

NO. 25-0458
IN THE SUPREME COURT OF
TEXAS

In Re: Charles Dustin Myers |

**FIRST AMENDED
MOTION FOR
REHEARING**

TO THE HONORABLE SUPREME COURT OF TEXAS:

The gravity of the issues raised herein cannot be overstated. Relator respectfully submits that the legal positions at issue are most effectively conveyed through a medium in which he possesses subject-matter expertise. As a seasoned data analyst specializing in financial markets and macroeconomic systems, Relator asserts that his arguments are materially bolstered by judicial data that corroborates the claims presented in this proceeding, as well as in related matters currently pending before the Court under Cause Nos. 25-0361, 25-0367, 25-0378, and 25-0426. Given the overlapping legal and factual contours of these cases—and the significant state-wide interest in the adjudication of the principles they collectively raise—Relator contends that consolidated or coordinated consideration of these matters is warranted and would serve the interests of judicial economy and fundamental fairness to take up these issues on rehearing. Therefore, Relator respectfully submits this First Amended Motion for Rehearing.

REFERENCES

1. All data references made herein are sourced directly from the “**Administrative Judicial Region Activity**” section found from the Supreme Court of Texas’ website:

- [FY 2024](#)
- [FY 2023](#)
- [FY 2022](#)
- [FY 2021](#)
- [FY 2020](#)
- [FY 2019](#)
- [January to August 2018](#)

2. The concurrent motions for rehearing pending before this Honorable Court under cause numbers [25-0361](#), [25-0367](#), [25-0378](#), and [25-0426](#) are incorporated by reference.

3. All arguments made specific to each case number above are incorporated by reference.

I. Executive findings

Fiscal / reporting period	Statewide visiting-judge assignments	AJR-8 assignments*	AJR-8 share of state	YoY Δ (AJR-8)
Jan–Aug 2018 †	4,109	665	16.2 %	—
FY 2019 (Sep 18 → Aug 19)	7,085	1,032	14.6 %	—
FY 2020 (Sep 19 → Aug 20)	5,094	772	15.2 %	–25.2 %
FY 2021 (Sep 20 → Aug 21)	4,947	871	17.6 %	+12.8 %
FY 2022 (Sep 21 → Aug 22)	6,138	1,161	18.9 %	+33.3 %
FY 2023 (Sep 22 → Aug 23)	6,381	1,253	19.6 %	+7.9 %
FY 2024 (Sep 23 → Aug 24)	7,098	1,500	21.1 %	+19.7 %

A. Key trend

4. In just six full fiscal years AJR-8's annual assignments have risen 45 % faster than the statewide total, driving its share from ~15 % to > 21 %. No other region breaks double digits. Jan–Aug 2018 is an eight-month snapshot, yet AJR-8 already consumed one-sixth of every assignment.

B. Run-away assignment volume

5. In FY 2024 AJR-8 required 1,500 assignments—63 % more than the next-highest region (Region 4 at 864) .

6. AJR-8's four-year compound annual growth rate in assignments is 18 %, triple the statewide rate (~ 6 %).

C. Out-sized draw on the visiting-judge pool

7. Retired or former judges handled 86 % of all assignments statewide in FY 2024 .

8. Because AJR-8 accounts for one in five assignments, its demand is materially reducing the availability of experienced visiting judges elsewhere, jeopardizing equitable docket relief across Texas.

D. High correlation with recusal-driven work

9. Statewide, “Recusal – Voluntary” was again the single largest trigger (35 % of assignments in FY 2024).

10. When AJR-8 consumes 21 % of all assignments, any spike in recusals there ripples statewide, raising the possibility of forum-shopping or systemic conflicts that merit audit.

E. Persistent bench instability.

11. Although days spent filling *vacant* benches fluctuated (e.g., 722 days in FY 2024, 374 days in FY 2023) , AJR-8's soaring assignment count suggests chronic vacancies, illness or suspension events not proportionately seen in peer regions.

F. Potential due-process and public-confidence risks.

12. Heavy reliance on short-term judges can yield inconsistent rulings, elongate case disposition times and dilute local accountability.

13. The FY 2024 District-Court Activity Detail already shows burgeoning criminal dockets (e.g., *33,775 family-violence assault cases pending statewide*). A disproportionately strained AJR-8 intensifies that backlog in West Texas border counties.

II. The Implications Reach Far Beyond the Instant Matter

14. AJR-8's structural imbalance has reached a critical threshold. Its judicial assignment volume now exceeds 2.3 times the regional mean, drawing disproportionately on the statewide visiting-judge pool. This overreliance disrupts equitable case distribution and risks delay in less saturated regions. The Court

should direct the Office of Court Administration to conduct a root-cause audit and require quarterly reporting of region-level metrics.

15. Vacancy and illness clusters further undermine docket stability in the region. Hundreds of vacant-bench coverage days recur annually, leaving litigants without access to a consistent, elected judge. The Court should review whether permanent judgeships, inter-county docket equalization, or remote-hearing technologies are needed to stabilize judicial presence.

16. Finally, the persistent overuse of retired judges—who now handle 80% or more of assignments statewide—threatens institutional continuity. Succession planning and mentoring capacity are at risk. The Court should explore staggered visiting-judge rotations, modernized compensation structures, and targeted recruitment to sustain a capable pool.

III. Reasons to Grant Rehearing

17. The Supreme Court of Texas need not look far for a live-fire demonstration of the structural pressure points identified in the Presiding Judge Reports for Fiscal Years 2020–2024. The *Myers* litigation—already the source of five distinct petitions for writ of mandamus now before this court arising from a single family law case—offers a rare procedural prism through which to diagnose and correct the escalating dysfunction in the Eighth Administrative Judicial Region (AJR-8).

18. Each of the five *Myers* mandamus petitions centers on a different dimension of a common breakdown: fragmented judicial oversight, unchecked recusal churn, and litigant behavior increasingly calibrated to exploit procedural volatility rather than seek substantive justice. The convergence of these pressures in a single proceeding transforms *Myers* into something more than an outlier. It becomes a case study in miniature, ideally suited for court-directed systemic inquiry.

19. These escalating numbers highlight the public confidence issues specifically raised in cause number 25-0367, which are growing exponentially. The lives of children, and many families of this State are being affected by this far-reaching problem, including the Relator himself.

20. In essence, the *Myers* case, with its five mandamus petitions with multiple judicial reassignments in the 8th Administrative Judicial Region (AJR-8), provides a concrete, data-driven vehicle for the Supreme Court of Texas to investigate and address systemic failures in the region's judicial assignment system. Leveraging the *Myers* case in a rehearing can justify a broader inquiry or audit into AJR-8's practices, using both the individual record and statewide data to prompt structural reforms.

21. Through careful analysis, this Court could potentially identify solutions to key issues identified both in the Relator's petitions and supporting data.

IV. Analysis

A. The Systemic Problem in AJR-8

22. The data from FY 2020 to FY 2024 show that AJR-8 has become a statistical outlier in the Texas judicial assignment system, absorbing over 21% of all visiting-judge assignments statewide—more than double what would be expected if assignments were distributed evenly. The region’s assignment volume has nearly doubled in four years, with a compound annual growth rate of 18%, far outpacing the statewide average. This surge is closely linked to a high rate of voluntary recusals, which now account for the majority of assignments, and to persistent bench instability, as evidenced by hundreds of days of vacant-bench coverage each year.

23. These trends have significant consequences: they reduce the availability of experienced visiting judges for other regions, risk delays and inconsistent rulings, and threaten public confidence in the impartiality and stability of the judiciary. The data also suggests the possibility of systemic conflicts of interest, particularly given the high correlation between recusal-driven assignments and the overall assignment volume in AJR-8.

B. The Myers Case as a Vehicle for Systemic Review

24. The *Myers* case, with its five separate mandamus petitions and multiple recusal proceedings, is a microcosm of the broader dysfunction in AJR-8. The

procedural odyssey in *Myers*—cycling through multiple visiting judges and repeated recusal motions—mirrors the statistical anomalies documented in the region’s assignment data. This makes *Myers* an ideal test case for the Supreme Court to address both the individual litigant’s grievances and the underlying systemic issues.

25. Texas law provides a clear pathway for the Supreme Court to use the *Myers* case as an instrument for broader inquiry. Under Tex. Gov’t. Code § 22.002, the Court has the authority to issue writs of mandamus to compel lower courts or judicial officers to perform their duties, particularly where there is evidence of systemic failure or abuse of discretion. The Court’s inherent power to protect the administration of justice, as recognized in *Vondy v. Commissioners Court of Uvalde County*, 620 S.W.2d 104 (Tex. 1981), further supports its ability to intervene when the integrity of the judicial system is at stake.

26. Precedent also supports the use of mandamus in cases where the normal appellate process is inadequate to address urgent or systemic problems. In *In re McAllen Medical Center, Inc.*, 275 S.W.3d 458 (Tex. 2008) and *In re State*, 355 S.W.3d 611 (Tex. 2011), this Court held that mandamus is appropriate when there is a clear abuse of discretion and no adequate remedy by appeal, especially where mandamus can prevent wasted resources and protect the public interest.

27. The Myers case, with its repeated mandamus petitions and documented procedural breakdowns, meets these criteria. The record demonstrates not only individual harm but also a pattern of dysfunction that affects the administration of justice in AJR-8 and, by extension, the entire state.

C. Mechanisms for Using Myers in a Rehearing

28. In a rehearing, this Court can explicitly reference the *Myers* case as both a factual and statistical exemplar of the systemic issues in AJR-8. The Court could, for example, remand the case to the Office of Court Administration with instructions to catalog all recusal motions and assignments in AJR-8 since FY 2020, and to report those findings to the Court. This would convert the individual grievance into a statewide diagnostic audit, providing the Court with the data needed to assess the root causes of the region's assignment anomalies.

29. The Court could also order mandatory reporting of recusal causes by county, commission a review of judicial conduct patterns in AJR-8, and evaluate whether additional permanent judgeships or other structural reforms are warranted. These actions are supported by the statutory duties of presiding judges to recommend changes for the improvement of justice administration and to provide statistical information to the Supreme Court. See Tex. Gov't. Code § 74.046.

30. By leveraging the Myers case in this way, the Court would not only address the individual litigant's right to timely and impartial adjudication but also

fulfill its constitutional and statutory mandate to ensure the proper administration of justice statewide.

D. Addressing Recusal and Assignment Procedures

31. The high rate of recusals and visiting-judge assignments in AJR-8 raises questions about compliance with statutory and procedural safeguards. Texas law requires that recusal motions be handled promptly and that assignments of replacement judges follow established procedures. See Tex. Gov't. Code § 24.002; Tex. Gov't. Code § 25.00255. The standards for recusal are mandatory and objective, requiring recusal whenever a judge's impartiality might reasonably be questioned. See *Rogers v. Bradley*, 909 S.W.2d 872 (Tex. 1995); *State v. Volkswagen Aktiengesellschaft*, 692 S.W.3d 467 (Tex. 2022).

32. If the Myers case reveals that these procedures have not been followed, or that the volume of recusals is symptomatic of deeper conflicts or administrative failures, the Court has both the authority and the obligation to intervene. The Court's power to adopt rules for efficient court management (Tex. Gov't. Code § 74.024) and to require local administrative judges to provide statistical and management information (Tex. Gov't. Code § 74.092) further supports its ability to mandate corrective action.

E. Precedent for Systemic Relief

33. The Supreme Court has previously recognized its ability to grant relief not only to individual litigants but also to address systemic threats to the administration of justice. In *In re State Bar of Texas*, 113 S.W.3d 730 (Tex. 2003), the Court held that it may exercise its mandamus jurisdiction directly in cases of compelling importance, bypassing the normal appellate process when necessary to protect the integrity of the judicial system.

34. Similarly, in *In re Prudential Ins. Co. of America*, 148 S.W.3d 124 (Tex. 2003), the Court abated proceedings to allow reconsideration by a new judge when the original judge left office, recognizing the importance of procedural regularity and the need to address changes in judicial assignment. These precedents support the use of the *Myers* case as a vehicle for broader systemic review and reform.

V. Conclusion

35. The *Myers* case, with its sequence of mandamus petitions and documented procedural breakdowns, is both a symptom and a symbol of the deeper structural problems afflicting AJR-8. By using *Myers* as a vehicle for rehearing and broader inquiry, the Supreme Court of Texas can fulfill its constitutional and statutory mandate to ensure the fair and efficient administration of justice. This approach is firmly grounded in Texas law and Supreme Court precedent, and it

offers a practical pathway to restore balance, transparency, and public confidence in the state's judicial assignment system.

36. The judicial data provided by this Court supports the issued raised herein, and the jurisprudence of the State relies upon this Court's swift intervention, otherwise the continued silence will compound the exponentially growing issues within the 8th Administrative Judicial Region of Texas.

VI. Prayer for Relief

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

- i. GRANT this Motion for Rehearing in light of the extraordinary and urgent systemic issues presented, which implicate not only the rights of the parties but also the integrity and public confidence in the Texas judiciary;
- ii. CONSOLIDATE this matter with the related cases currently pending before the Court (Cause Nos. 25-0361, 25-0367, 25-0378, and 25-0426), or, in the alternative, coordinate their consideration to ensure consistent and efficient resolution of the overlapping legal and factual issues;
- iii. ORDER expedited, consolidated briefing from all parties and invite amicus curiae submissions from the Office of Court Administration and all eleven Presiding Judges, specifically addressing:

- a. The causes and consequences of the unprecedented volume of visiting-judge assignments and recusal-driven reassignments in the 8th Administrative Judicial Region;
 - b. The adequacy of current safeguards to prevent forum-shopping, ensure judicial stability, and protect due process;
 - c. Recommendations for immediate and long-term corrective action;
- iv. REMAND, if necessary, to the Office of Court Administration with instructions to conduct a comprehensive audit of all recusal motions and judicial assignments in AJR-8 since FY 2020, and to report its findings to this Court within a specified timeframe;
- v. ISSUE a writ of mandamus compelling the trial court to:
 - a. Vacate any void or improperly entered orders identified in the petition;
 - b. Assign a qualified, impartial judge in accordance with mandatory statutory procedures;
 - c. Ensure compliance with all recusal, consolidation, and temporary order requirements under Texas law;
 - d. Proceed to adjudicate the underlying case without further delay;
- vi. GRANT such other and further relief, at law or in equity, as justice and the public interest may require, including any additional measures the Court

deems necessary to restore public confidence, ensure due process, and safeguard the administration of justice in Texas.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this Motion for Rehearing complies with the word count limitations of Tex. R. App. P. 9.4(i). According to the word count function of the computer program used to prepare this document, the Motion contains **2,433** words, excluding the parts exempted by Tex. R. App. P. 9.4(i)(1).

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