orders, they read as follows: *"The parties have agreed to the terms of this order as evidenced by the signatures below."*

5. On the final page of the orders, the signatures of CHARLES DUSTIN MYERS and his previous attorney, DAN BACALIS, are not present on the document.

6. The Petitioner refused to sign the orders to which he did not consent to on March 14<sup>th</sup>, 2024.

7. The orders were rendered on March 26<sup>th</sup>, 2024, as an agreement between the parties despite consent not being present at the time of rendition.

8. The orders are void ab initio and have no legal effect.

### **II. ARGUMENT**

#### **A. An "Agreed" Order Without Actual Consent is Void Ab Initio**

9. Texas law is unequivocal that a judgment purporting to rest on an agreement of the parties cannot be rendered or enforced if one of the parties did not genuinely consent at the time of rendition. The consent of all parties at the time the court renders judgment is a prerequisite for

a valid agreed order. As the Texas Supreme Court has stated, **a trial court cannot render a valid agreed judgment absent the consent of the parties at the time it is rendered**, and the agreement can be revoked at any time before judgment is rendered on the agreement. *S & A Restaurant Corp. v. Leal*, 892 S.W.2d 855, 857 (Tex.1995). This is so because a trial court cannot render a valid agreed judgment absent the consent of the parties at the time it is rendered. *Padilla v. LaFrance*, 907 S.W.2d 454, 461 (Tex.1995).

10. In *S&A Restaurant Corp. v. Leal*, the Court reaffirmed that a party may revoke consent to a settlement at any time before judgment is rendered, and if a court nonetheless signs a judgment after consent has been revoked, “a judgment rendered after one party revokes his consent is **void**.” This rule reflects a fundamental principle: **true consent** is the linchpin of any agreed order.

11. Here, Petitioner never consented to the order at the time they were entered. Indeed, his missing signature is a prima facie showing of this fact. Under these circumstances, it was **error for the Court to sign the order as an “agreed” judgment**, and the result is that the order is void ab initio. The Texas Supreme Court’s decision in *Quintero v. Jim Walter Homes, Inc.*, 654 S.W.2d 442 (Tex. 1983) is directly on point. In *Quintero*, the Court held that when a trial court has knowledge that one party does not consent to a judgment, the court “**should refuse to sanction [the] agreement by making it the judgment of the court.**” *Id.* By entering an order in the absence of Petitioner’s consent, the agreed judgment in this case was not just voidable—it is **absolutely void from inception**. In legal effect, there never was a valid temporary order at all, because the requisite meeting of the minds was absent.

12. Texas courts of appeals have applied these principles in situations analogous to Petitioner’s, particularly in family law cases. For example, in *In re E.B.*, No. 12-17-00214-CV

(Tex. App.—Tyler Oct. 18, 2017), the trial court had entered temporary orders incorporating a Rule 11 settlement agreement regarding conservatorship and possession of children. The father, however, had timely revoked his consent to that agreement. The Tyler Court of Appeals held that because the father withdrew consent before judgment, the agreed terms regarding conservatorship and possession were **void**. The appellate court unequivocally stated that the provisions of the temporary orders involving the children “**are void, and the trial court abused its discretion in entering temporary orders based on the [purported] Agreement.**” The court conditionally granted mandamus and directed the trial judge to vacate those portions of the temporary order.

**B. A Void Judgment is a Nullity and Can Be Challenged or Vacated at Any Time**

13. Because the temporary orders were entered without jurisdiction (i.e. without consent jurisdiction conferred by the parties’ agreement), the resulting “agreed” order is void. Under Texas law, a void judgment or order has no legal force or effect from the outset. It is “null” ab initio, and any person or court affected by it is entitled to treat it as a nullity. The Texas Supreme Court has explained that a void order is, in effect, no order at all: “[A] void judgment is a legal nullity . . . .” *Alanis v. Barclays Capital Real Estate Inc.*, No. 04-17-00069-CV (Tex. App. Mar. 27, 2017).

14. Such a judgment may be collaterally attacked and set aside at any time, as it is not subject to ordinary procedural bars. **Browning v. Placke**, 698 S.W.2d 362 (Tex. 1985) (per curiam), is instructive on this point. In *Browning*, the Supreme Court recognized that courts of equal jurisdiction have the authority to declare a judgment void when it suffers from a fundamental defect (such as lack of jurisdiction or lack of consent). Here, this is a direct fit with the present situation.

**C. Respondent's most recent attempt to subvert the process**

15. On March 20<sup>th</sup>, 2025, Respondent filed an original answer and motion to consolidate through COOPER L. CARTER, which was prepared by RODERICK MARX. These filings are a direct showing of the Respondent's game. She remains silent for months, and then at the first sign of her false narrative being under attack, she unleashes her attorney to file pleadings using the EFM Credentials of another individual not named in the suit – Roderick Marx – to prevent the relief duly entitled to Petitioner.

16. Petitioner reminds this court that Respondent's answer is clearly a boilerplate response template that doesn't even address the core issues raised in the SAPCR. The first lines of the Response claim that Respondent has no driver's license or social security number, which shows the rushed nature of her pleading in an attempt to defend the Respondent's false narrative she has procured through fraud.

17. Petitioner also points out that the Respondent wants to consolidate this matter with the divorce matter that is procedurally defunct, which would not be in the best interests of the children because it would move the matter back to the procedurally stalled case that hasn't been prosecuted by the same attorney who is requesting consolidation. Such would defeat the entire purpose of this suit, and would cause undue delay and prejudice the children and Petitioner.

**D. Request for immediate re-entry.**

18. Given the orders in question are facially void, Petitioner requests an immediate notice to be filed and served on the parties of record so that he may return home to his children, residence, and place of business until this matter can be set for a hearing. Petitioner's unlawful exclusion from his residence creates further harm to the children each day it is left unaddressed.



19. Petitioner reiterates that his immediate return is in line with Texas Public Policy, nobody has argued against his relief sought, and this court has the discretion to issue temporary orders and dispense without the necessity of a bond or verified pleading pursuant to TEX. FAM. CODE. 105.001.

20. Preventing a father from accessing his home which is needed for financial stability will continue to cause monetary and emotional damage to the children until resolved.

**PRAYER FOR EXPEDITED RELIEF**

**WHEREFORE, promises considered,** Petitioner respectfully request of this court without delay:

1. To declare the orders attached as Exhibit 1 *void ab initio* and issue findings permitting the Petitioner to return home to [REDACTED] immediately for the orders lacking consent of all parties at the time of rendition and for not bearing the Petitioner's signature.
2. To serve on all parties of record confirmation that the orders are without legal effect.
3. Enforce the Texas Rules of Civil Procedure and prevent Cooper L. Carter from representing the Respondent in this matter until she can conform to electronic filing requirements and strike her pleadings outright.
4. Any further relief that the court deems just and equitable.
5. Given the extraordinary circumstances, set this motion for hearing at the earliest possible time, to be conducted via zoom if possible for judicial efficiency given the Petitioner's financial strain caused by this situation.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

[REDACTED]

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

PRO-SE

CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that this EMERGENCY EX-PARTE MOTION TO DECLARE JUDGMENT VOID AB INITIO AND FOR IMMEDIATE RE-ENTRY has been filed with the electronic filing manager and served on the parties of record on this 20<sup>th</sup> day of March 2025, including:

MORGAN MICHELLE MYERS, RESPONDENT

Via her email registered under the EFM: [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

[REDACTED]

PRO-SE

Automated Certificate of eService

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

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



**322-744263-23**

**COMPREHENSIVE  
LEGAL ANALYSIS IN  
SUPPORT OF  
DISMISSAL**

**04.04.25**

322-744263-23

FILED  
TARRANT COUNTY  
4/4/2025 9:12 AM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 322-744263-23

IN THE 322<sup>nd</sup> DISTRICT COURT OF TARRANT COUNTY, TEXAS

<p><b>ITMOMO</b> <i>(AITIO M.E.M., C.R.M., two children)</i> <b>MORGAN MICHELLE MYERS</b></p> <p>Petitioner,</p> <p><b>CHARLES DUSTIN MYERS,</b></p> <p>Respondent.</p> <p>2025-04-04</p>
---

RESPONDENT’S COMPREHENSIVE  
LEGAL ANALYSIS IN FAVOR OF  
DISMISSAL

**TO THE HONORABLE JUDGE OF THE 322<sup>ND</sup> DISTRICT COURT OF TARRANT  
COUNTY:**

**EXECUTIVE SUMMARY**

This legal analysis examines the case of Charles Dustin Myers ("Respondent") against Morgan Michelle Myers ("Petitioner") and her attorney Cooper L. Carter. Based on thorough research of Texas law and the facts presented, there are multiple compelling legal grounds supporting the Respondent's entitlement to relief for his children and establishing attorney misconduct by Ms. Carter. This summary was prepared by CHARLES DUSTIN MYERS, who is of sound mind and attests to the validity of all claims, accusations, and statements herein as true to the best of his knowledge under penalty of perjury.

The analysis concludes that:

1. The divorce case should be dismissed for want of prosecution due to Petitioner's failure to advance the case for nearly a year
2. The current orders are void due to lack of consent and improper adoption by the referring court
3. The 322nd District Court never acquired continuing exclusive jurisdiction over the children
4. The new SAPCR was properly filed as an original proceeding and should not be consolidated, especially considering no motion to transfer has been filed.
5. Ms. Carter's pleadings should be stricken due to her failure to respond to a Rule 12 challenge
6. The children's best interests require immediate relief without further procedural delays

## **I. FACTUAL BACKGROUND**

### **A. Procedural History**

1. December 18, 2023: Divorce case filed in 322nd District Court with 60-day waiver.
2. February 6, 2024: Respondent filed emergency motion challenging basis for agreement.
3. March 14, 2024: Respondent's motion was denied, basis for agreement became temporary orders.
4. April 8, 2024: Respondent sought relief in the Second Court of Appeals via Mandamus.
5. April 10, 2025: Respondent was denied mandamus, he moved for rehearing.

6. April 24, 2024: Cooper L. Carter filed Motion for Pre-Trial Conference.
7. May 13, 2024: Second Court of Appeals denied rehearing, Respondent appealed to the Texas Supreme Court.
8. June 2024: Texas Attorney General attempted to intervene.
9. September 2024: Supreme Court of Texas denied relief.
10. September 17, 2024: Respondent served a request for discovery and admissions on Petitioner .
11. September 20, 2024: Respondent filed Rule 12 motion challenging Carter's authority.
12. October 7, 2024: Respondent moved to recuse judges after the case continued to stall and un-opposed emergency relief remained adjudicated.
13. November 7, 2024: Recusal denied.
14. December 4, 2024: Respondent removed case to Northern District of Texas.
15. December 6, 2024: Case remanded to state court, placing the obligation of Rule 237a of the Texas Rules of Civil Procedure on COOPER L. CARTER, which remains unsatisfied.
16. March 2025: Respondent filed new SAPCR in 233rd District Court seeking emergency relief for the children.
17. March 28, 2025: Respondent appeared for TRO hearing that was not heard due Cooper Carter's improper interference.
18. April 2, 2025: Respondent pre-objected to consolidation.

19. April 4, 2025: Cooper L. Carter attempting to present consolidation motion without any reference to the objection, EX-PARTE, and without conferring with Respondent .

### **B. Harm to Children**

1. Children subjected to psychological manipulation and medical neglect by Petitioner
2. Children left home alone at night without supervision
3. Children removed from Respondent's care and placed with elderly great-grandparents
4. Children being gaslighted by Petitioner into false belief that divorce is finalized
5. Eldest child's academic performance has plummeted
6. Children emotionally estranged from both parents
7. Respondent unlawfully locked out of family home on March 6, 2024
8. Respondent prevented from accessing home and caring for children
9. Respondent's business has been significantly damaged due to Petitioner's deception and the children's financial future has been crippled

### **C. Attorney Misconduct**

1. Cooper L. Carter has failed to prosecute the case since April 24, 2024.
2. No substantive action has been taken for approximately 11 months.
3. Failed to respond to discovery requests, resulting in deemed admissions.
4. Failed to comply with Rule 237a after federal remand.
5. Failed to respond to Rule 12 challenge to authority.



6. Several exhibits have been provided, conclusively establishing the claims herein without response.
7. Has not communicated or responded in any manner throughout the litigation.
8. E-filing account registered under prior employer's email address.
9. Not properly registered for e-filing notifications.
10. Has an individual not named in the suit file pleadings on her behalf.
11. Claims to have been retained in her individual capacity yet there are multiple people claiming to represent Petitioner in this matter.
12. Lacks current working phone number or email on file with State Bar.
13. Reappeared only to block emergency relief in new proceedings in violation of Due Process.
14. Never filed substantive response to any of Respondent's claims and continues to ask favors from the bench.

## **II. LEGAL ANALYSIS**

### **A. Dismissal for Want of Prosecution**

#### *Legal Framework*

1. Texas courts have authority to dismiss cases for want of prosecution under both Texas Rule of Civil Procedure 165a and the court's inherent power to manage its docket. The Texas Supreme Court recognized both bases for dismissal in *Villarreal v. San Antonio Truck & Equipment*, 994 S.W.2d 628 (Tex. 1999).

2. A party seeking affirmative relief has a duty to prosecute the case with due diligence. As stated in *In re Conner*, 458 S.W.3d 532 (Tex. 2015), “[t]he issue here is whether a trial court abuses its discretion by refusing to grant a motion to dismiss for want of prosecution in the face of unmitigated and unexplained delay. We hold that it does.” *Id.*

3. In family law specifically, *In re Marriage of Buster*, 115 S.W.3d 141 (Tex. App.—Texarkana 2003) emphasized the importance of moving family law cases toward resolution and upheld dismissal after extended inactivity.

*Application to Current Case*

4. The facts strongly support dismissal for want of prosecution:

- i. The divorce case has been pending for over 16 months
- ii. Petitioner's attorney has failed to prosecute the case since April 24, 2024
- iii. No substantive action taken for approximately 11 months
- iv. No responses to discovery, no substantive pleadings, no trial settings
- v. The only recent action was filing a Motion to Consolidate to block emergency relief

5. This extended inactivity is precisely the type of conduct that Texas courts have consistently held, which justifies dismissal for want of prosecution. The court should dismiss the dormant divorce case and allow the new SAPCR to proceed independently to address the children's urgent needs.

## B. Void Orders Due to Lack of Consent

### *Legal Framework*

6. The Texas Supreme Court established in *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951) that: "A valid consent judgment cannot be rendered by a court when consent of one of the parties is wanting. 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."

7. The Court further held: "When a trial court has knowledge that one of the parties to a suit does not consent to a judgment, it is error to render a judgment purportedly by agreement; such a judgment is a nullity."

8. This principle was reaffirmed in *Padilla v. LaFrance*, 907 S.W.2d 454 (Tex. 1995), which confirmed that a trial court cannot render an agreed judgment after a party has withdrawn consent to a settlement.

### *Application to Current Case*

9. The orders in this case are void under *Burnaman* and its progeny because:

- i. The orders claim consent of all parties but only bear signatures of the Petitioner and counsel
- ii. Respondent contends he never gave consent to the orders
- iii. Respondent actively opposed the terms that locked him out of his home and separated him from the children

- iv. The court was aware of the dispute regarding consent (Respondent filed an emergency motion challenging the basis for agreement)

10. Under Texas law, if Respondent did not consent to the orders at the time they were rendered, they are void ab initio. The court should declare these orders void and vacate them.

### **C. Associate Judge's Orders Never Properly Adopted**

#### *Legal Framework*

11. Texas Family Code § 201.013(b) explicitly states: "Except as provided by Section 201.007 (Powers of Associate Judge), if a request for a de novo hearing before the referring court is not timely filed, the proposed order or judgment of the associate judge becomes the order or judgment of the referring court **only on the referring court's signing the proposed order or judgment.**"

12. This requirement is mandatory, not discretionary. Without the District Judge's signature, the Associate Judge's order remains merely a "proposed" order.

#### *Application to Current Case*

13. The orders in this case were issued by an Associate Judge but allegedly never properly adopted or signed by the referring District Court. Under Texas Family Code § 201.013(b), these orders never achieved the status of a final judgment of the court and have no legal effect as final orders.

14. This defect alone would be sufficient to challenge their validity, even without the consent issues. The court should declare these orders void or vacate them due to the lack of proper adoption by the referring court.

## D. No Continuing Exclusive Jurisdiction (CEJ)

### *Legal Framework*

15. Texas Family Code § 155.001(a) provides: "A court acquires continuing, exclusive jurisdiction over the matters provided for by this title in connection with a child on the rendition of a final order."

16. Critically, § 155.001(d) states: "Unless a final order has been rendered by a court of continuing, exclusive jurisdiction, a subsequent suit shall be commenced as an original proceeding."

17. In *In re Burk*, 252 S.W.3d 736 (Tex. App.—Houston [14th Dist.] 2008), the court held that CEJ is established only upon rendition of a final order, and temporary orders do not establish CEJ.

### *Application to Current Case*

18. No final order was ever rendered in the divorce case because:

- i. The Associate Judge's orders were never properly signed by the referring District Court Judge (per § 201.013(b))
- ii. The orders were void due to lack of consent (per *Burnaman v. Heaton*)

19. Without a final order, the 322nd District Court never acquired CEJ over the children. Therefore, under § 155.001(d), the Respondent's new SAPCR was properly "commenced as an original proceeding" in the 233rd District Court.

20. The motion to consolidate should be denied because the 322nd District Court does not have dominant jurisdiction over the children.

## **E. Exceptions to Dominant Jurisdiction**

### *Legal Framework*

21. Generally, when two suits involving the same subject matter are pending in different courts of equal jurisdiction, the court in which the suit was first filed has dominant jurisdiction. However, the Texas Supreme Court in *Wyatt v. Shaw Plumbing Co.*, 760 S.W.2d 245, 247 (Tex. 1988) recognized three exceptions to this rule:

- i. Conduct by a party that estops them from asserting prior active jurisdiction
- ii. Lack of persons to be joined if feasible
- iii. Lack of intent to prosecute the first lawsuit

### *Application to Current Case*

22. Even if the 322nd District Court had dominant jurisdiction (which it does not due to lack of CEJ), at least two exceptions to the first-filed rule apply:

#### **Estoppel by Conduct:**

- i. Petitioner allowed the case to become completely dormant
- ii. Failed to comply with Rule 237a's notice requirements after federal remand
- iii. Effectively concealed the revival of the state case
- iv. Represented through inaction that she had abandoned the case

#### **Lack of Intent to Prosecute:**

- i. For nearly a year, Petitioner took no action to advance the divorce

- ii. No discovery, no responses, no settings
- iii. Only "revived" the divorce case as a strategic ploy to derail Respondent's emergency action

23. The 233rd District Court is the appropriate forum to hear the current disputes because that case was initiated specifically to address the children's urgent needs, free from the entanglements of the stalled divorce.

#### **F. Attorney Misconduct - Rule 12 Challenge**

##### *Legal Framework*

24. Texas Rule of Civil Procedure 12 provides that a party may file a sworn motion stating that they believe a suit is being prosecuted or defended without authority. The challenged attorney bears the burden of proving authority to act. If the attorney fails to show authority, the court "shall refuse to permit the attorney to appear in the cause and shall strike the pleadings if no person who is authorized to prosecute or defend appears."

25. These consequences are mandatory, not discretionary. The court has no choice but to bar the attorney and strike the pleadings upon failure to show authority.

##### *Application to Current Case*

26. Respondent filed a verified Rule 12 motion on September 20, 2024, challenging Cooper L. Carter's authority. Ms. Carter has not responded to this challenge for over 6 months. Additional facts supporting the Rule 12 challenge include:

- i. Ms. Carter's e-filing account is registered under her prior employer's email address

- ii. Ms. Carter has not meaningfully corresponded with Respondent during the litigation
- iii. Ms. Carter is unreachable by phone or email
- iv. Ms. Carter lacks a current working phone number or email on file with the State Bar
- v. Ms. Carter has not produced any client authority or engagement agreement in 14 months

27. Under Rule 12, Ms. Carter's failure to respond to the challenge requires the court to refuse to permit her to appear in the case and strike all pleadings filed by her, including the Motion to Consolidate.

#### **G. Additional Attorney Misconduct**

##### *Discovery Violations*

28. Ms. Carter failed to respond to Requests for Admissions served on September 17, 2024, resulting in deemed admissions under Texas Rule of Civil Procedure 198. She made no effort to withdraw or amend these deemed admissions, effectively conceding critical facts against her client.

29. This constitutes a violation of her duties under Rules 193.2 and 193.5 to timely respond or amend discovery responses.



*Rule 237a Violations*

30. After federal remand on December 6, 2024, Ms. Carter failed to:

- i. File the required certified copy of the remand order with the clerk
- ii. Provide Respondent with mandatory written notice of the remand

31. This procedural violation prevents the case from moving forward properly and further demonstrates Ms. Carter's neglect of basic procedural duties.

*Abuse of Process*

31. Ms. Carter's sudden reappearance after nearly a year of inactivity solely to block emergency relief suggests improper purpose. Filing a Motion to Consolidate without addressing substantive issues appears designed to delay resolution rather than advance the case.

This conduct violates:

- i. Rule 13 of Texas Rules of Civil Procedure (forbidding groundless filings brought in bad faith)
- ii. Texas Disciplinary Rule 3.02 (prohibiting positions that unreasonably delay resolution)

**H. Children's Best Interests***Legal Framework*

32. Texas Family Code § 153.002 establishes: "The best interest of the child shall be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child."

This paramount standard must guide all decisions in cases involving children.

*Application to Current Case*

33. The children in this case are suffering ongoing harm:

- i. Subjected to psychological manipulation and medical neglect
- ii. Left home alone at night without supervision
- iii. Removed from Respondent's care and placed with elderly great-grandparents
- iv. Eldest child's academic performance has plummeted
- v. Emotionally estranged from both parents

34. Every day that passes without corrective action leaves the children in an unstable, harmful environment. Consolidation would reward procedural stonewalling and cause further delay. The children's best interests require prompt resolution, which can only be achieved by denying consolidation, dismissing the dormant divorce case, and allowing the new SAPCR to proceed expeditiously.

**III. CONCLUSION AND RELIEF REQUESTED**

Based on the comprehensive legal analysis above, there are multiple independent grounds supporting the Respondent's entitlement to relief:

1. The divorce case should be dismissed for want of prosecution under Rule 165a and the court's inherent power.
2. The current orders are void due to lack of consent under *Burnaman v. Heaton*.

3. The Associate Judge's orders were never properly adopted under Texas Family Code § 201.013(b).
4. The 322nd District Court never acquired CEJ under Texas Family Code § 155.001.
5. Exceptions to dominant jurisdiction apply under *Wyatt v. Shaw Plumbing Co.*
6. Ms. Carter's pleadings should be stricken due to her failure to respond to a Rule 12 challenge.
7. Ms. Carter has engaged in multiple instances of misconduct warranting sanctions and referral to the State Bar.
8. The children's best interests require immediate relief without further procedural delays

Therefore, the Respondent is entitled to the following relief:

- i. Denial of Petitioner's Motion to Consolidate.
- ii. Declaration that the current orders are void and of no legal effect.
- iii. Dismissal of the divorce action (Cause No. 322-744263-23) for want of prosecution.
- iv. Striking of all pleadings filed by Cooper L. Carter due to her failure to show authority.
- v. Permission for the new SAPCR to proceed in the 233rd District Court to address the children's urgent needs.

These remedies are supported by well-established Texas law and are necessary to protect the children's best interests, ensure procedural fairness, and maintain the integrity of the legal process. Without any opposition, the court has every ability to act.

#### **IV. SUPPORTING CASE LAW AND STATUTES**

##### *A. Dismissal for Want of Prosecution*

- *Villarreal v. San Antonio Truck & Equipment*, 994 S.W.2d 628 (Tex. 1999)
- *In re Conner*, 458 S.W.3d 532 (Tex. 2015)
- *In re Marriage of Buster*, 115 S.W.3d 141 (Tex. App.—Texarkana 2003)
- *Fox v. Wardy*, 234 S.W.3d 30 (Tex. App.—El Paso 2007)
- *Dueitt v. Artripe*, 217 S.W.3d 911 (Tex. App.—Dallas 2007)
- Texas Rule of Civil Procedure 165a

##### *B. Void Orders Due to Lack of Consent*

- *Burnaman v. Heaton*, 240 S.W.2d 288 (Tex. 1951)
- *Padilla v. LaFrance*, 907 S.W.2d 454 (Tex. 1995)
- *In the Interest of J.G., a Child* (Texas Fourth Court of Appeals, 2018)
- *St. Raphael Medical Clinic, Inc. v. Mint Medical Physician Staffing, LP* (2007)

##### *C. Associate Judge's Orders*

- Texas Family Code § 201.013
- *In re B.B.S.* (Texas Court of Appeals)

##### *D. Continuing Exclusive Jurisdiction*

- Texas Family Code § 155.001

- *In re Burk*, 252 S.W.3d 736 (Tex. App.—Houston [14th Dist.] 2008)
- *In re G.R.M.*, 45 S.W.3d 764 (Tex. App.—Fort Worth 2001)
- *In re C.G.*, 495 S.W.3d 40 (Tex. App.—Corpus Christi 2016)

*E. Exceptions to Dominant Jurisdiction*

- *Wyatt v. Shaw Plumbing Co.*, 760 S.W.2d 245 (Tex. 1988)
- *V.D. Anderson Co. v. Young*, 101 S.W.2d 798 (Tex. 1937)
- *Curtis v. Gibbs*, 511 S.W.2d 263 (Tex. 1974)

*F. Attorney Misconduct*

- Texas Rule of Civil Procedure 12
- Texas Rule of Civil Procedure 198 (Deemed Admissions)
- Texas Rule of Civil Procedure 237a (Remand Procedure)
- Texas Rule of Civil Procedure 13 (Groundless Pleadings)
- Texas Disciplinary Rule 3.02 (Delay of Litigation)
- *TransAmerica Corp. v. Braes Woods Condo Ass'n*

*G. Children's Best Interests*

- Texas Family Code § 153.002

Respectfully submitted,

*/s/ Charles Dustin Myers*  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
PRO-SE

**CERTIFICATE OF SERVICE**

Pursuant to Rule 21a of the Texas Rules of Civil Procedure, this request has been served on all parties of record on 04/03/2025 through their electronic filing manager registered email address.

This request has also been served on COOPER L. CARTER via her email

[COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM) which is not registered with the EFM.

Respectfully submitted,

*/s/ Charles Dustin Myers*  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
PRO-SE

**Automated Certificate of eService**

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

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Filing Description: COMPREHENSIVE CASE ANALYSIS IN SUPPORT OF DISMISSAL  
Status as of 4/4/2025 2:40 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/4/2025 9:12:06 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/4/2025 9:12:06 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/4/2025 9:12:06 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/4/2025 9:12:06 AM	SENT



**233-765358-25**

**PETITIONER'S NOTICE**

**04.02.25**



233-765358-25

NO. 233-765358-25

FILED  
TARRANT COUNTY  
4/2/2025 9:13 AM  
THOMAS A. WILDER  
DISTRICT CLERK

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

Petitioner,

**MORGAN MICHELLE MYERS,**

Respondent.

PETITIONER'S NOTICE

2025-04-02

**TO THE HONORABLE COURT:**

Petitioner, CHARLES DUSTIN MYERS, submits this notice to provide a different perspective into the current situation:

**I. BEFORE AND AFTER**

1. **This side-by-side comparison illustrates the stark differences in the children's quality of life, parental involvement, and household stability *before* and *after* the removal of the Father from the family home.** It presents a clear, fact-based evaluation of how the familial environment, care structure, and overall wellbeing of the children have been significantly impacted. Each point demonstrates a substantial decline in stability, support, and morality—raising urgent concerns about the children's best interests, safety, and development under the current arrangement.

**BEFORE****AFTER*****FATHER + MOTHER***

• Father works from home / \$134k per year	• Father removed from home \$12k/ per year
• Mother works part time	• Mother works full time
• Father and Mother share in parenting	• Great grandparents / aunt care for children
• Father and Mother communicate	• Mother refuses to communicate w/ Father
• Father takes girls to dance class	• Mother takes girls out of dance class
• Father helps children with schoolwork	• Neither parent helps with schoolwork
• Father and Mother create a stable home	• Father is removed; Mother is never home

***CHILDREN***

• Have always at least one parent home	• Neither parent is home most of the time
• Medically cared for	• Medically neglected
• Frequent access to both parents	• Frequent access to neither parent
• Enjoy extracurriculars	• Taken out of extracurriculars
• Enjoy a stable household	• Introduced to chaotic routine
• Enjoy bedtime stories before bed (dad)	• No bedtime stories
• Are walked to school and back (dad)	• Picked up and dropped off by relatives.
• Exceptional in school	• Academic regression (eldest)
• Enjoy daily playtime (dad)	• They are stuck indoors and on screens.
• Enjoy frequent visits with their grandparents	• Grandparents become primary caretaker
• Receive help with schoolwork (dad)	• Attend school longer (tutoring)
• Strong parental guidance	• No parental guidance
• Secure financial future	• Destabilized financial future
• Moral upbringing and family values	• Immoral and damaging conduct (mom)

2. Now, a comparison between the claims initially raised by the parties:

**II. INITIAL CLAIMS****MOTHER****FATHER**

• FAMILY VIOLENCE ALLEGATIONS	• FALSE CLAIMS OF VIOLENCE
• FINANCIALLY INDIGENT	• MOTHER CONVERTED \$1,576 OF MARITAL ASSETS

• CLAIMS TO HAVE ACTIVE PROTECTIVE ORDER	• CLAIMS NO SUCH PROTECTIVE ORDER EXISTS
• CLAIMS CASE IS UNCONTESTED	• CLAIMS MOTHER IS LYING
• CLAIMS IRRECONCILABLE DIFFERENCES	• CLAIMS MOTHER WAS HAVING AN EXTRAMARITAL AFFAIR
• CLAIMS FATHER DOESN'T NEED HOME TO WORK	• CLAIMS THE HOME IS ESSENTIAL FOR WORK AND CHILDREN
• CLAIMS FEAR OF SAFETY FROM FATHER	• CLAIMS MOTHER FEARS ACCOUNTABILITY
• CLAIMS RESPONSIBILITY FOR MONTHLY FINANCES	• CLAIMS RESPONSIBILITY FOR MONTHLY FINANCES
• CLAIMS FATHER AGREES TO SETTLEMENT	• CLAIMS DURESS AND OPPOSES ANY SETTLEMENT OFFER

### **III. EVIDENCE EXCHANGED**

3. Now, a comparison of the evidence provided to each party to support the initial claims made in the form of exhibits that can be found within the clerk's record, and that the opposing party has had in their possession for multiple months without raising any arguments or opposition:

#### **MOTHER**

#### **FATHER**

	• TXDPS Criminal Record showing no history of family violence.
	• Bank statements and texts showing conversion.
	• Shows contradicting statements on Mother's pleadings
	• Shows pictures of mother cohabiting with father while simultaneously seeking frivolous protective orders
	• Shows extensive financial damage from being barred from the family residence
	• Shows over 16,500 text messages exchanged between two individuals outside of the marriage in a one-year timespan.
	• Show's Mother's Facebook status boasting her one-year anniversary with her new boyfriend while the divorce is ongoing.

	<ul style="list-style-type: none"> <li>Shows communications with AIR BNB hosts showcasing the difficulty in working to full capacity outside of the home.</li> </ul>
	<ul style="list-style-type: none"> <li>Shows photos and videos of the children with father throughout the holidays while mother is planning father's removal.</li> </ul>
	<ul style="list-style-type: none"> <li>Shows untreated cavities in the youngest child's mouth from medical neglect.</li> </ul>
	<ul style="list-style-type: none"> <li>Shows declining academic performance from oldest child.</li> </ul>
	<ul style="list-style-type: none"> <li>Shows communications between himself and mother's grandparents showcasing an ability to put the children before the litigation.</li> </ul>
	<ul style="list-style-type: none"> <li>Provided a comprehensive parenting plan supporting the children's best interest.</li> </ul>
	<ul style="list-style-type: none"> <li>Provided video evidence of the children being left alone during the evening.</li> </ul>
	<ul style="list-style-type: none"> <li>Provided financial receipts for rent payments, utilities, and other financial obligations as primary breadwinner.</li> </ul>
	<ul style="list-style-type: none"> <li>Provided evidence that Mother is actively disposing of his personal belongings.</li> </ul>
	<ul style="list-style-type: none"> <li>Provided evidence mother fabricated her claims of family violence and indigent financial status.</li> </ul>
	<ul style="list-style-type: none"> <li>Provided evidence mother received help in preparing her initial pleadings filed with the court</li> </ul>
	<ul style="list-style-type: none"> <li>Provided evidence mother is preparing her second wedding prior to finalizing the divorce</li> </ul>

#### IV. MOTIVES

4. Based on the record, it conclusively establishes the motives of each parent regarding the relief sought:

#### **MOTHER**

#### **FATHER**

<ul style="list-style-type: none"> <li>Pursing extramarital affair</li> </ul>	<ul style="list-style-type: none"> <li>Restore status quo of children / financial stability</li> </ul>
---	--

**V. ACTIONS**

5. The motives can be established from the following actions derived from the clerk's record within the pleadings:

**MOTHER****FATHER**

<ul style="list-style-type: none"> <li>Fabricated a narrative of family violence.</li> </ul>	<ul style="list-style-type: none"> <li>Spent time with the children over the holidays.</li> </ul>
<ul style="list-style-type: none"> <li>Hired an attorney to defend herself, not represent the children's best interests.</li> </ul>	<ul style="list-style-type: none"> <li>Hired an attorney to defend his children's best interests and terminated him when he failed.</li> </ul>
<ul style="list-style-type: none"> <li>Only communicates with her extramarital partner.</li> </ul>	<ul style="list-style-type: none"> <li>Can only communicate with the children via an online videogame chatroom.</li> </ul>
<ul style="list-style-type: none"> <li>Convinces the children the divorce is final so her new relationship appears morally justifiable.</li> </ul>	<ul style="list-style-type: none"> <li>Has relentlessly sought relief to restore the children's status quo.</li> </ul>
<ul style="list-style-type: none"> <li>Has offered nothing of substance regarding the children.</li> </ul>	<ul style="list-style-type: none"> <li>Has provided everything to the court regarding the children.</li> </ul>
<ul style="list-style-type: none"> <li>Asked for sole use of the residency to pursue her new relationship.</li> </ul>	<ul style="list-style-type: none"> <li>Asked for time to ensure the children are not affected by unnecessary, abrupt changes.</li> </ul>
<ul style="list-style-type: none"> <li>Lied to the court to remove Father to pursue her new relationship.</li> </ul>	<ul style="list-style-type: none"> <li>Forced to live in alternative housing during the pendency of the case, business income destroyed.</li> </ul>

<ul style="list-style-type: none"> <li>Lied to the court and falsified her indigency, then sticks Father with the car payments she claimed to pay for.</li> </ul>	<ul style="list-style-type: none"> <li>Financial strain leads to one of the vehicles being repossessed, credit score plummets.</li> </ul>
<ul style="list-style-type: none"> <li>Sat dormant for months only to block emergency relief in a separate SAPCR suit.</li> </ul>	<ul style="list-style-type: none"> <li>Opened a separate SAPCR suit to escape the procedurally defunct divorce to obtain relief for the children.</li> </ul>

6. All the above can be established through the numerous exhibits that have been provided to the opposing side. After nearly twelve months of silence, there has been no objection, argument, opposition, or response offered for the exhibits given. More critically, there has been no response, opposition, or argument offered regarding the relief being sought from the Petitioner, which is simply to return to the residence that he was unlawfully removed from so that he can begin rebuilding the status quo of the children. Finally, we compare the benefits versus the detriments if granting relief to Petitioner:

#### **VI. BENEFITS VERSUS DETRIMENTS OF GRANTING RELIEF**

##### **BENEFITS**

##### **DETRIMENTS**

<ul style="list-style-type: none"> <li>Children will have a parent active in their daily life as opposed to none.</li> </ul>	<ul style="list-style-type: none"> <li>The respondent will have to choose between her extramarital relationship or working towards the divorce.</li> </ul>
--	--

<ul style="list-style-type: none"> <li>Children will have help with homework from home and help preparing for STAR Testing.</li> </ul>	<ul style="list-style-type: none"> <li>The respondent will have to choose between co-habitation or reside in an alternate residence near-by.</li> </ul>
<ul style="list-style-type: none"> <li>Children will have frequent and continuous access to both parents.</li> </ul>	
<ul style="list-style-type: none"> <li>Financial damages can be repaired.</li> </ul>	

## **VII. CONCLUSION**

This situation is destructive, and truly a one-sided case. Respondent's prolonged silence, in fact, says everything. Without any arguments or opposition on record, it begs the question as to how this situation has been permitted to persist as long as it has. The only drawbacks of granting relief fall on the Respondent – and are minor inconveniences at best that can never outweigh the benefits that the children would reap if relief were to be granted. All the Petitioner asked for in the beginning was time. Now, time has been wasted, and we remain in the same spot. The point is – the Mother cannot just fabricate family violence to have Father removed from the home – especially when she knew and benefitted from his at-home business operations which have since been significantly damaged. Despite all the harm done, the Petitioner is confident that it can be repaired, the family can get back on track, and this process can be finalized without sacrificing the stability and well-being of the children that they have been accustomed to throughout their lives.

Respectfully submitted,

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

**CERTIFICATE OF SERVICE**

Petitioner certifies that pursuant to Rule 21a of the Texas Rules of Civil Procedure, this Notice of Comparison was served on all parties of record through their electronical filing manager email, including:

MORGAN MICHELLE MYERS (Respondent)  
[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

This notice was also served on the following parties:  
[COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

Respectfully submitted,

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)



**Automated Certificate of eService**

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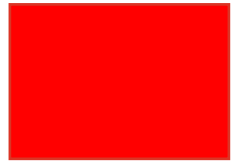
Filing Code Description: Notice

Filing Description: Petitioner's Notice

Status as of 4/2/2025 3:00 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/2/2025 9:13:17 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	4/2/2025 9:13:17 AM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	4/2/2025 9:13:17 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/2/2025 9:13:17 AM	SENT



**322744263-23**

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

**04.07.25**

322-744263-23

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

NO. 322-744263-23

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

Petitioner,

**CHARLES DUSTIN MYERS,**

Respondent.

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

2025-04-07

**TO THE HONORABLE JAMES MUNFORD:**

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

**I. INTRODUCTION**

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

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

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

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

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

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

## **II. LEGAL FRAMEWORK**

### **A. Writ of Prohibition**

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

Key characteristics of a writ of prohibition include:

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

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

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

### **III. STATEMENT OF FACTS**

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

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

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

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

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

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

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

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

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

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

#### **IV. THE PROHIBITION PREDICAMENT**

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



### A. The Procedural Parade Must Follow Its Proper Order

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

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

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

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

### B. The Discretion Dilemma

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

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

### **C. Opposing Counsel's Conduct**

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

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

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

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

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

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

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

### **V. MORAL FIBER**

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

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

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

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

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

## **VI. CONCLUSION AND PRAYER**

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

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

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

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

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

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

Respectfully submitted,

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
817-546-3693  
PRO-SE

**CERTIFICATE OF SERVICE**

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

A copy of this NOTICE has been served to MORGAN MICHELLE MYERS through her EFM registered under [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

A copy of this NOTICE has been provided to COOPER L. CARTER through her email [COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

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

Served on: 04/07/2025

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
PRO-SE

**Automated Certificate of eService**

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Filing Description: Notice of Intent to Seek Writ of Prohibition

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

**Case Contacts**

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



**322-744263-23**

**RESPONDENT'S  
NOTICE OF NEW  
INFORMATION**

**04.04.25**



322-744263-23

NO. 322-744263-23

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

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

Petitioner,

**CHARLES DUSTIN MYERS,**

Respondent.

RESPONDENT'S NOTICE OF NEW  
INFORMATION

2025-04-04

**TO THE HONORABLE COURT:**

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

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

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

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

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

Respectfully submitted,

*/s/ Charles Dustin Myers*  
CHARLES DUSTIN MYERS  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
817-546-3693  
PRO-SE

**CERTIFICATE OF SERVICE**

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

A copy of this NOTICE has been served to MORGAN MICHELLE MYERS through her EFM registered under [MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

A copy of this NOTICE has been provided to COOPER L. CARTER through her email [COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

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

Served on: 04/04/2025

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS  
817-546-3693  
[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)  
PRO-SE

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Case Contacts

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**02-25-00164-CV**

**MANDAMUS**

**04.10.25**

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

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IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

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

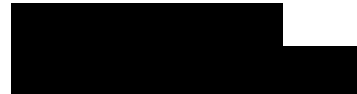
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PETITION FOR WRIT OF  
MANDAMUS

---

Respectfully submitted by:

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



Emergency Relief Requested

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

Charles Dustin Myers  
[REDACTED]

[chuckdustin12@gmail.com](mailto:chuckdustin12@gmail.com)

817-546-3693

***Respondent***

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

[adwierzbicki@tarrantcountytx.gov](mailto:adwierzbicki@tarrantcountytx.gov)

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***Real Party in Interest***

Morgan Michelle Myers  
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### **Statement of the Case**

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

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

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

**Statement of Jurisdiction**

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

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

**Issues Presented**

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

### **Statement of Facts**

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

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

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

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

#### ***APP 2***

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

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



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

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

***SUPP 1.1***

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

## ARGUMENT

### A. Mandamus Standard

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

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

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

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

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

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

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

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

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

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

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

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

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

**D. Improper consolidation does not justify the refusal to act**

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

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

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

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

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



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

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

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

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

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

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

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

### **CONCLUSION AND PRAYER**

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

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

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

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

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

Respectfully submitted,

/s/ Charles Dustin Myers

Charles Dustin Myers, Pro Se

[REDACTED]

Email: [chuckdustin12@gmail.com](mailto:chuckdustin12@gmail.com)

Phone: 817-546-3693

PRO-SE RELATOR

**Certification (TRAP 52.3(j))**

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

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

PRO-SE RELATOR

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

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), Relator certifies that this document contains **2899 words**.

**CERTIFICATE OF SERVICE**

Relator certifies that on April 10, 2025, a true and correct copy of the foregoing Petition for Writ of Mandamus was served on all parties and counsel of record as follows:

**Hon. Kate Stone J.D.**

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

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)

**Morgan Michelle Myers**

Real Party in Interest

VIA the EFM at:

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**Cooper L. Carter**

Marx, Altman & Johnson  
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/s/ Charles Dustin Myers

Charles Dustin Myers,  
Pro Se Relator

No. \_\_\_\_\_ -CV

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

---

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

---

Original Proceeding Arising Out of  
the 233<sup>rd</sup> Judicial District Court of Tarrant  
County, Texas

Cause Number 233-765358-25

Hon. Kate Stone Presiding

---

RELATOR'S APPENDIX

---

Respectfully submitted by:

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

  
Pro-se Relator

NAME

TAB

Order setting hearing for TRO ..... 1

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**STATE OF TEXAS COUNTY OF TARRANT**  
**AFFIDAVIT CERTIFYING RELATOR'S APPENDIX**

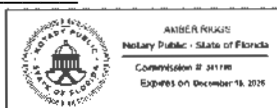
BEFORE ME, the undersigned authority, personally appeared **Charles Dustin Myers**, who, being duly sworn by me, stated upon oath as follows:

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

FURTHER AFFIANT SAYETH NOT.

*Charles Dustin Myers*

**Charles Dustin Myers**  
 Relator *CDM*



State of Florida

County of Bay County

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

*Amber Riggs*  
 Amber Riggs



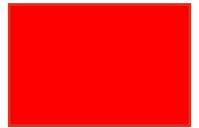
**Automated Certificate of eService**

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

Envelope ID: 99524439  
Filing Code Description: Original Proceeding Petition  
Filing Description: PETITION FOR WRIT OF MANDAMUS AND  
RELATOR'S APPENDIX - VERIFIED  
Status as of 4/10/2025 3:05 PM CST

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MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/10/2025 2:37:09 PM	SENT
CHARLES MYERS		CHUCKDUSTIN12@GMAIL.COM	4/10/2025 2:37:09 PM	SENT



**233-765358-25**

**ORIGINAL  
SAPCR**

**03.18.25**

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

Cause Number: 233-765358-25

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

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

(Print the initials of each child.)

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

In the 322nd

Court Number

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

TARRANT

County, Texas

Petition in Suit Affecting the Parent-Child Relationship

My name is: CHARLES DUSTIN MYERS

FirstMiddleLast

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

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

license number are: 6 0 8.

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

The last three numbers of my social security number are: 9 6 3.

Or ☐ I do not have a social security number.

I am: (Check one.)

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

1. Discovery Level

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

2. Child(ren)

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

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

### 3. Standing

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

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

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

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

### 4. Jurisdiction

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

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

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

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

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

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

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

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

**M.2056**

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

Respondent C is: (Check one.)

- Legal Notice:** (Check one.)

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

Respondent D is: (Check one.)

- Legal Notice:** (Check one.)

- M.2057

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

## 6. Out-of-State Respondent(s)

(Check one.)

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

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

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

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

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

## 7. Conservatorship (Custody)

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

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

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

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

- ☐ this county. ☒ this county or in counties adjacent to this county.
- ☐ Texas. ☐ anywhere. ☐ other: \_\_\_\_\_.

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

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

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

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

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

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

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

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

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

### 9. Possession and Access (Visitation)

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



(Check only if applicable.)

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

## 10. Child Support and Medical Support

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

## 11. Protective Order Statement

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

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

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

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

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

### 11A. No Protective Order

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

### 11B. Pending Protective Order

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

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

### 11C. Protective Order in Place

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

The cause number for the protective order is \_\_\_\_\_.

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

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

The protective order is against \_\_\_\_\_.

The protective order was made on \_\_\_\_\_ in \_\_\_\_\_ County, \_\_\_\_\_ State.

Date of Order                      County                      State

The cause number for the protective order is \_\_\_\_\_.

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

## 12. Family Information (Check only if applicable.)

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

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

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

## 13. Children's Property (Check one.)

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

\_\_\_\_\_.

## 14. Health Insurance Availability for Children

The children: (Check all that apply.)

- ☐ have **private health insurance**.

Name of insurance company: \_\_\_\_\_

Policy number: \_\_\_\_\_ Cost of premium: \$ \_\_\_\_\_

Name of person who pays for insurance: \_\_\_\_\_

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

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

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

- ☒ **do not** have health insurance.

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

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

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

## 15. Dental Insurance Availability for Children

The child(ren): (Check one.)

☐ have **private dental insurance**.

Name of insurance company: \_\_\_\_\_

Policy number: \_\_\_\_\_ Cost of premium: \$ \_\_\_\_\_

Name of person who pays for insurance: \_\_\_\_\_

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

☒ **do not** have dental insurance.

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

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

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

## 16. Public Benefits

The children: (Check all that apply.)

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

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

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

## 17. Request for Judgment

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

Respectfully,

→ /s/ Charles Dustin Myers

Petitioner's Signature

03/18/2025

Date

CHARLES DUSTIN MYERS

Petitioner's Name (Print)

(817) 456 3693

Phone

6641 ANNE COURT, WATAUGA, TEXAS 76148

Mailing Address

City

State

Zip

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

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

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

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

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

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

→ /s/ Charles Dustin Myers

Petitioner's Signature

03/18/2025

Date

**Note:** For Information about how to file an answer go to [www.TexasLawHelp.org](http://www.TexasLawHelp.org)

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

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

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

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

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

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

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

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

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

**Automated Certificate of eService**

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

Envelope ID: 98573077

Filing Code Description: Petition

Filing Description: ORIGINAL PETITION FOR SAPCR

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

**Case Contacts**

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



**233-765358-25**

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

**04.07.25**

233-765358-25

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

NO. 233-765358-25

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

Petitioner,

**MORGAN MICHELLE MYERS,**

Respondent.

2025-04-07

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

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

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

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

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

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

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

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



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

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

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

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

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

## **II. STATEMENT OF FACTS**

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

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

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

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

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

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

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

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

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

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

### **III. ARGUMENT**

#### **A. The Court's Ministerial Duty**

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

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

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

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

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

**B. Clear Abuse of Discretion**

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

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

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

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

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

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

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

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



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

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

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

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

### **C. No Adequate Remedy by Appeal**

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

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

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

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

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

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

#### **D. Opposing Counsel's Contradictory Behavior**

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

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

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

#### **IV. CONCLUSION**

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

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

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

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

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

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

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

#### **V. PRAYER FOR RELIEF**

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

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

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

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

Respectfully submitted,

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

**CERTIFICATE OF SERVICE**

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

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

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

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

Served on: 04/07/2025

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

**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: 99351689  
Filing Code Description: Notice  
Filing Description: Notice of Intent to File a Petition for Writ of Mandamus  
Status as of 4/7/2025 2:57 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/7/2025 12:05:40 PM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	4/7/2025 12:05:40 PM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	4/7/2025 12:05:40 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/7/2025 12:05:40 PM	SENT





**233-765358-25**

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

**04.04.25**

233-765358-25

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

NO. 233-765358-25

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

Petitioner,

**MORGAN MICHELLE MYERS,**

Respondent.

2025-04-04

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

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

**I. INTRODUCTION**

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

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

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

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

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

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

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

## **II. CONCLUSION**

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

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

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

PRO-SE

## **CERTIFICATE OF SERVICE**

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

And also to COOPER L. CARTER via [COOPERCARTER@MAJADMIN.COM](mailto:COOPERCARTER@MAJADMIN.COM)

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MERS

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

817-546-3693

PRO-SE

**Automated Certificate of eService**

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Envelope ID: 99278769

Filing Code Description: Request

Filing Description: PRE-OBJECTION TO MOTION TO TRANSFER

Status as of 4/4/2025 12:58 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/4/2025 9:25:44 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	4/4/2025 9:25:44 AM	SENT
CHARLES MYERS		chuckdustin12@gmail.com	4/4/2025 9:25:44 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/4/2025 9:25:44 AM	SENT

**322-744623-23**

**DOMINANT  
JURISDICTION**

**ANALYSIS**

**04.15.25**

322-744263-23

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

NO. 322-744263-23

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

Petitioner,

**CHARLES DUSTIN MYERS,**

Respondent.

DOMINANT JURISDICTION ANALYSIS

2025-04-15

**TO THE HONORABLE COURT:**

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

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

## **Dominant Jurisdiction Analysis with Bad Faith Focus**

### **I. Legal Framework for Dominant Jurisdiction**

#### **A. General Principles**

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

#### **B. Bad Faith Exception**

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

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

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

## **II. Evidence of Bad Faith in the Initial Suit**

### **A. Chronology Demonstrating Premeditated Legal Strategy**

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

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

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

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

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

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



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

## **B. Misrepresentations to the Court**

### **1. False Allegations of Family Violence**

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

### **2. False Financial Affidavits**

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

### **3. Fabricated Protective Order Status**

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

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

### **C. Procedural Manipulation**

#### **1. Strategic Delays and Attorney Changes**

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

#### **2. Self-Help Tactics Outside Legal Process**

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

#### **3. Systematic Non-Prosecution**

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

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

### **III. Application of Bad Faith Exception to Current Case**

#### **A. Legal Analysis**

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

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

#### **B. Case Law Support**

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

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

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

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

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

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

### **C. Family Law Context**

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

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

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

#### **IV. Implications for Current Proceedings**

##### **A. Legal Consequences of Bad Faith Finding**

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

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

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

### **B. Strategic Approach for Rehearing Motion**

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

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

### **V. Conclusion**

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

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

**CERTIFICATE OF SERVICE**

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

**PETITIONER**

Morgan Michelle Myers

Real Party in Interest

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**Cooper L. Carter**

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, TX 76116

[coopercarter@majadmin.com](mailto:coopercarter@majadmin.com)

Holly Hayes

***2001 Beach St***

**Fort Worth, TX 76103-2308**

817-459-6878

[CSD-Legal-914@oag.texas.gov](mailto:CSD-Legal-914@oag.texas.gov)

TEXAS O.A.G.



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Envelope ID: 99677214  
Filing Code Description: No Fee Documents  
Filing Description: Dominant Jurisdiction Analysis  
Status as of 4/15/2025 12:58 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/15/2025 10:38:48 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/15/2025 10:38:48 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/15/2025 10:38:48 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/15/2025 10:38:48 AM	SENT



**02-25-00164-CV**

**MANDAMUS  
RECORD**

**04.10.25**

No. \_\_\_\_\_ -CV

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

---

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

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Original Proceeding Arising Out of  
the 233<sup>rd</sup> Judicial District Court of Tarrant  
County, Texas

Cause Number 233-765358-25

Hon. Associate Judge Kate Stone Presiding

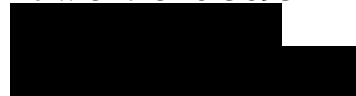
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MANDAMUS RECORD

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Respectfully submitted by:

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



AFFIDAVIT VERIFYING MANDAMUS RECORD

MR #	DATE
MR1 IFP STATEMENT .....	03/19/2025
MR2 TEMPORARY ORDERS (322-744263-23) .....	03/14/2024
MR3 RESP. ORIGINAL ANSWER .....	03/20/2025
MR4 MOTION TO CONSOLIDATE.....	03/20/2025
MR5 MOTION TO STRIKE RESP’S ANSWER / CONSOL .....	03/20/2025
MR6 RULE 12 MOTION TO SHOW AUTHORITY .....	03/21/2025
MR7 EMERGENCY TRO AND ORDER SETTING HEARING ....	03/24/2025
MR8 PETITIONER’S STATEMENT .....	04/01/2025
MR9 NOTICE OF INTENT TO FILE MANDAMUS .....	04/07/2025

**STATE OF TEXAS**  
**COUNTY OF TARRANT**

**AFFIDAVIT VERIFYING MANDAMUS RECORD**

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

1. My name is **Charles Dustin Myers**. I am the Relator in the above-captioned proceeding and am competent to make this affidavit. I have personal knowledge of the facts stated herein, and they are true and correct.
2. This affidavit is submitted in support of the **Mandamus Record**, filed pursuant to **Texas Rule of Appellate Procedure 52.7(a)**.
3. The documents contained in the Mandamus Record are true and correct copies of pleadings, motions, transcripts, and other materials that were **filed in the underlying proceeding** before the **233rd District Court of Tarrant County, Texas**, in Cause No. **233-765358-25**.
4. Each document included has been accurately reproduced from the court's file or my personal file maintained in the regular course of

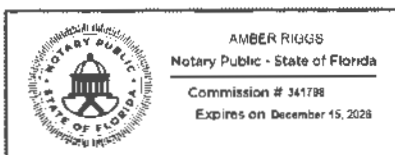
litigation, and to the best of my knowledge, has not been altered in any way.

5. Each document is a true and accurate copy under penalty of perjury.

FURTHER AFFIANT SAYETH NOT.

*Charles Dustin Myers*

**Charles Dustin Myers**  
Relator



State of Florida

County of Bay County

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

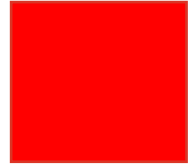
*Amber Riggs*

Amber Riggs

\_\_\_ Personally Known OR \_\_\_ ☒ Produced Identification

Type of Identification Produced DRIVER LICENSE

Notarized remotely online using communication technology via Proof.



**02-25-00166-CV**

**EMERGENCY STAY**

**04.15.25**

No. '02-25-00166-CV  
IN THE  
SECOND JUDICIAL DISTRICT COURT OF APPEALS  
AT FORT WORTH, TEXAS

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IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

---

Original Proceeding arising from  
the 322<sup>nd</sup> Judicial District Court, Tarrant County  
Cause Number 322-744263-23  
Hon. Jeff Kaitcer Presiding

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EMERGENCY MOTION TO STAY  
PROCEEDINGS

---

Respectfully submitted by:

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



## I. INTRODUCTION

Relator intends to invoke this Court's original jurisdiction in three closely related mandamus proceedings arising from overlapping family law cases in Tarrant County. The three issues central to this dispute involve facially void temporary orders, the refusal to hear an emergency TRO, and the granting of the opposing party's consolidation motion *sua sponte* in the face of an objection. All three matters are legally and procedurally interdependent yet hinge on each-other to effectuate resolution. To provide context, the three mandamus matters are:

### **1. No. 02-25-00164-CV ("TRO Mandamus")**

**Issue Presented:** Whether the 233rd District Court erred in refusing to adjudicate an emergency request for temporary relief in a SAPCR properly filed before it on March 28, 2025.

**Procedural Posture:** Denied per curiam on April 11, 2025; rehearing

**Brief Posture:** The TRO mandamus proceeding raises core legal issues concerning a trial court's ministerial duty to rule on properly filed motions, the abuse of discretion in refusing to hear an emergency TRO based on a future, unfiled consolidation motion, and the denial of due process by refusing to rule on the matter before it.

---

### **2. No. 02-25-00166-CV ("Void-Order Mandamus")**

**Issue Presented:** Whether temporary orders issued by the 322nd District Court on March 14, 2024, are void ab initio for want of consent. (MR 17.1)

**Procedural Posture:** Pending decision before this Court.

**Brief Posture:** Showcases a total breakdown of procedure between January 16<sup>th</sup>, 2024's "kick-out" order (MR 6.1) and March 14<sup>th</sup>, 2024's one-sided consent judgement. (MR. 17.38)

---

### **3. Forthcoming Petition – To Be Filed By April 16, 2025 (“Consolidation Mandamus”)**

**Issue Presented:** Whether the sua sponte granting of Real Party's consolidation motion without addressing the objection, notice, or holding a hearing caused further prejudice to the Relator.

**Relief Anticipated:** A writ of mandamus vacating the consolidation order on grounds that it was entered without notice, without hearing, and in the face of Relator's standing objection to consolidate, and a pending rule 12 motion.

## **II. BACKGROUND SUMMARY**

Between December 14, 2023, and December 22, 2023, Real Party in Interest, Morgan Myers, attempted to get an emergency ex-parte order of protection from the court below (MR 2.7), initiated an eviction proceeding (MR 19.15), converted \$1,576 of joint-marital assets to a family member on her way to receive help in preparing divorce paperwork (MR 19.14), initiated a protective order suit, (MR 19.15), and filed for divorce claiming that an active order of protection existed against the undersigned. (MR 2.7)

This frenzy of frivolous lawsuits was designed to acquire an advantage in the divorce proceedings, which ultimately succeeded on January 16, 2024.

(MR 6.1). Spinning a narrative of the need for protection, Real Party leveraged this initial award to her advantage and was able to delay the proceedings further on January 22 by acquiring her legal representative three minutes prior to the hearing. (MR 7), eventually leading to settlement and a non-suit of her allegations (MR 8.3), which became the orders of the court on March 14, 2024, and were rendered as an agreement without Mr. Myers' consent. (MR. 17.38) The remainder of the litigation amounted to a one-sided effort by the undersigned to seek relief while the opposing party sat in silence and abandoned their case. (MR 1)

After eleven months of silence, the Real Party became active again only after the SAPCR was opened by Mr. Myers, who was prevented from presenting his emergency TRO at the 11th hour, resulting in no order, and the emergency still ongoing.

Shortly after the initial mandamus was filed on April 10, 2025, the Honorable Kenneth Newell *sua sponte* consolidated the cases without notice by granting Real Party's motion in the face of an objection, and without a hearing to discuss the pertinent issues.

The undersigned is prepared to litigate these matters, and the necessity to stay these proceedings is essential to preserve the rights of the parties and prevent further irreparable harm from occurring in the interim.

### III. NECESSITY FOR STAY

Texas Rule of Appellate Procedure 52.10 Authorizes a Stay to Preserve the Status Quo. Texas Rule of Appellate Procedure 52.10(b) empowers this Court to “stay the underlying proceedings pending mandamus review”. A stay is warranted here to “preserve important substantive and procedural rights from impairment or loss” which here, is exactly the situation calling for such a remedy.

The procedural posture of this case combined by the lack of participation by the opposing side and lack of input from the courts below throughout presents a truly unique situation from a legal perspective.

### IV. SUMMARY OF THE ARGUMENT

The 322nd and 233rd District Courts of Tarrant County, Texas, are locked in a jurisdictional impasse that must be resolved to protect the best interests of the children and restore procedural integrity. These matters can be concurrently resolved through stepwise legal analysis. The first and most critical question is whether the current temporary orders—issued as an agreed judgement without the consent of all parties—can stand (MR 17.1, MR 17.38).

If those orders are deemed void, then the 322nd District Court cannot assert continuing, exclusive jurisdiction (CEJ) under the Texas Family Code, which requires a valid final order to attach. *see* Tex. Fam. Code §155.001. In that event, the SAPCR filed in the 233rd District Court by the undersigned should stand as a procedurally proper original suit, and mandamus should issue to administer a hearing regarding the emergency TRO refused on March 28, 2025, without producing any valid order to challenge.

At that juncture, should the Real Party argue dominant jurisdiction, the court must weigh the well-recognized exceptions under Texas law, including bad faith, unjustified delay, and strategic pretext—all of which are clearly demonstrated and conclusively established in the mandamus record filed concurrently with this matter.

## V. ARGUMENT

### **A. An agreed judgement rendered without consent is void**

The first point of issue in this matter is the facially void orders rendered on March 14, 2024. an order cannot expressly claim all parties consent “*as evidenced by the signatures below*” (MR 17.1) and then be absent from the document. (MR 17.38)

This is clear and cut Texas precedent. “A valid consent judgment cannot be rendered by a court when consent of one of the parties thereto is wanting. 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.” *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951)

Here, the exact opposite occurred but our case takes it a step further. Mr. Myers was *ordered* to sign an agreement that he was in court that very same day to challenge. (MR 16.1) (“3. It is *ordered* that the parties shall present the temporary orders regarding the [associate judge’s report] signed on 02/01/2024 by 1:30 p.m. today.”)

Moreover, the order explicitly refers to the Associate Judge’s Report signed on February 1, 2024, which could not have been possible because the attorney who was ordered to prepare the orders *was no longer on the case*. (MR 11) Therefore, the orders must be set aside, and mandamus should issue here.

### **B. Continuous, exclusive jurisdiction**

Once the orders are declared void, we can then turn to the Texas Family Code § 155.001(a), which states “Specifically, except as otherwise provided

by this section, a court acquires continuing, exclusive jurisdiction over the matters provided for by this title in connection with a child on the rendition of a final order.” Without the March 14 orders in place, which were a nullity from the start, the 322<sup>nd</sup> District Court does not retain continuous, exclusive jurisdiction as no other orders exist. Therefore, § 155.001(d) makes the SAPCR suit valid by statute, which leads us to an analysis of dominant jurisdiction.

### **C. Doctrine of Dominant Jurisdiction**

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

Normally, if the SAPCR matter were to try and set a matter for hearing, the Real Party could argue for dominant jurisdiction, as the divorce matter

was the “first filed” suit, and is pending before the 322<sup>nd</sup> District Court, and would have the suit transferred or abated.

#### **D. Bad Faith Exception**

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

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

#### **E. Three of four exceptions to dominant jurisdiction apply here**

Here, three out of four of these exceptions apply. The suit was a mere pretext to establish priority, as Real Party went out of her way to file multiple frivolous lawsuits alleging family violence (MR 2.7, MR 3) only to then drop her claims after securing the children and home and abandon the case. (MR 8.3)



The bad faith conducted by Real Party can be discerned by looking at the face of her pleadings themselves. On her original petition for divorce, on page 7, Real Party makes it known that she attempted to seek an emergency ex-parte order of protection on December 14, 2023. (MR 2.7) So the logical question to ask would be: why did Real Party need an emergency ex-parte order of protection if she *already had an active order of protection*? Better yet, why did mother seek a *third* protective order on December 22, 2023, if an *active protective* order was already in place? (MR 3) More importantly, why would she claim an active order of protection existed when she *knew* that wasn't the case? (MR 2.7) This is a clear establishment of bad faith litigation, which also precluded her advantage by labeling the undersigned as an abuser prior to adjudication, satisfying two of four exceptions to dominant jurisdiction.

Finally, after acquiring the children and home at the outset (MR. 6.1) and through the series of orders leading up to March 14, 2024, Real Party then abandoned her case and left the undersigned seeking relief throughout the Texas judiciary without opposition or participation. The only item found on the docket from the opposing side since then is a motion for pre-trial conference on April 24, 2024. (MR 1.7 DKT 206) In fact, it was only when

the undersigned opened the separate SAPCR that opposing counsel rushed in to defend it, leading to the concurrent mandamus filed under cause number No. 02-25-00164-CV currently at the rehearing stage.

Therefore, because three of the four exceptions established in *Wyatt* apply here, the 322<sup>nd</sup> District Court of Tarrant county arguably would not retain dominant jurisdiction over the SAPCR suit filed by the undersigned to escape this procedural quagmire, and mandamus could issue there on rehearing so that they may lawfully proceed with the emergency TRO hearing which was turned away on March 28, 2025, which will lead to a situation that resembles what the legislature intends rather than the exact opposite. *See* Tex. Fam. Code 153.001.

VI. Under the procedural posture of this case, a stay is not burdensome or unduly prejudicial to the Real Party

Given the unique and intertwined procedural posture of this matter, a stay is both appropriate and necessary to preserve the integrity of appellate review. Unlike Relator and the children—who continues to suffer irreparable harm under the force of void orders and were thrown into a chaotic arrangement—the Real Party in Interest faces no comparable prejudice from a stay. In fact, the Real Party has taken no meaningful action to prosecute their

claims and has allowed the case to stall for nearly a full calendar year. Any suggestion of prejudice is undermined by their own inaction. Relator, by contrast, has acted swiftly to correct procedural defects and vindicate his rights, and is fully prepared to brief this Honorable court regarding the matters at issue.

#### VII. PRAYER

To the undersigned's knowledge, no pro se litigant has ever been compelled to file three concurrent mandamus petitions addressing three separate structural irregularities involving two district courts in a single-family law matter. This unprecedented procedural posture is not the result of litigation excess, but rather a response to a cascading breakdown of jurisdiction, due process, and court administration, which independently threatens the ability of this Honorable Court to grant meaningful relief.

In fact, the only litigation that has occurred in this case has come from the undersigned. This litigation is not fueled by vindictiveness nor spite, but rather from the necessity to restore the status quo so that this divorce *may proceed*. The Relator holds the upmost respect for all three Judges named in this suit, and it is his prerogative to aid in the case's forward-looking

resolution, beginning with the restoration of the status quo. A stay should issue.

**WHEREFORE, PREMISES CONSIDERED,** Relator CHARLES DUSTIN MYERS respectfully prays that this Honorable Court:

1. Grant an immediate emergency stay pursuant to Texas Rule of Appellate Procedure 52.10(b), staying proceedings in the 322nd District Court of Tarrant County, Texas—including but not limited to the March 14, 2024 temporary orders—pending final disposition of the mandamus proceedings;

2. Grant mandamus relief to preserve the status quo to protect the best interests of the children, and to prevent further irreparable harm to Relator’s constitutional rights, business, and parent-child relationship;

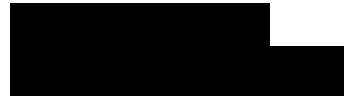
3. Permit Relator to file his third mandamus petition by April 16, 2025, if the court deems necessary;

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

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS



817-546-3693

[Chuckdustin12@gmail.com](mailto:Chuckdustin12@gmail.com)

**CERTIFICATE OF COMPLIANCE WITH RULE 52.10(A)**

In accordance with Texas Rule of Appellate Procedure 52.10(a), I certify that I have made a diligent effort to notify all parties by expedited means (such as by electronic mail, telephone or fax) that a motion for temporary relief has been or will be filed.

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

**CERTIFICATE OF COMPLIANCE WITH WORD COUNT**

In accordance with the Texas Rules of Appellate Procedure, I certify that this Motion contains 2,562 words.

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

**CERTIFICATE OF COMPLIANCE WITH RULE 10.1(5)**

I certify that I made multiple reasonable attempts to confer with both the opposing counsel and real party regarding this motion and was unsuccessful, and could not determine whether it's opposed.

/s/ Charles Dustin Myers  
CHARLES DUSTIN MYERS

**CERTIFICATE OF SERVICE**

Relator certifies that on April 15, 2025, a true and correct copy of the foregoing EMERGENCY MOTION TO STAY 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@tarrantcountytexas.gov](mailto:LKBaker@tarrantcountytexas.gov)

**Real Party In Interest**

Morgan Michelle Myers  
Real Party in Interest

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**COUNSEL FOR REAL PARTY IN  
INTEREST**

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817-459-6878  
[CSD-Legal-914@oag.texas.gov](mailto:CSD-Legal-914@oag.texas.gov)  
TEXAS O.A.G.

**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: 99666340  
Filing Code Description: Motion  
Filing Description: Emergency Motion to Stay  
Status as of 4/15/2025 10:00 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		CHUCKDUSTIN12@GMAIL.COM	4/15/2025 8:13:34 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/15/2025 8:13:34 AM	SENT
COOPER L.CARTER		COOPERCARTER@MAJADMIN.COM	4/15/2025 8:13:34 AM	SENT
JEFF NKAITCER		LKBaker@tarrantcountytexas.gov	4/15/2025 8:13:34 AM	SENT



**02-25-00171-CV**

**MANDAMUS  
CONSOLIDATION**

**04.16.25**

No. \_\_\_\_\_ -CV

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

---

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

---

Original Proceeding Arising from  
the 233rd Judicial District Court, Tarrant County  
Cause Number 233-765358-25  
Hon. Kenneth E. Newell Presiding

---

PETITION FOR WRIT OF  
MANDAMUS

---

Respectfully submitted by:

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

  
Pro-se Relator

ORAL ARGUMENT REQUESTED

Emergency Relief Requested before 04/24/2025

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

Charles Dustin Myers  
[REDACTED]

[chuckdustin12@gmail.com](mailto:chuckdustin12@gmail.com)

817-546-3693

***Respondent***

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

[adwierzicki@tarrantcountytexas.gov](mailto:adwierzicki@tarrantcountytexas.gov)

817-884-1794

***Real Party in Interest***

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***Counsel for Real Party in Interest***

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**Statement of the Case**

**Nature of Underlying Proceeding:** This original proceeding arises from a Suit Affecting the Parent-Child Relationship ("SAPCR") involving two minor children, M.E.M. and C.R.M., that was consolidated into a prior-filed divorce action (cause# 322-744263-23) on April 11, 2024.

**Respondent Judge:** The Respondent Judge is the Honorable Kenneth E. Newell, the District Judge of the 233rd District Court of Tarrant County, Texas. His office is located at 200 E. Weatherford St. 5th Floor Fort Worth, TX 76196-0227.

**Respondent's Challenged Actions:** The Respondent (through his Associate Judge) declined jurisdiction over an emergency SAPCR TRO only to then exercise jurisdiction by granting Real Party's consolidation motion *sua sponte* without addressing the Relator's objections.

**Statement of Jurisdiction**

This Petition for Writ of Mandamus is filed in the Second Court of Appeals, which has jurisdiction to issue writs of mandamus to District Judges within its district. See Tex. Gov't Code § 22.221(b). The respondent is the District Judge of the 233rd District Court of Tarrant County, which lies within the Second Court of Appeals District. Accordingly, this Court has jurisdiction over this original proceeding, and there are currently two related matters pending before this Honorable Court. Cause# 02-25-00166-CV, ("The Void-Order Mandamus"), and (Cause# No. 02-25-00164-CV ("The SAPCR/TRO Mandamus"). This is "The Consolidation Mandamus".



**Issue Presented**

- I. The Respondent clearly abused his discretion when he *sua sponte* granted Real Party's contested consolidation motion without notice, hearing, and in the face of an objection.

### **Statement of Facts**

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

“APP” refers to the relator’s appendix attached hereto.

1. On March 19, 2025, the Relator, (“Mr. Myers”) filed a cover letter addressed to District Clerk Tom Wilder, an application for emergency injunctive relief, and opened an original SAPCR in the 233<sup>rd</sup> district court to seek relief. (MR 1, MR 2, MR 3)
2. On March 20, 2025, RODERICK D. MARX filed an answer and MOTION TO CONSOLIDATE on behalf of COOPER L. CARTER. (MR 4, MR 4.5, MR 5, MR 5.4)
3. On March 20, 2025, Mr. Myers filed a MOTION TO STRIKE RESPONDENT’S ANSWER AND MOTION TO CONSOLIDATE with an attached exhibit showing Cooper Carter’s EFM registration is registered with Cantey Hangar. (MR. 6.2, MR. 6.8)
4. On March 21, 2025, Mr. Myers filed a verified RULE 12 MOTION TO SHOW AUTHORITY challenging the authority of COOPER L. CARTER to represent MORGAN MYERS. (MR. 7.2)
5. On March 24, 2025, Mr. Myers filed an EX-PARTE EMERGENCY TRO seeking emergency relief for himself and the minor children in this suit. (MR. 8, MR. 8.11)

6. On March 24, 2025, Mr. Myers filed an OBJECTION TO CONSOLIDATION. (MR. 9.1)
7. On March 26, 2025, Relator contacted the court coordinator, was told he may present the TRO, and notified the opposing counsel that he would present the motion at 9:00 A.M. on March 28, 2025. (MR. 12.9)
8. On March 27, 2025, Mr. Myers served a copy of the TRO and proposed order (MR. 12.19) to the opposing party and informed them of the relief being sought. (MR. 12.15)
9. On the evening of March 27, 2025, opposing counsel directly contacted the court coordinator to inform her of the intent to file a consolidation motion in the 322<sup>nd</sup> district court. (MR. 12.20)
10. On March 28, 2025, the court recognized Mr. Myers' objection. (MR. 12.25)
11. On March 28, 2025, Mr. Myers appeared before the coordinator to set a date for the full hearing on the TRO. (MR. 12.24)
12. Mr. Myers conferred with counsel and agreed to have the hearing on April 10, 2025. (MR. 12.26)
13. The coordinator memorialized this agreement by setting the date on the SAPCR Order. (MR. 12.29)
14. On April 1, Mr. Myers filed a PETITIONER'S STATEMENT with the court and provided a STATEMENT OF FACTS to the court. (MR. 10.2)

15. On April 2, Mr. Myers filed a PETITIONER’S NOTICE to “provide a different perspective into the current situation.” and “stark differences in the children’s quality of life, parental involvement, and household stability before and after the removal of the Father from the family home.” (MR. 11.2)
16. On April 3, 2025, RODERICK D. MARX filed a MOTION TO CONSOLIDATE in the 322<sup>nd</sup> District Court. (MR 13.2, MR 13.3)
17. On April 11, 2025, Relator filed a PETITION FOR WRIT OF MANDAMUS in the Second Court of Appeals seeking relief from being unable to present his emergency TRO on March 28, 2025. (APP 4)
18. On April 10, 2025, Respondent granted Real Party’s MOTION TO CONSOLIDATE sua-sponte and without addressing Relator’s objections, without notice, and without holding a hearing. (APP. 1.1)
19. On April 12, 2025, Respondent’s mandamus under #02-25-00164-CV was denied per curiam with no substantive explanation. (APP 4)
20. On April 15, 2025, Respondent’s mandamus under #02-25-00166-CV was denied per curiam with no substantive explanation. (APP 3)

## A Dragon in Triplicate

“I filed a dragon in triplicate. (02-25-00164-CV, 02-25-00166-CV, .....)  
 Stamped it with a notary seal made of toast.  
 The clerk blinked Morse code at me, each dot a denial, each dash a delay.  
 I whispered back: "Due process, maybe...?" (MR 12.25)  
 She shrugged.  
 Per curiam.

I wore a tie made of subpoenas, each one ignored like a bedtime story read to no one.  
 Shoes made of unserved motions, my footsteps echoing through halls where justice used  
 to live. I approached the bench riding a unicycle of hearsay. The judge levitated, the  
 record evaporated, and Real Party’s counsel dissolved into a fog of alleged  
 representation. I asked, “Do you even have authority?” (MR 7.2)  
 The fog replied: Per curiam. (APP 3) (APP 4)

The bailiff offered me a lemon — bright yellow, bitter as the day;  
 they took my children without a hearing. I objected. (MR 9.2)  
 He smiled like he’d heard that line before.  
 Per curiam. (APP 3) (APP 4)

I cried out, "But I never agreed!" (MR 15.1)  
 The courtroom answered in silence.  
 The Temporary Orders danced across the floor, signed in invisible ink.  
 They spoke in tongues: "As evidenced by the signatures below..." There were none. But  
 the judge still nodded.  
 Per curiam. (APP 3) (APP 4)

M.E.M. drew a picture of our house. Said: “Daddy, when are you coming home?”  
 C.R.M. left his shoes by the door — still waiting. I filed my heart as Exhibit A. (MR 1.1)  
 They struck it. Hearsay. I tried again. (MR 8.19)  
 Filed their laughter, their drawings, their birthdays I missed.  
 The clerk stapled it to a stack of motions never read. (MR 3)  
 Per curiam. (APP 3) (APP 4)

Somewhere, a gavel bangs.  
 But not for me.  
 Not for them.  
 Just another ghost echo in a court that doesn’t listen, doesn’t look, doesn’t feel.  
 But still I file.  
 Still I write.  
 Still I fight.  
 For them.  
 Per curiam.”

– *Relator Charles Dustin Myers*

## **ARGUMENT**

### **A. Mandamus Standard**

Mandamus relief is warranted when the trial court clearly abused its discretion, and the Relator (“Mr. Myers”), has no adequate appellate remedy. *In re Coppola*, 535 S.W.3d 506, 508 (Tex. 2017) (orig. proceeding) (per curiam). “A trial court clearly abuses its discretion if ‘it reaches a decision so arbitrary and unreasonable as to amount to a clear and prejudicial error of law’ [or if it clearly fails] to analyze or apply the law correctly .” *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 2006) (orig. proceeding) (quoting *Johnson v. Fourth Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985), disapproved of on other grounds by *In re Columbia Med. Ctr. of Las Colinas, Subsidiary, L.P.*, 290 S.W.3d 204 (Tex. 2009)). In any event, as shown in the next section, appeal is no remedy at all under these urgent circumstances.

### **B. Consolidation and EX-Parte Procedure**

Texas Rule of Civil Procedure 174(a) permits consolidation of actions that involve common questions of law or fact. (APP 6.1) See also *Lone Star Ford, Inc. v. McCormick*, 838 S.W.2d 734, 737 (Tex. App.-Houston [1st Dist.] 1992, writ denied). A trial court cannot arbitrarily consolidate cases in a manner that prejudices one of the parties. Even when consolidation is permissible in principle, the court must balance judicial convenience against any risk of unfair prejudice or

confusion, and it must respect the parties' right to be heard on the issue. *Crestway Care Ctr., Inc. v. Berchermann*, 945 S.W.2d 872, 874 (Tex. App.—San Antonio 1997, orig. proceeding) (en banc). Consolidation decisions are reviewed for abuse of discretion, and “a trial court may abuse its discretion by ... consolidating cases when the consolidation results in prejudice to the complaining party.” (citing *Lone Star Ford*, 838 S.W.2d at 738)

In other words, when deciding whether to consolidate, the trial court must balance the judicial economy and convenience that may be gained by the consolidation against the risk of an unfair outcome because of prejudice. See *Dal-Briar*, 833 S.W.2d at 615. Even if the cases share common questions of law and fact, an abuse of discretion may be found if the consolidation results in prejudice to the complaining party. *Lone Star Ford, Inc.*, 838 S.W.2d at 738.

Here, that is precisely what occurred. Mr. Myers has three concurrent mandamuses now before this court, and cause number 02-25-00164-CV, (“the TRO/SAPCR mandamus”) sought emergency relief in March 2025. (MR 8.2) The court's procedural handling of his Application for Temporary Restraining Order (TRO) was highly irregular and violated the letter and spirit of Texas procedural rules.

Texas Rule of Civil Procedure 680 provides that no TRO shall be granted without notice to the adverse party unless specific facts show immediate

irreparable injury will occur before notice can be given. Even when an ex parte TRO is justified, TRCP 680 requires the order to be narrowly time-limited (14 days) and promptly set for hearing on a temporary injunction. (APP 7) Here, Mr. Myers followed the rules by giving notice to the opposing party and coordinating with the Court for a presentation of his TRO. (MR 12.1-12.9) Tarrant County Local Rule 4.01(11)(e) (likewise requires a party seeking ex parte relief to certify to the Court the efforts made to notify the opposing side or explain why notice should not be given. Mr. Myers never received a response from the opposing side.

Notably, on March 27, 2025, the Court (through its coordinator) insisted that Mr. Myers appear in person to present the TRO and inform opposing counsel of the scheduled time. The coordinator wrote:

“This order needs to be presented in person. Likewise, you need to inform opposing counsel of the date and time you intend to present this order to the court.” (MR 12.9)

Mr. Myers promptly complied. He emailed Ms. Allison on March 27 confirming that he had informed the opposing counsel of the intended presentation at 9:00 a.m. the following day and that he would update both the Court and opposing party if anything changed. (MR 12.9)

After receiving no response from either the opposing counsel or real party in interest, Mr. Myers served the documents he intended to present to the court. (MR 12.19) Rather than corresponding with Mr. Myers directly, the opposing counsel contacted the court coordinator, where she stated via email:



“I have received communication from opposing party who is pro se that he will be walking through an Emergency TRO. Our office has a hearing scheduled for tomorrow morning in Parker County and is unable to attend. However, I will be available by cell phone regarding this matter if the Judge would like to speak to me regarding the Emergency TRO. Please contact our office to patch me in for any calls that Judge would like to have.” (MR 12.20)

and most critically, the opposing counsel went on to say:

“Additionally, this case already is pending in the 322nd for a divorce proceeding regarding property and children matters. We will be consolidating the case and walking it through the 322nd for signature next week.” (MR 12.20)

The following morning, Mr. Myers made an appearance, as confirmed by the coordinator.

“Mr. Myers appeared before me to schedule the hearing for the TRO; my apologies I did not realize this was that same case. We can go ahead and set the TRO with us, but most likely the case will be transferred prior to the hearing date and the case needs to be transferred prior to that date. Mr. Myers will be emailing with dates available for the hearing.” (MR 12.24)

This was followed by the following email:

“Additionally, since there is an objection to the consolidation, y’all will need to reach out to request how to proceed with the 322nd as I am unsure of their procedures.” (MR 12.25)

Mr. Myers then promptly provided dates at 9:59 a.m. on March 28, 2025, (MR 12.26) the hearing was agreed to be set for April 10, 2025. (MR 12.29) Despite following the correct procedure, Mr. Myers was not permitted to present his emergency TRO, and was denied the opportunity to be heard outright because of the consolidation motion that *would be filed* the following week. (MR 12.20)

In short, Mr. Myers, acting *pro se*, did exactly what the rules required and what the Court directed: he gave notice and appeared in person as instructed. The

threshold matters should have come second to the best interests of the children. See Tex. Fam. Code 153.002. (APP 5)

That statement – “*I did not realize this was that same case*” (MR 12.24) – is a stunning acknowledgment of a procedural lapse. It indicates that the Court failed to connect the dots that Mr. Myers’ new case concerning the child was related to the ongoing divorce case. As a result, instead of promptly hearing Mr. Myers TRO on its merits, the Court stalled and immediately contemplated moving the case away, leaving Mr. Myers’ emergency request in limbo. The only individuals who followed proper procedure here were the undersigned and the court coordinator, non-licensed individuals. (MR 12.24)

In summary, the procedure leading up to Respondent’s abuse of discretion was an abuse of discretion itself, warranting the “TRO/SAPCR Mandamus” that was denied *per curiam* without any substance. (APP 4)

It was made very clear by the 233<sup>rd</sup> court that the consolidation motion filed by the opposing party on March 20, 2025, was filed in the incorrect court. (MR 5) (MR 12.17) This was used against Mr. Myers at the 11<sup>th</sup> hour to prevent the TRO hearing, as shown above. The *forward-looking* consolidation motion that was used to justify denying Mr. Myers his day in court was filed by RODERICK D. MARX, a non-party in either the SAPCR suit or the divorce matter on April 3, 2025. (MR 13.5) see also (MR 7.18)

Shortly thereafter, the opposing counsel emailed Mr. Myers stating:

“This is to inform you that I will be walking through the attached Motion for Consolidation and Proposed Order tomorrow morning at 9:00 a.m. in the 322nd for signature.” (MR 12.31)

Mr. Myers promptly replied, stating:

“I’ve already objected.  
You have no legal authority to do so until you address my objection filed and served to you.” (MR 12.32)

This procedural gamesmanship is the exact reason why the undersigned opened a new SAPCR, as it has left the divorce to languish outside of one-sided attempts to pursue relief, as clearly pointed out in his pleadings. There has been no meaningful discussion on the merits of this matter with the opposing side and no attempt to prosecute outside of the latest stunt to block emergency relief. (MR 1.1) From there, Mr. Myers filed a NOTICE OF INTENT TO SEEK MANDAMUS RELIEF in the 233<sup>rd</sup> (MR 14) and began preparing his first mandamus brief, which was submitted to this court on April 10, 2024.

**I. The Respondent clearly abused his discretion he *sua sponte* granted Real Party’s contested consolidation motion without notice and hearing to the parties.**

### C. ABUSE OF DISCRETION

Immediately after submitting his first mandamus petition, Mr. Myers was served with an ORDER GRANTING CONSOLIDATION. (MR 15) This motion, which was used as a barrier to relief, was granted *sua sponte* by the same court who just declined to hear an emergency TRO before it.

The record leaves no doubt that Respondent's decision to consolidate the cases without notice or a hearing was a gross departure from the fair administration of justice. It is difficult to imagine a more textbook abuse of discretion: a contested motion was granted *sua sponte*, with no opportunity for the opposing party to be heard. This is not a close call or a minor procedural wrinkle. The facts speak for themselves – equity, due process, and basic procedural fairness were all denied in one fell swoop. The only question is whether they will continue to be ignored.

Texas courts have held that a trial court clearly abuses its discretion by granting a contested motion *sua sponte* without providing notice or a hearing. In *D.A. Buckner Constr., Inc. v. Hobson*, for example, the trial judge entered an order (imposing sanctions) even though the affected party had no notice or opportunity to be heard. The court of appeals declared that order *void* and emphatically stated: “Respondent's order was without notice or hearing. Under these circumstances, the trial court's order is void, and mandamus will lie to vacate such an order.” Such is the case here. Therefore, the law should apply equally.

## D. NO ADEQUATE REMEDY

In determining whether an appeal is an adequate remedy, courts have weighed the benefits over the detriments. *In re BP Prods. N. Am., Inc.*, 244 S.W.3d 840, 845 (Tex.2008) (orig.proceeding). A party establishes that no adequate appellate remedy exists by showing it is in real danger of losing its substantial rights. *Perry v. Del Rio*, 66 S.W.3d 239, 257 (Tex.2001) (orig.proceeding). As repeatedly stated throughout these proceedings, Relator has been deprived of the most fundamental rights one can have: the right to possess and protect his home, and the right to care for, maintain contact with, and make decisions regarding his minor children. These rights are not abstract — they are protected by the U.S. Constitution, the Texas Constitution, and longstanding precedent.

## E. ONGOING AND IRREPARABLE HARM

The Texas Supreme Court has repeatedly reaffirmed that “a parent’s rights to the care, custody, and control of their children are constitutional in nature and must be afforded heightened protection.” *In re C.J.C.*, 603 S.W.3d 804, 809 (Tex. 2020). Likewise, property rights — including the right to remain in and possess one’s home — are protected under Article I, Section 19 of the Texas Constitution and the Fourteenth Amendment to the U.S. Constitution. See also *University of Tex. Med. Branch v. Than*, 901 S.W.2d 926, 930 (Tex. 1995)

When such rights are denied without valid order, hearing, or opportunity to be heard — as occurred here — the violation is not merely procedural: it is a constitutional injury, and one that warrants immediate mandamus relief. For all reasons incorporated herein, Mandamus should be issued, as deprivation is ongoing, and will occur until justice is rightfully served.

Relator has clearly established the Respondent's consolidation was both procedurally improper, and prejudicial. For all reasons incorporated herein, the court should uphold Texas precedent, and issue mandamus relief to restore justice to these proceedings.

### **CONCLUSION**

With a prima facie showing of systemic abuse laid bare across the trilogy of mandamus petitions now before this Court, it is no longer credible to characterize the lower court's conduct as isolated error. Two of the three heads of this procedural dragon—embodied by the 233rd, the 322nd, and this very Court—have already rendered per curiam denials, offering no explanation in the face of documented, un rebutted misconduct. The record in each petition stands unopposed. No adversary response has been filed. No evidentiary challenge has been made. The silence against Relator's claims is not merely strategic—it is telling. A dangerous precedent is being forged in silence. This court must act.

**PRAYER**

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

1. Issue a writ of mandamus compelling the Hon. Kenneth Newell, Judge of the 233rd District Court, to vacate the April 2025 consolidation order, as it was entered sua sponte on a contested motion;
2. Take judicial notice of the procedural irregularities and record-supported adversity faced by Relator throughout these proceedings, including the refusal to hear his emergency TRO while simultaneously granting relief to the opposing party;
3. Grant all other relief to which Relator may be justly entitled, at law or in equity, in light of the extraordinary circumstances and ongoing deprivation of due process.

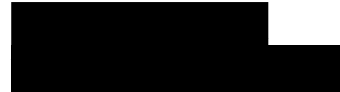
Relator has before this Court three petitions for writ of mandamus. Two have already been denied per curiam without explanation—perhaps the result of routine disregard for pro se filings. But on rehearing, this Court is urged to evaluate this petition in conjunction with its sister mandamuses to fully grasp the depth of systemic abuse, procedural evasion, and judicial inconsistency present in the courts below.

Individually, each mandamus reveals a failure of  
process. Together, they form a “Dragon in Triplicate” —  
a coordinated denial of justice across courts that were  
sworn to protect it.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS



817-546-3693

[CHUCKDUSTIN12@GMAIL.COM](mailto:CHUCKDUSTIN12@GMAIL.COM)

**Certification (TRAP 52.3(j))**

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

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS

PRO-SE RELATOR



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

Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), Relator certifies  
that this document contains **3231 words**.

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS  
PRO-SE RELATOR

**CERTIFICATE OF SERVICE**

Relator certifies that on April 16, 2025, a true and correct copy of the foregoing Petition for Writ of Mandamus was served on all parties and counsel of record as follows:

**Hon. Kenneth Newell**

District Judge, 233rd District Court  
Tarrant County Family Law Center  
200 E. Weatherford St. 5<sup>th</sup> Floor  
Fort Worth, TX 76196

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)

**Morgan Michelle Myers**

Real Party in Interest

VIA the EFM at:

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**Cooper L. Carter**

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

Via email: [coopercarter@majadmin.com](mailto:coopercarter@majadmin.com)

/s/ Charles Dustin Myers

Charles Dustin Myers,  
Pro Se Relator

No. \_\_\_\_\_ -CV

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

---

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

---

Original Proceeding Arising Out of  
the 233<sup>rd</sup> Judicial District Court of Tarrant  
County, Texas

Cause Number 233-765358-25

Hon. Kenneth E. Newell Presiding

---

RELATOR'S APPENDIX

---

Respectfully submitted by:

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



AFFIDAVIT VERIFYING RELATOR’S APPENDIX

APP#	NAME
1 .....	ORDER GRANTING CONSOLIDATION (233 <sup>rd</sup> )
2 .....	ORDER GRANTING CONSOLIDATION (322 <sup>nd</sup> )
3 .....	DENIAL PER-CURIAM (No. 02-25-00166-CV)
4 .....	DENIAL PER-CURIAM (No. 02-25-00164-CV)
5 .....	Tex. Fam. Code § 153.002
6 .....	Tex. R. Civ. P. § 174(a)
7 .....	Tex. R. Civ. P. § 680

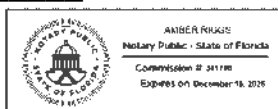
**AFFIDAVIT CERTIFYING RELATOR'S APPENDIX**

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

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

FURTHER AFFIANT SAYETH NOT.

*Charles Dustin Myers*  
/s/ Charles Dustin Myers  
**Charles Dustin Myers**  
Relator



State of Florida County of  
Bay County

This foregoing instrument was acknowledged before me by means of online notarization, this 04/16/2025 by Charles Dustin Myers.

*Amber Riggs*  
Amber Riggs

Notarized remotely online using communication technology via Proof.

**CERTIFICATE OF SERVICE**

Relator certifies that on April 16, 2025, a true and correct copy of the foregoing Petition for Writ of Mandamus was served on all parties and counsel of record as follows:

**Hon. Kenneth Newell**

District Judge, 233rd District Court  
Tarrant County Family Law Center  
200 E. Weatherford St. 5<sup>th</sup> Floor  
Fort Worth, TX 76196

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)

**Morgan Michelle Myers**

Real Party in Interest

VIA the EFM at:

[MORGANMW02@GMAIL.COM](mailto:MORGANMW02@GMAIL.COM)

**Cooper L. Carter**

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

Via email: [coopercarter@majadmin.com](mailto:coopercarter@majadmin.com)

/s/ Charles Dustin Myers

Charles Dustin Myers,  
Pro Se Relator

**Automated Certificate of eService**

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

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Filing Description: IFP

Status as of 4/16/2025 10:05 AM CST

**Case Contacts**

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MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/16/2025 7:49:45 AM	SENT

**02-25-00164-CV**

**EN BANC SAPCR**

**04.22.25**



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

---

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

---

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

---

MOTION FOR  
EN BANC  
RECONSIDERATION

---

Respectfully submitted by:

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



ORAL ARGUMENT REQUESTED

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**ISSUES PRESENTED FOR RECONSIDERATION****Rehearing Issue No. 1:**

According to the Texas Supreme Court, mandamus may issue to compel a judge to perform a ministerial act. The panel erred by overlooking that the trial court had a legal duty to act, that a demand for performance was made, and that the court refused to rule.

**Rehearing Issue No. 2:**

The panel erred by overlooking that the burden for mandamus was satisfied. The mandamus and supplemental records establish a prima facie showing that an emergency TRO was properly filed, a date and time to present the motion was secured, opposing counsel participated in scheduling the full hearing, and the trial court declined to proceed, resulting in no ruling or order.

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 third filed reconsideration motion and addresses the panel’s denial of Cause No. 02-25-00164-CV (attached as Tab A), referred to as the “**SAPCR**” mandamus. It is respectfully submitted that the panel’s *per curiam* dismissal overlooked substantial, uncontested factual inaccuracies and manifest procedural deficiencies meticulously substantiated within the mandamus and supplemental mandamus records. Such judicial oversight necessitates comprehensive *en banc* scrutiny to preserve jurisprudential coherence and fidelity to established precedents of Texas law.

Relator welcomes a response from the Real Party or Respondent if such would provide meaningful insight into the situation.

### **STATEMENT OF FACTS**

On March 19, 2025, Relator filed a SAPCR as an original proceeding in the 233<sup>rd</sup> District Court of Tarrant County which was subsequently answered by counsel for Real Party in Interest the following day. (MR 3). An emergency TRO was later filed on March 24, 2025, in the 233<sup>rd</sup> District Court of Tarrant County. (MR 7, MR 7.26) The trial court was asked to perform a ministerial duty when a date and time was secured to present the motion. (SUPP 2.11, SUPP 2.24, SUPP 2.26). The undersigned appeared on March 28, 2025, and it is undeniable that the full hearing was set for April 10, 2025, at 9:30a.m. The judge refused to hear the motion. Accordingly, no appealable order was issued.

### **SUMMARY OF ARGUMENT**

It is clear that the trial court below had a ministerial duty to act and refused to do so. When a trial court fails to rule on a motion that is properly filed and brought to its attention, the abuse of discretion is established as a matter of law. This aligns with longstanding mandamus jurisprudence, which requires only three elements to establish a clear abuse of discretion: the existence of a legal duty to act, a clear request for that action, and the court's failure or refusal to do so. *In re Shredder Co., L.L.C.*, 225 S.W.3d 676, 679 (Tex. App.- El Paso 2006, orig. proceeding); *Stoner v. Massey*, 586 S.W.2d 843, 846 (Tex. 1979). All three elements are present here.

## 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).

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

Further, the subject matter of this case—three concurrently pending mandamus proceedings, all arising from distinct but interconnected abuses of discretion—constitutes an extraordinary circumstance. Each petition was denied *per curiam* by the same panel despite a clearly established record of procedural violations and judicial inaction. The *en banc* court should examine and correct the

panel's cursory denials to ensure that this Court's precedent does not inadvertently endorse or perpetuate abuses of discretion that have been thoroughly documented across the mandamus and supplemental records without any opposition.

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

"When a motion is properly filed and pending before the trial court, the act of giving consideration to and ruling upon that motion is a ministerial act, and mandamus may issue to compel the trial judge to act." *Safety-Kleen Corp. v. Garcia*, 945 S.W.2d 268, 269 (Tex. App.- San Antonio 1997, orig. proceeding). However, the Relator must demonstrate that the trial court abused its discretion by failing or refusing to perform a ministerial act.

**A. The trial court abused its discretion by failing to rule on a properly filed motion after being asked to act.**

To establish an abuse of discretion, the Relator must show that the trial court received a properly filed motion, was made aware of it, and was asked to rule—whether through direct correspondence or other documents drawing the court's attention to the matter. *See In re Villarreal*, 96 S.W.3d 708, 710 (Tex. App.—Amarillo 2003, orig. proceeding).

Here, the email correspondence between the court coordinator of the 233<sup>rd</sup> District Court, counsel for Real Party, and the undersigned found in SUPP 2.17-2.22 clearly demonstrates that: 1) a motion was filed and properly before the court



without objection; 2) the undersigned appeared in person at a designated time and requested the court rule on his motion with a full trial setting secured for April 10, 2025; 3) the court refused to rule on the motion.

Therefore, the trial court clearly abused its discretion by refusing to perform a ministerial act after being properly asked to rule on a pending motion, which is well supported in the verified supplemental mandamus record. When a motion has been properly filed and brought to the attention of the trial court, the act of considering and ruling upon the motion is ministerial in nature, and mandamus may issue to compel the trial court to act. See *In re Layton*, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding).

**B. By refusing to act, the Relator was left without an adequate remedy for an appeal.**

By refusing to rule, no order was issued. This left the undersigned without an adequate remedy by appeal and thus satisfies the standard for mandamus relief. See *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135 (Tex. 2004). In other words, there is no adequate remedy at law for a trial court's failure to rule because "[f]undamental requirements of due process mandate an opportunity to be heard." See *In re Christensen*, 39 S.W.3d 250, 251 (Tex. App.—Amarillo 2000, orig. proceeding). Here, those fundamental requirements were not satisfied, resulting in these proceedings.

### **CONCLUSION AND PRAYER**

Considering the facts incorporated herein, the *en banc* court should revisit the denial issued by the panel on April 11, 2025. (attached as Tab 1) It remains undisputed that an emergency motion was before the trial court (MR 7) the trial court was asked to rule on that motion, and the trial court refused to do so.

The undersigned, CHARLES DUSTIN MYERS, therefore, respectfully prays that this Court grant *en banc* reconsideration, withdraw or vacate the panel's *per curiam* denial, and remand this cause back to the 233<sup>rd</sup> District Court of Tarrant County for further proceedings consistent with law and justice. In doing so, the undersigned asks this Court to consider not only the record in this case, but the totality of the circumstances presented across all three pending *en banc* motions—each evidencing distinct but interlocking abuses of discretion that have left him without an adequate appellate remedy. The Triplicate of per curiam denials should be reconsidered. Relator holds deep respect for the judiciary, the judges of this Court, and all parties involved, and trusts that neither his zealous advocacy nor his self-represented status detracts from the merits of the arguments presented.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS (pro-se Relator)

[REDACTED]

Tel.: 817-546-3693

Email: [chuckdustin12@gmail.com](mailto:chuckdustin12@gmail.com)

**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 **1,307**.

A



**In the  
Court of Appeals  
Second Appellate District of Texas  
at Fort Worth**

---

No. 02-25-00164-CV

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IN RE CHARLES DUSTIN MYERS, Relator

---

Original Proceeding  
233rd District Court of Tarrant County, Texas  
Trial Court No. 233-765358-25

---

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

**MEMORANDUM OPINION**

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

Per Curiam

Delivered: April 11, 2025

**CERTIFICATE OF SERVICE**

Relator CHARLES DUSTIN MYERS certifies that on April 22, 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. Kate Stone J.D.**

Associate Judge, 233rd District Court

Tarrant County Family Law Center

200 E. Weatherford St.

Fort Worth, TX 76196

817-884-1197

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)

***Real Party in Interest***

Morgan Michelle Myers

MORGANMW02@GMAIL.COM

***Counsel for Real Party in Interest***

**Cooper L. Carter**

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, TX 76116

Via email: [coopercarter@majadmin.com](mailto:coopercarter@majadmin.com)

/s/ Charles Dustin Myers

Charles Dustin Myers

PRO-SE RELATOR

SERVED: 04/22/2025

**Automated Certificate of eService**

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Filing Description: Motion for EN BANC Reconsideration - "The Third Head" - "SAPCR Mandamus"

Status as of 4/22/2025 1:27 PM CST

**Case Contacts**

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**322-744623-23**

**PROCEDURAL  
IRREGULARITIES WITH  
TEMPORARY ORDERS**

**04.15.25**

322-744263-23

FILED  
TARRANT COUNTY  
4/15/2025 10:06 AM  
THOMAS A. WILDER  
DISTRICT CLERK

NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY,

	TEXAS
ITMOMO	
MORGAN MICHELLE MYERS	
AITIO M.E.M., C.R.M., two	
children	Petitioner,
CHARLES DUSTIN MYERS,	
Respondent.	
	2025-04-13

PROCEDURAL IRREGULARITIES  
IN TEMPORARY ORDERS

ANALYSIS

*A Legal Research Paper Examining the Validity of Temporary Orders Signed on  
March 26, 2024*

Prepared for Court Submission

April 14, 2025

### **ABSTRACT**

This research paper examines whether the Temporary Orders signed on March 14, 2024, in Cause No. 322-744263-23 (322nd District Court, Tarrant County) are facially void or legally invalid due to procedural irregularities. The analysis focuses on how the Associate Judge's Reports from February 1, 2024, and March 14, 2024, were processed, highlighting significant deviations from required legal procedures. The paper evaluates these irregularities against the framework of Texas Family Code provisions, Texas Rules of Civil Procedure, and relevant case law. Particular attention is given to issues of consent, due process violations, and the legal consequences of these procedural failures. The research concludes with an assessment of potential remedies, including mandamus relief and other direct attacks to vacate the orders.

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## **I. INTRODUCTION AND ISSUE PRESENTED**

### **A. Overview of the Case**

This report examines whether the Temporary Orders signed on March 26, 2024, in Cause No. 322-744263-23 (322nd District Court, Tarrant County) are facially void or legally invalid. Evidence indicates serious procedural irregularities in how the Associate Judge's Reports from February 1, 2024, and March 14, 2024, were handled.

The case involves a family law matter between Morgan Myers (Petitioner) and Charles Myers (Respondent). The procedural history reveals a concerning pattern of deviations from standard legal practice and explicit judicial directives. Of particular concern are the following newly uncovered facts:

The February 1, 2024, Associate Judge's Report required a typed Temporary Orders conforming to the report to be prepared by attorney Dan Bacalis within 20 days, approved by both attorneys within 5 days, and set for entry ("motion to sign") within 30 days if no agreement.

The order filed (March 26, 2024 Temporary Orders) was prepared well past the 20-day/30-day deadlines – in fact about 44 days later – and by Cooper L. Carter (opposing counsel) instead of Dan Bacalis. It was not reviewed or approved by Charles's attorney (Bacalis had ceased representing Charles by then), and Charles was pressured to sign it immediately on March 26, 2024, under threat of adverse action, rather than being given the 5-day review period the Associate Judge had ordered and the parties actually *had* agreed to.

The March 14, 2024, Associate Judge's Report contains handwritten directives written by opposing counsel, not the judge, including a coercive ultimatum that final orders must be presented by 1:30 PM that same day. The report notes that Charles objected to the form of the proposed order and refused to approve Paragraph 3 – evidencing that no true agreement on all terms existed.

### **B. Issue Presented**

This research paper addresses the following central question: Do these procedural failures – including non-compliance with the Associate Judge's instructions, lack of required signatures/approvals, and coerced "consent" – render the February 1 and March 14 reports never properly converted into a valid court order, and thus make the March 26, 2024, Temporary Orders facially void or otherwise invalid?

The analysis will address the governing law (Texas Family Code provisions, Texas Rules of Civil Procedure, and case law) and analyze potential due process violations. The paper will also discuss remedies, including whether mandamus relief or other direct attacks are appropriate to vacate the orders.

## **II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

### **A. February 1, 2024 – Associate Judge's Hearing and Report**

On February 1, 2024, an Associate Judge never heard Petitioner Morgan Myers's motion for temporary orders. The purpose of the setting was for Petitioner to produce evidence of her family violence claims. According to the Associate Judge's Report for Temporary Orders signed that day, both parties appeared with counsel. The report recites that Petitioner (Morgan) and Respondent (Charles) "signed an Associate Judge's Report regarding Agreed Temporary Orders." In other words, the Associate Judge's Report for Temporary Orders was represented as an agreed order.

Notably, however, the February 1 report itself was not a final typed order; it was a handwritten form that Dan Bacalis, not the Associate Judge, completed. Crucially, at the end of the hearing the Associate Judge did not enter a final written order but instead set out a procedure to finalize one:

1. A typed Temporary Order conforming to the Associate Judge's Report was to be prepared within 20 days of February 1, 2024. The report explicitly says: "*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 Bacalis].*"

2. Each attorney was to approve the order, with 5 days for review. The report states: *"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."* Thus, both Morgan's and Charles's attorneys were required to sign off as to form; the parties' signatures on the final typed version were not strictly required by this instruction (since it says parties "do not need to approve"), but the initial report itself contemplated an agreed order and included signature lines for the parties as evidence of their agreement. In practice, for an agreed family order it is standard that both parties and counsel sign "Approved as to Form and Substance."
3. If the attorneys could not agree on the form of order, a "Motion to Sign" hearing was to be set within 30 days of February 1. The report directs: *"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."* This meant by approximately March 2, 2024, any dispute about the order's wording or contents should be brought to the court for resolution.

Finally, the February 1 Associate Judge's Report has an "AGREED AS TO FORM AND SUBSTANCE" signature block for the parties and attorneys.

The Associate Judge did sign the report on February 1, making the report effective as an interim order of the court. Under Texas Family Code § 201.013, a signed Associate Judge's proposed order is in full force and effect pending any request for a de novo hearing by the referring court. No request for a de novo hearing was filed by either party within the 3-working-day window (Tex. Fam. Code § 201.015(a)). Therefore, the Associate Judge's rulings of February 1 became the governing temporary orders in effect – but only in the form of the handwritten report, pending entry of the formal typed order.

#### **B. March 14, 2024 – Attempt to Finalize Order and Second AJ's Report**

By early March 2024, no agreed typed order had been submitted or signed. Dan Bacalis (Charles's attorney) did not prepare the order within 20 days, nor was a Motion to



Sign filed within 30 days. In fact, during this period Charles's counsel was terminated from representation just four days after the associate judge's report was signed on February 1. To address the basis for any agreement being fraudulent, Charles promptly filed an emergency motion to reconsider evidence and vacate any agreement, which was eventually set for March 14 due to Cooper Carter's availability.

At the March 14 proceeding, instead of simply holding an entry hearing, the court and counsel engaged in off-the-record discussions to get the order finalized. Opposing counsel (Cooper Carter) took it upon herself to hand-write the directives on a new Associate Judge's Report form. These handwritten notes (penned by Carter, not the judge) included a coercive instruction that Charles must sign the final order by 1:30 PM that same day (March 14).

Essentially, Charles was given an ultimatum to immediately acquiesce to the written order's terms. The March 14 report also documented that Charles objected to the form of the order and specifically did not approve Paragraph 3 (a provision in the draft order). In other words, as of March 14 there was not a full meeting of the minds – Charles had an unresolved objection to at least one substantive term. Despite this, the pressure was on to finalize the order that day, and the purpose of being there was for an entire different purpose.

Importantly, the handwritten March 14 notes were not written by the judge and were not traditional judicial findings or rulings – they were more in the nature of instructions and a deadline apparently dictated by opposing counsel. There is no indication the Associate Judge held an evidentiary hearing on March 14 or made independent findings; instead, it appears the goal was simply to force execution of the previously "agreed" temporary order that had essentially been nullified by Dan Bacalis' departure from the case.

### **C. March 26, 2024 – Filing of the Temporary Orders and Circumstances of Signing**

On March 26, 2024, a typed "Temporary Orders" document was finally filed with the District Clerk. This document, which spans numerous pages, purports to memorialize the

temporary conservatorship, possession, and injunction terms that were discussed back on February 1. The key points about this March 26, 2024 Temporary Orders are:

1. It was drafted by Cooper L. Carter, counsel for Morgan (as evidenced by the signature block indicating Carter's authorship and by the fact that Bacalis was no longer involved). This violated the Associate Judge's explicit instruction that Dan Bacalis would prepare the order. In effect, opposing counsel unilaterally drafted the order.
2. It was prepared and filed well after the 20-day deadline set by the February 1 report. Nearly two months had elapsed (far beyond the expected February 21 deadline for drafting and March 2 deadline for a motion to sign). No extension or modification of the Associate Judge's timeline was on record. Thus, the order was untimely under the terms of the February 1 directive.
3. Critically, the order was not reviewed or approved by Charles Myers's attorney. By the time the order was drafted in late March, Charles had no attorney of record (Bacalis did not sign the order and had withdrawn). The February 1 report's procedure – requiring each attorney to approve within 5 days – became impossible to follow, since Charles had no counsel to review the draft. Carter did not seek approval from any attorney on Charles's side. In fact, the signature block shows Dan Bacalis's signature line blank (he did not sign off because he wasn't even on the case).
4. The March 26 order was presented to Charles for his signature on extremely short notice (apparently on the same day). Charles did not sign the order. He was essentially confronted with the final order and told to sign immediately (recall the March 14 "1:30 PM deadline" threat) or face adverse consequences (the implication being the judge would sign it without his consent or possibly hold him in contempt or consider him uncooperative). Feeling coerced and with no counsel to advise him, Charles signed "Approved and Consented to as to Form and Substance" on March 26, 2024 – but this signature was not truly voluntary. It was done under protest to avoid an even worse outcome. It is telling that Charles

had explicitly refused to approve the same order's Paragraph 3 on March 14, yet by March 26 he capitulated and signed – a strong indicator of coercion rather than genuine agreement.

5. The recitals in the March 26 Temporary Orders are misleading. The order opens by reciting that both parties appeared on February 1 and "signed an Associate Judge's Report regarding Agreed Temporary Orders", and that *"The parties have agreed to the terms of this order as evidenced by the signatures below."* While Morgan and her counsel indeed signed the report, Charles's signature was not on that report, so that recital is factually inaccurate. Thus, the very foundation – that the order is an agreed order – is incorrect.

In summary, the March 26, 2024, Temporary Orders were entered following a process in which the Associate Judge's explicit procedures were not observed, one party's counsel was no longer involved to approve the order, and the other party's consent was effectively forced.

### **III. LEGAL FRAMEWORK**

#### **A. Authority of Associate Judges and Requirements for Temporary Orders**

Associate Judge's Orders and Reports (Texas Family Code Ch. 201)

In Texas family law cases, an associate judge may hear temporary orders matters and issue a report or even render an order, but certain procedures apply. Under Tex. Family Code § 201.011, an associate judge's report must be in writing and in the form directed by the referring court. The associate judge can include a proposed order in the report. After the hearing, notice of the substance of the report must be given to the parties (which can be done in open court, as happened on February 1).

Crucially, parties have a right to request a de novo hearing before the referring District Judge within a short window (generally 3 working days for temporary orders in SAPCR cases) after receiving notice of the associate judge's report. See Tex. Fam. Code § 201.015(a). If no timely de novo hearing is requested, the associate judge's proposed

order may be adopted and enforced as an order of the district court. In fact, pending any de novo request, the associate judge's proposed order is in full effect as an order of the court (Tex. Fam. Code § 201.013(a)). This legal mechanism is intended to give immediate effect to temporary rulings, while allowing a quick review by the district judge if a party is dissatisfied.

An associate judge has authority to "render and sign... a temporary order" in a SAPCR or divorce case. Tex. Fam. Code § 201.007(a)(14)(C) expressly so provides. The associate judge can also sign a final order if it is agreed in writing by all parties as to both form and substance. In other words, the statute recognizes that a true agreed order (with all parties signing off) can be signed by the associate judge and will carry the same weight as if the district judge signed it. For contested matters, typically the associate judge issues a report and proposed order for the district judge to sign, unless no party objects (in which case the associate judge's order often effectively becomes final after the de novo period).

#### **Requirements for Temporary Orders (Tex. Family Code § 105.001)**

Section 105.001 of the Family Code governs temporary orders in suits affecting the parent-child relationship. It broadly allows a court to make temporary orders for the safety and welfare of the child (e.g., conservatorship, support, restraining certain behavior, etc.). However, it also imposes certain procedural safeguards. For example, except in emergencies, temporary orders (like those appointing conservators or ordering support) can only be issued after notice and a hearing.

Notably, a temporary order that excludes a parent from possession of or access to a child (as happened here, since Charles was forced out of the home and effectively had limited access) cannot be rendered without a verified pleading or affidavit showing the requisite facts (essentially a showing of immediate danger to the child). This is to ensure a parent is not denied access without due process and evidentiary support. In our case, the initial February 1 hearing was tied to a protective order application, so there likely were affidavits/pleadings on file – but whether evidence was presented is disputed. Regardless, the overarching principle is that due process must be afforded in temporary orders.

## **B. Agreed Orders and Rule 11**

Texas strongly favors parties resolving issues by agreement, but any agreement touching a pending lawsuit must satisfy Rule 11, Texas Rules of Civil Procedure to be enforceable. Rule 11 requires agreements to be either (1) in writing, signed by the parties or their attorneys, and filed with the court, or (2) made on the record in open court. An "Agreed Temporary Order" is essentially a Rule 11 agreement on the interim issues, incorporated into a court order. If one party does not actually consent or withdraws consent before the court renders the order, then there is no valid agreement to support an agreed order.

Texas case law is clear that a court cannot render a valid agreed judgment or order without the genuine consent of both parties at the time of rendition. If a party revokes consent or never consented in the first place, the agreed judgment is improper. As the Texas Supreme Court has held in *Burnaman v. Heaton*, 240 S.W.2d 288 (Tex. 1951), a judgment purporting to be a consent judgment, but actually rendered without consent, is void. Similarly, in *S&A Restaurant Corp. v. Leal*, 892 S.W.2d 855, 857 (Tex. 1995), the court confirmed that a party may revoke consent any time before judgment is rendered.

## **C. Relevant Statutory Provisions and Case Law**

The legal analysis in this paper draws upon the following key statutory provisions and case law:

- **Texas Family Code § 201.007(a)(14)(C):** Authorizes associate judges to render and sign temporary orders.
- **Texas Family Code § 201.011:** Requirements for associate judge's reports.
- **Texas Family Code § 201.013:** Effect of associate judge's report pending de novo hearing.
- **Texas Family Code § 201.015(a):** Time frame for requesting de novo hearing.

- **Texas Family Code § 105.001:** Requirements for temporary orders in SAPCR cases.
- **Texas Rules of Civil Procedure, Rule 11:** Requirements for enforceable agreements.
- **Texas Rules of Civil Procedure, Rule 305:** Procedure for submission of proposed judgments.

Key cases that inform this analysis include:

- **Burnaman v. Heaton**, 240 S.W.2d 288 (Tex. 1951): A judgment purporting to be a consent judgment but rendered without consent is void.
- **S&A Restaurant Corp. v. Leal**, 892 S.W.2d 855, 857 (Tex. 1995): Party may revoke consent any time before judgment rendered.
- **In re Stephanie Lee**, 411 S.W.3d 445, 450 (Tex. 2013): Court must enforce valid agreements but has no discretion to impose an agreement if not statutorily compliant or if no genuine agreement exists.
- **Page v. Sherrill**, 415 S.W.2d 642 (Tex. 1967): Mandamus granted where temporary custody order issued without notice and hearing violated due process.
- **In re Stearns**, 202 S.W.3d 414 (Tex. App.—Houston [14th Dist.] 2006, orig. proceeding): Mandamus relief where trial court's temporary orders effectively changed custody without proper notice/evidence.
- **In re C.J.C.**, 603 S.W.3d 804 (Tex. 2020): Reaffirming the fundamental right of a fit parent and that any order infringing that right must have compelling justification.
- **In re Southwestern Bell Tel. Co.**, 35 S.W.3d 602, 605 (Tex. 2000): If an order is void, mandamus relief is available without showing inadequate remedy by appeal.

- **O'Neil v. Blake**, 86 S.W.3d 538, 541 (Tex. App.–Dallas 2002, no pet.): Consent judgment valid only if parties consent at time of rendition; trial court should not enter agreed order if one party's attorney did not sign it and party objected.

#### **IV. ANALYSIS OF PROCEDURAL IRREGULARITIES**

##### **A. Failure to Follow Associate Judge's Explicit Procedures**

The February 1, 2024 Associate Judge's Report established a clear procedure for finalizing the Temporary Orders. This procedure was not followed in several critical respects:

1. **Preparation by Wrong Attorney:** The Associate Judge explicitly directed that Dan Bacalis (Charles's attorney) would prepare the typed order within 20 days. Instead, Cooper L. Carter (Morgan's attorney) prepared the order. This is a direct contravention of the court's instruction. The court's designation of a specific attorney to draft the order was not a mere suggestion but a directive. When a court specifies which attorney will draft an order, it is typically to ensure fairness and balance in the drafting process. By having opposing counsel draft the order instead, the court's intent was undermined, and the resulting document may reflect a bias toward Morgan's interests.
2. **Missed Deadlines:** The Associate Judge set clear deadlines: 20 days for preparation of the typed order (approximately February 21, 2024) and 30 days for a Motion to Sign if agreement could not be reached (approximately March 2, 2024). The final order was not prepared until March 26, 2024 – approximately 54 days after the February 1 hearing. This delay of nearly two months exceeds both deadlines by a substantial margin. No extension of these deadlines appears in the record. The court's timeline was not merely advisory; it was a binding directive that established the parameters for finalizing the order. The failure to adhere to these deadlines constitutes a procedural irregularity that calls into question the validity of the resulting order.

3. **No Attorney Approval:** The Associate Judge directed that each attorney should approve the order, with a 5-day review period. By the time the order was prepared, Charles no longer had counsel of record. Dan Bacalis had withdrawn from representation and did not sign the final order. This means the order was never reviewed or approved by an attorney representing Charles's interests, as explicitly required by the Associate Judge. The requirement for attorney approval serves an important purpose: ensuring that the written order accurately reflects what was agreed or ordered at the hearing. Without this safeguard, there is no assurance that the final document faithfully represents the court's rulings or any agreement between the parties.
4. **No Motion to Sign Hearing:** The Associate Judge directed that if agreement could not be reached on the form of the order, a Motion to Sign should be filed and set within 30 days. No such motion was filed, despite the fact that Charles objected to at least one provision (Paragraph 3) of the proposed order on March 14, 2024. Instead of following this procedure for resolving disagreements, opposing counsel and the court apparently attempted to force Charles's acquiescence through coercive means. The Motion to Sign procedure is designed to provide a formal mechanism for resolving disputes about the form of an order. By bypassing this process, the court denied Charles the opportunity to present his objections in a proper procedural context.

These procedural failures are not mere technicalities. They represent significant deviations from the court's own directives and from standard legal practice. The Associate Judge's instructions were designed to ensure a fair and orderly process for finalizing the Temporary Orders. By disregarding these instructions, the parties and the court undermined the integrity of the process and cast doubt on the validity of the resulting order.

**B. Lack of Valid Consent to Support an "Agreed" Order**



The March 26, 2024 Temporary Orders purport to be an "Agreed" order, as evidenced by the recitals and the signature blocks. However, several factors indicate that there was no valid consent to support an agreed order:

### **1. Missing Signatures**

The March 26, 2024 Associate Judge's Report recites that both parties "signed an Associate Judge's Report regarding Agreed Temporary Orders" and that "The parties have agreed to the terms of this order as evidenced by the signatures below." However, Charles Myers's signature is notably absent from the report. This discrepancy between the recital and the actual signatures calls into question whether Charles ever agreed to the terms in the first place.

The absence of Charles's signature on the report is particularly significant because the report itself states that the parties' agreement would be "evidenced by [their] signatures." Without Charles's signature, there is no evidence of his agreement as contemplated by the report itself. This creates a fundamental inconsistency: the document claims to be based on an agreement evidenced by signatures, yet one party's signature is missing.

### **2. Objection Not Resolved**

As of March 14, 2024, Charles explicitly objected to Paragraph 3 of the order and refused to approve it. This is documented in the March 14 Associate Judge's Report. This objection is clear evidence that Charles had not consented to all terms of the would-be agreed order. When a party voices an objection to the form or substance of a judgment before it is signed, the proper course is for the court to refrain from entering it as an agreed judgment.

In family cases, either party can revoke consent to an agreement any time before the judge signs the order. Charles's conduct on March 14 amounted to either a non-consent or revocation of any prior tentative consent regarding that disputed term. Therefore, at that point, the matter ceased to be fully agreed. Under Texas law, the judge could only proceed by either obtaining a new agreement or by treating it as a contested

matter. Forcing the party to sign under threat is not a valid option. If consent is withdrawn, the court cannot render an agreed order – doing so is an abuse of discretion and the order will be void because one party's consent was lacking at rendition.

### **3. Coerced Signature = No Real Consent**

Charles's signature on February 1 was obtained under duress. He was effectively given an ultimatum: sign immediately or face some unspecified but presumably severe consequence. Consent obtained through coercion, threats, or duress is not valid consent.

In contract law, an agreement signed under duress can be voided. In judgment law, a party's forced assent is no assent at all – it is akin to no agreement. Here, Charles did not willingly approve the order's substance; he relented to pressure from his own counsel. This calls into question the voluntariness of the agreed order. Texas courts have noted that agreed judgments are essentially contracts approved by the court. Just as a contract signed under duress is voidable, an agreed judgment signed under duress should not be given effect. The integrity of the judicial process is undermined if one party is bullied into signing a judgment.

### **4. Absent Attorney for Charles**

Charles was pro se by March 14, without the benefit of counsel to advise him. This made him more vulnerable to coercion and means there was no attorney on his side agreeing to the order's terms. Morgan's attorney drafted it and of course agreed to it; Charles had no attorney to negotiate or ensure fairness. The disparity in representation and the rushed nature of the signing further indicate the "agreement" was one-sided. Essentially, the March 26 document was Morgan (through her attorney) agreeing with herself and getting Charles's signature as a formality. That is not a true meeting of minds.

Under these circumstances, the March 26 Temporary Orders cannot be considered a valid agreed order. It was a unilateral order imposed on Charles with a veneer of consent. In Texas, when a judgment is recited as agreed but in fact one party did not consent, the remedy is typically to set it aside. For instance, in *Samples Exterminators*, the Texas Supreme Court held the agreed judgment void when one party's

consent was lacking. Likewise, in divorce cases, if one party withdraws consent to a mediated settlement, the trial court cannot enter it as a judgment (see *Burnaman v. Heaton*, 240 S.W.2d 288 (Tex. 1951) – a decades-old case still often cited for the proposition that a judge has no authority to impose an agreement on a party who has repudiated it prior to judgment). Here, Charles's actions are tantamount to having never truly consented or having repudiated any earlier tentative consent.

In sum, the final Temporary Orders are built on a false premise of party consent. On their face, they recite an agreement and show signatures, but the surrounding record shows Charles's signature and his attorney's signature is missing. This kind of discrepancy is something an appellate court or any reviewing court would look at with great concern. Facially, the order proclaims an agreement that did not actually exist – that is a strong indicator of invalidity. A judgment that misstates the existence of an agreement is at least voidable, if not void, because the court's authority to render that particular agreed judgment was never triggered by an actual agreement of the parties.

### **C. Non-Conformance to the Court's Actual Rulings – Possible Substantive Variances**

Another question is whether the March 26 order fails to conform to what the Associate Judge ordered on February 1. If the final written order includes provisions that were never agreed to or never ruled on by the judge, it is improper. Charles's objection to Paragraph 3 suggests he believed that portion of the order was not agreed or not ordered on February 1. Indeed, reviewing the text of the Temporary Orders, Paragraph 3 (and related provisions) deals with the parents using the "AppClose" program for communication and sharing information. It is unclear if this specific requirement was discussed on February 1 or if it was an added term Carter inserted in the written draft. Often, such app requirements are agreed to by parties or ordered by judges to facilitate communication. If Charles objected, perhaps he felt it was beyond what was decided at the hearing.

Furthermore, initially, the Feb 1 report gave Charles access to the family residence until March 1, 2024 and took the children out of their own home. On the March 26 report, the dates suddenly shifted, actually creating a window where nobody would be

inside the home. Perhaps most egregious, is that on March 6<sup>th</sup>, 2024, prior to this hearing being held, Mother locked Father out of the family residence.

Since the final order went beyond the scope of the February 1 hearing and imposed new obligations not covered in the AJ's oral pronouncement, the proper course would have been to litigate those terms (or at least for the judge to confirm both sides agreed). By unilaterally adding it and forcing Charles's signature, the order contains terms to which there was never a true assent or judicial determination. In Texas, a written judgment must conform to the court's oral rendition (or the parties' agreement). When it does not, that portion of the judgment is subject to being set aside or reformed. Here, we lack a transcript of February 1, but given Charles's resistance and the blatant differences in the two reports, there is no agreement. That means the final order, at least in part, does not reflect the actual "report" of the judge but rather what opposing counsel wanted, which is highly prejudicial.

Additionally, because the final order was delayed, by March 26 the Associate Judge did not personally "render" those orders – he had made recommendations on February 1, but the actual signing on March 26 was by the Associate Judge. If the District Judge signed it believing it was agreed, when in fact it was not, then the District Judge was essentially misled. The district court has authority to enter temporary orders after an AJ's hearing, but if it's contested, the district court should know it's contested. Here, labeling it "Agreed" circumvented any further hearing by the district court. That implicates due process again – Charles never had a de novo hearing because it was never presented as a contested matter; the "agreed" label short-circuited his ability to get the referring court to hear his side.

In conclusion on this point, the content of the March 26 order exceeds or deviates from what was legitimately agreed or ordered on the record, making those portions of the order unauthorized. An order that a court had no power to make (because the party didn't consent and no evidence was taken on that issue) is invalid. At the very least, it's an abuse of discretion to include terms not supported by the hearing. This is another reason the order is vulnerable to attack.

#### **D. Due Process Violations and Equity**

Beyond the technical rule violations, the manner in which these temporary orders were obtained raises serious due process concerns:

##### **1. No Meaningful Opportunity to be Heard on Disputed Terms**

Charles was not afforded a real chance to argue against Paragraph 3 or any other disputed provision. The March 14 "hearing" was a farce in terms of due process – instead of an impartial judge considering his objection, he got an opposing counsel's ultimatum. The next step should have been a hearing before the district judge (since the AJ process had broken down into disagreement). By never allowing Charles a forum to voice why he objected (e.g., the changed dates, incorrect mailing address, etc.), the court denied him the basic hearing on that issue. Temporary orders, while expedited, still require that each party can present their case on any point of contention. This did not happen.

##### **2. Surprise and Lack of Notice**

The attempted final order was pushed through on March 26 without prior notice to Charles of an "entry" setting. Typically, when an order is to be entered, especially if the form isn't agreed, the party is entitled to notice when the judge will sign it and what version is being submitted. Here, Charles was ambushed with a sign-now scenario. That is arguably a violation of local rules or at least the spirit of Rule 305, Texas Rules of Civil Procedure, which contemplates notice to all parties of the presentation of a judgment for signing if not all parties have approved it. In *Page v. Sherrill*, the Texas Supreme Court voided a temporary custody change that was done ex parte without notice. While our case was not ex parte (Charles was physically present), the lack of formal notice and rushing is analogous to a notice failure. Due process requires notice reasonably calculated to inform the person of the action and an opportunity to respond. Charles's "opportunity" to respond was truncated to mere minutes under threat.

##### **3. Bias and Irregularity**

Having opposing counsel write the judge's orders (handwritten on the report) is irregular. It creates an appearance that the neutral arbiter (the judge) abdicated decision-making to one side's lawyer. The result is not a product of a court's reasoned decision or mutual consent, but essentially the wish list of one party imposed as an order. Courts have inherent authority to sign orders, but they should draft or carefully review them – not just sign whatever one lawyer puts in front of them without the other's approval. If the March 14 report notes were indeed by Carter, the Associate Judge should not have relied on those as if they were the AJ's own findings. This informality undermines confidence that the order was the result of a fair process.

#### **4. Infringement on Parental Rights without Due Course**

The temporary orders severely restricted Charles's rights (requiring him to leave the marital home, giving Mother primary custody, supervising exchanges, etc.). Such significant deprivations, even temporarily, demand scrupulous adherence to procedure. By cutting procedural corners, the court potentially violated Charles's constitutional right to due process. The Texas Family Code's requirement of affidavits for excluding a parent (Fam. Code §105.001(c)) is one manifestation of due process protection. If those requirements were not strictly met or if the evidence was lacking (Charles alleges no evidence was presented on February 1 to justify kicking him out and giving mom full custody), that initial order itself was problematic. Compounding that with an improper finalization process makes it worse. Essentially, Charles and his children were subject to a significant custody determination without the full protections of a proper adversarial hearing or a proper agreed resolution – a hybrid worst-of-both: no hearing, and no genuine agreement. Such a result is fundamentally unfair. When taken into consideration that Charles needed the family home to operate his usual course of business, this makes even less sense and raises eyebrows as to how the mother was able to get away with such conduct.

Equity and good conscience would call for such an order to be set aside. Courts have the power to vacate interlocutory orders that were improvidently granted or that

resulted from procedural irregularity. Here, the temporary orders process was tainted start to finish – from the lack of evidence at the outset (if Charles's earlier contentions are correct), to the failure to follow the AJ's procedures, to the coercion in obtaining signatures. There is a strong argument that Charles was denied due process, and thus the order is voidable on that independent basis. In some circumstances, a due process violation can render an order void (for example, an order issued without notice or jurisdiction is void). While Charles was present in the case (so jurisdiction over him existed), the manner of depriving him of rights without a fair hearing could be deemed void as a violation of constitutional due process. This is especially true if we analogize to cases where a court had jurisdiction but acted in a way that violated a party's constitutional rights – courts have not hesitated to grant mandamus or other relief in such scenarios because the usual deference to trial court discretion does not extend to ignoring fundamental rights.

#### **E. Are the March 26, 2024 Temporary Orders Facially Void?**

Considering all the above, we assess whether the final Temporary Orders can be deemed facially void (void on their face) or at least voidable and subject to being vacated.

An order is "void" (as opposed to merely voidable) if the court that rendered it lacked jurisdiction or authority or if it violates a fundamental jurisdictional requirement. Typically, errors in following procedure make an order voidable (to be corrected on direct appeal or by motion), not outright void. However, Texas law provides that agreed judgments entered without consent are void because the court had "no power to render" an agreed judgment absent an actual agreement. In this case, the 322nd District Court had subject matter jurisdiction over the divorce/child case and personal jurisdiction over the parties, so jurisdiction in the traditional sense is not at issue. But did the court have authority to render the particular order it rendered? That is questionable, because the court believed it was entering an agreed temporary order – an act that is only authorized if all parties truly agreed. Since Charles's consent was not valid, the court's act of signing an agreed order was beyond its lawful authority (it could have held a contested hearing or sent it back to the AJ, but it could not force an agreement). Thus, one could argue the

order is void ab initio for lack of the required consent. The face of the order proclaims that consent, but the supporting record contradicts it.

When determining facial voidness, courts normally look at the judgment roll or the order itself and related documents. Here, the face of the order contains an internal inconsistency: it says both parties agreed and evidenced by signatures, but one attorney's signature is missing and we know one party's signature was coerced. Admittedly, coercion is an extrinsic fact (not evident solely from the document). However, the absence of Charles's attorney's approval is evident from the order itself – any reader can see one side's attorney did not sign. That is a facial defect in an "agreed" order. One could say the order is void on its face because it recites a non-existent agreement and because it was entered in violation of the statute that requires all parties' written agreement for an associate judge to sign a final order. (Although a temporary order doesn't require written agreement of all parties to be signed by an AJ, in this case the order explicitly relies on supposed agreement.)

Even if a court hesitates to label it "void," it is unquestionably voidable for abuse of discretion and should be vacated on a direct attack. The trial court's failure to follow its own procedures and the statutory framework is a clear abuse of discretion. Few scenarios fit the definition of an abuse of discretion more squarely than a judge signing an order that one party's attorney never approved and that one party objected to and only signed under threat. The integrity of the order is so compromised that it cannot be allowed to stand.

## **V. REMEDIES**

### **A. Vacating the Temporary Orders – Mandamus Relief**

Because these are temporary orders in a family law case, they are not appealable by ordinary means. Texas law is clear that temporary orders in family cases cannot be challenged by interlocutory appeal. See Tex. Fam. Code § 105.001(e) ("Temporary orders rendered under this section are not subject to interlocutory appeal."). Instead, the proper vehicle for challenging such orders is a petition for writ of mandamus. Mandamus is an



extraordinary remedy that will issue only when (1) the trial court clearly abused its discretion and (2) there is no adequate remedy by appeal.

In this case, both elements for mandamus relief are present:

1. **Clear Abuse of Discretion:** As detailed above, the trial court clearly abused its discretion by:
  - Failing to follow the Associate Judge's explicit procedures for finalizing the order
  - Entering an "agreed" order without valid consent from both parties
  - Allowing procedural irregularities that violated due process
  - Permitting coercion to obtain a party's signature
2. **No Adequate Remedy by Appeal:** Since temporary orders are not appealable, Charles has no adequate remedy by appeal. He would have to wait until a final decree is entered to challenge these orders on appeal, by which time the harm from the improper temporary orders would be irreparable. The children's living arrangements, Charles's access to them, and other important matters would be governed by invalid orders for months or even years while the case proceeds to final judgment.

Texas courts have consistently granted mandamus relief in family law cases where temporary orders were entered improperly. For example, in *In re Stearns*, 202 S.W.3d 414 (Tex. App.–Houston [14th Dist.] 2006, orig. proceeding), the court granted mandamus relief where the trial court's temporary orders effectively changed custody without proper notice or evidence. Similarly, in *Page v. Sherrill*, 415 S.W.2d 642 (Tex. 1967), the Texas Supreme Court granted mandamus relief where a temporary custody order was issued without notice and hearing, violating due process.

If the order is truly void (as opposed to merely voidable), mandamus relief is even more appropriate. As the Texas Supreme Court held in *In re Southwestern Bell Tel. Co.*,

35 S.W.3d 602, 605 (Tex. 2000), if an order is void, mandamus relief is available without showing inadequate remedy by appeal.

### **B. Alternative Remedies**

In addition to mandamus relief, Charles might consider the following alternative remedies:

1. **Motion to Vacate or Set Aside:** Charles could file a motion in the trial court asking the judge to vacate or set aside the temporary orders based on the procedural irregularities and lack of valid consent. While this approach has the advantage of giving the trial court an opportunity to correct its own error, it may be less effective if the trial court is unwilling to acknowledge the problems with the order.
2. **Motion for Reconsideration or New Trial:** Charles could file a motion for reconsideration or new trial on the temporary orders. This would allow him to present evidence of the procedural irregularities and coercion. However, there is no guarantee that the trial court would grant such a motion, and the time for filing may have already expired.
3. **Motion for Further Temporary Orders:** Charles could file a motion for further temporary orders, essentially asking the court to revisit the custody and possession arrangements. This would not directly challenge the validity of the existing orders but could provide an opportunity to modify them. The disadvantage is that it would not address the underlying procedural problems.

Of these alternatives, mandamus relief is likely the most appropriate and effective remedy given the nature of the procedural irregularities and the fact that temporary orders are not appealable. A petition for writ of mandamus would allow an appellate court to review the process by which the temporary orders were obtained and, if appropriate, to vacate them and direct the trial court to conduct proper proceedings.

## **VI. CONCLUSION**

The procedural irregularities surrounding the March 26, 2024 Temporary Orders in Cause No. 322-744263-23 raise serious questions about their validity. The evidence demonstrates multiple significant deviations from proper legal procedure, including:

1. Failure to follow the Associate Judge's explicit instructions regarding who would prepare the order, the timeline for preparation, and the requirement for attorney approval;
2. Lack of valid consent to support an "agreed" order, as evidenced by Charles's missing signature on the February 1 report, his explicit objection to Paragraph 3 on March 14, the coerced nature of his signature on March 26, and the absence of his attorney's approval;
3. Potential non-conformance between the final written order and what was actually ordered or agreed to at the February 1 hearing;
4. Due process violations, including the denial of a meaningful opportunity to be heard on disputed terms, lack of proper notice, irregularities in the process, and significant infringement on parental rights without proper procedural safeguards.

These procedural failures are not mere technicalities. They strike at the heart of the judicial process and the fundamental fairness that must characterize court proceedings. When a court order purports to be based on the agreement of the parties, but one party's consent was obtained through coercion or was never actually given, the integrity of the judicial system is compromised.

The March 26, 2024 Temporary Orders are, at minimum, voidable due to the clear abuse of discretion in their entry. There is a strong argument that they are void on their face because they recite an agreement that did not exist and because the court lacked authority to enter an agreed order without genuine consent from both parties.

Given the non-appealable nature of temporary orders in family cases, mandamus relief is the appropriate remedy. Charles should consider filing a petition for writ of mandamus asking the appellate court to vacate the temporary orders and direct the trial

court to conduct proper proceedings, either by holding a contested hearing on the temporary orders or by ensuring that any agreed order truly reflects the voluntary agreement of both parties.

The procedural history of this case serves as a cautionary tale about the importance of adhering to proper legal procedures, especially in family law cases where the rights of parents and the welfare of children are at stake. Courts and attorneys must be vigilant in ensuring that agreed orders truly reflect agreement, that parties' due process rights are respected, and that the integrity of the judicial process is maintained.

#### **VII. REFERENCES**

*Burnaman v. Heaton*, 240 S.W.2d 288 (Tex. 1951).

*In re C.J.C.*, 603 S.W.3d 804 (Tex. 2020).

*In re Southwestern Bell Tel. Co.*, 35 S.W.3d 602 (Tex. 2000).

*In re Stearns*, 202 S.W.3d 414 (Tex. App.–Houston [14th Dist.] 2006, orig. proceeding).

*In re Stephanie Lee*, 411 S.W.3d 445 (Tex. 2013).

*O'Neil v. Blake*, 86 S.W.3d 538 (Tex. App.–Dallas 2002, no pet.).

*Page v. Sherrill*, 415 S.W.2d 642 (Tex. 1967).

*S&A Restaurant Corp. v. Leal*, 892 S.W.2d 855 (Tex. 1995).

Texas Family Code § 105.001.

Texas Family Code § 201.007.

Texas Family Code § 201.011.

Texas Family Code § 201.013.

Texas Family Code § 201.015.

Texas Rules of Civil Procedure, Rule 11.

Texas Rules of Civil Procedure, Rule 305.

**CERTIFICATE OF SERVICE**

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

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**02-25-00171-CV**

**EN BANC  
CONSOLIDATION**

**04.22.25**



No. 02-25-00171-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 233<sup>rd</sup> Judicial District Court, Tarrant County  
Cause Number 233-765358-25  
Hon. Kenneth E. Newell Presiding

---

MOTION FOR EN BANC  
RECONSIDERATION

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Respectfully submitted by:

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**ISSUES PRESENTED FOR RECONSIDERATION****Rehearing Issue No. 1:**

The Texas Supreme Court has held that consolidation constitutes an abuse of discretion when it prejudices a party or misjudges the relatedness of actions.

The panel erred by denying mandamus relief and allowing to stand a sua sponte consolidation order that prejudiced Relator by delaying urgent child custody proceedings, eliminating strategic advantages, pre-empted appellate review, generated further procedural confusion.

**Rehearing Issue No. 2:**

When the record demonstrates that separate proceedings are necessary to prevent manifest injustice, the trial court has a duty to avoid consolidation.

The panel erred by overlooking the manifest injustice resulting from the trial court's sua sponte consolidation, which violated due process by ignoring a pending Rule 12 motion and written objection, and introduced further procedural irregularities into already strained litigation.

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 second filed reconsideration motion and addresses the panel’s denial of Cause No. 02-25-00171-CV (attached as Tab 1), referred to as the **“Consolidation”** mandamus.

### **SUMMARY OF ARGUMENT**

This motion satisfies the stringent standards for *en banc* reconsideration under Tex. R. App. P. 41.2(c) because the panel’s denial conflicts with controlling precedent and overlooks critical facts in the mandamus record. The trial court abused its discretion by sua sponte consolidating Relator’s SAPCR with a stalled divorce case on April 11, 2025, without notice, hearing, or consideration of Relator’s objection and pending Rule 12 motion. This consolidation prejudiced Relator by delaying urgent child custody and support resolutions, eliminating strategic advantages, pre-empted appellate review, and caused further procedural confusion, violating Tex. R. Civ. P. 174(a) and Tex. Fam. Code § 153 .002. The

panel’s denial conflicts with *Womack v. Berry*, 291 S.W.2d 677 (Tex. 1956), *Dalbriar Corp. v. Baskette*, 833 S.W.2d 612 (Tex. App.—El Paso 1992), and *Lone Star Ford, Inc. v. McCormick*, 838 S.W.2d 734 (Tex. App.—Houston [1st Dist.] 1992), which emphasize that consolidation must not prejudice a party. En banc review is essential to ensure uniformity in family law and protect the children’s best interests.

### **ARGUMENT AND AUTHORITY**

#### **I. En banc reconsideration is warranted under Rule 41.2(c) due to extraordinary circumstances and the need for uniformity.**

En banc reconsideration is appropriate when a panel’s decision conflicts with controlling authority or involves an issue of exceptional importance. Tex. R. App. P. 41.2(c); *In re Marriage of Harrison*, 507 S.W.3d 259, 260 (Tex. App.—[14th Dist.] April 26, 2016, order) as corrected May 10, 2016 (Frost, J., dissenting to partial grant of en banc reconsideration). This matter meets both criteria.

The panel’s per curiam denial on April 17, 2025, conflicts with Texas Supreme Court precedent requiring trial courts to exercise discretion within guiding rules and principles. *Womack v. Berry*, 291 S.W.2d 677, 683 (Tex. 1956) (mandamus appropriate to correct clear abuse of discretion in trial management). The consolidation delays critical child custody and support determinations, undermining Tex. Fam. Code § 153.002, which mandates that “the best interest of

the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child”. Allowing trial courts to consolidate cases sua sponte without addressing objections or pending motions sets a dangerous precedent in family law, where procedural fairness is paramount. En banc review is necessary to maintain uniformity and protect the children’s welfare.

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

The panel’s denial fails to recognize the trial court’s abuse of discretion and the resulting prejudice, as evidenced by the mandamus record and established Texas law.

**A. The trial court abused its discretion by consolidating without sound legal basis.**

Tex. R. Civ. P. 174(a) permits consolidation only when cases share common questions of law or fact and when it does not prejudice any party. The trial court’s sua sponte consolidation of Relator’s SAPCR with an unprosecuted divorce case lacks a sound legal basis and contravenes this rule. In *Dal-Briar Corp. v. Baskette*, 833 S.W.2d 612, 615 (Tex. App.—El Paso 1992, no writ), the court held that consolidation constitutes an abuse of discretion if it prejudices a party, such as by delaying urgent proceedings or creating procedural confusion. Here, the

consolidation delays time-sensitive child custody and support decisions, directly undermining Tex. Fam. Code § 153.002. For example, the SAPCR's unresolved custody issues, critical to the children's stability, are stalled by the divorce case's procedural complexities, causing ongoing harm to their welfare.

Furthermore, in *Lone Star Ford, Inc. v. McCormick*, 838 S.W.2d 734, 737 (Tex. App.—Houston [1st Dist.] 1992, writ denied), the court affirmed that while trial courts have broad discretion to consolidate cases with common issues, such discretion is abused if consolidation results in prejudice to a party. In that case, the court found no abuse because the appellant failed to demonstrate prejudice, noting, “Appellant failed to demonstrate how it was prejudiced as a result of consolidation.” *Id.* at 738. In contrast, here, the consolidation has caused significant prejudice by delaying urgent child custody and support resolutions, which are time-sensitive and critical to the children's welfare under Tex. Fam. Code § 153.002. This delay distinguishes the present case from *Lone Star Ford* and underscores the trial court's abuse of discretion, as the issues still remain adjudicated.

Moreover, *Womack v. Berry*, 291 S.W.2d at 683, establishes that mandamus relief is appropriate when a trial court abuses its discretion to a party's detriment, such as through improper trial management. Although *Womack* addressed separate trials, its principle applies analogously to consolidation decisions that prejudice a



party. The trial court's failure to demonstrate common questions justifying consolidation, coupled with its disregard for the prejudice caused by delay, constitutes a clear abuse of discretion. See also *Guar. Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 658 (Tex. 1990) (trial court discretion in consolidation is not unbounded). The panel's denial overlooks these precedents, allowing an unsupported consolidation to stand.

**B. The sua sponte consolidation resulted in prejudice and violated due process.**

The trial court's consolidation order, issued without notice or hearing, violated Relator's due process rights by ignoring a pending Tex. R. Civ. P. 12 motion challenging the Real Party's counsel's authority and Relator's objection to consolidation. (MR 7, MR 9) In *Crestway Care Center, Inc. v. Berchermann*, 945 S.W.2d 872, 873 (Tex. App.—San Antonio 1997, orig. proceeding), the court emphasized that significant procedural actions, like consolidation, require clarity and proper documentation to ensure fair review. Here, the trial court's failure to provide notice or a hearing—despite Relator's objection (MR 9.1, MR 12.32) and pending Rule 12 motion (MR 7)—created procedural irregularities. Moreover, Tex. R. Civ. P. 12 requires an attorney to demonstrate authority when challenged, and the trial court's failure to resolve this motion risks validating actions by potentially unauthorized counsel, creating a procedural quagmire.

This consolidation action prejudiced Relator in four critical ways: (1) delaying urgent child custody and support resolutions that remain unopposed, causing further harm to the children's welfare; (2) eliminating strategic advantages in the SAPCR court; (3) causing procedural confusion by merging distinct legal issues; and (4) thwarted Relator's attempt at seeking mandamus relief. These impacts mirror the prejudice in *Dal-Briar Corp. v. Baskette*, where consolidation harmed a party's ability to pursue timely relief. The Real Party's counsel's failure to respond to this appeal further underscores the procedural irregularities. By upholding the trial court's order, the panel's denial conflicts with these authorities and fails to address the manifest injustice inflicted on Relator and the affected children.

These impacts mirror the prejudice in *Dal-Briar Corp. v. Baskette*, where consolidation harmed a party's ability to pursue timely relief, and contrast with *Lone Star Ford*, where no prejudice was found. The Real Party's counsel's non-participation at the trial court level further underscores the procedural irregularities, as it leaves the Rule 12 challenge unaddressed. By upholding the trial court's order, the panel's denial conflicts with these authorities and fails to address the manifest injustice inflicted on the Relator and the affected children, who remain left without an adequate remedy for an appeal.

### **CONCLUSION AND PRAYER**

The trial court's sua sponte consolidation order of April 11, 2025, is not merely erroneous—it is procedurally indefensible. By consolidating Relator's SAPCR with a stalled divorce case without notice, hearing, or resolution of a pending Rule 12 motion and objection, the court flouted due process and Texas Family Code § 153.002's mandate to prioritize children's best interests. The pending Rule 12 motion challenged the Real Party's counsel's authority, yet the court and Real Party proceeded as if no question existed, risking the validity of every subsequent action. This illogic is akin to building a house on a contested foundation, inviting collapse.

Relator prays that this Court grant *en banc* reconsideration, withdraw or otherwise vacate the panel's denial, and issue mandamus relief compelling the Respondent to vacate the consolidation order. Such relief will restore procedural fairness, protect constitutional rights, and ensure the children's best interests are not sacrificed to judicial expediency.

Respectfully submitted,

/s/ Charles Dustin Myers

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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 **1,427**.

**CERTIFICATE OF SERVICE**

Relator CHARLES DUSTIN MYERS 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*****Kenneth E. Newell**

District Judge, 233rd District Court

Tarrant County Family Law Center

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Fort Worth, TX 76196

817-884-1794

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)***Real Party in Interest***

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Charles Dustin Myers

PRO-SE RELATOR

SERVED: 04/22/2025

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Status as of 4/22/2025 3:02 PM CST

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