M.2025

02-25-00164-CV

MANDAMUS

04.10.25

M.2025

M.2026

No.02-25-00164-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

On Petition for Writ of Mandamus

to the 233rd Judicial District Court, Tarrant County

Cause Number 233-765358-25

Hon. Kate Stone Presiding

PETITION FOR WRIT OF MANDAMUS

Respectfully submitted by:

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

Emergency Relief Requested

Identity of Parties and Counsel

Relator

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

Respondent

Hon. Kate Stone
Associate Judge of the 233rd District Court,
Tarrant County, Texas
200 E. Weatherford St. 5th Floor
Fort Worth, TX 76196-0227
adwierzbicki@tarrantcountytx.gov
817-884-1197

Real Party in Interest

Morgan Michelle Myers
[redacted]
Morganmw02@gmail.com
817-235-5189

Counsel for Real Party in Interest

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116;
(817) 926-6211
coopercarter@majadmin.com

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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 233rd district court to seek relief from ongoing damage to the status quo and children's livelihood caused by these orders and filed an IFP statement. ***MR 1***
5. On March 20, 2025, the SAPCR was answered, and claimed COOPER L. CARTER had been retained in her individual capacity to represent real party in interest, yet the pleading was filed by a party not named in the suit, RODERICK D. MARX on behalf of COOPER L. CARTER. ***MR 3, MR 3.4***
6. On March 20, 2025, a motion to consolidate was filed by RODERICK D. MARX on behalf of COOPER L. CARTER. ***MR 4, MR 4.3***

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

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

19. On April 9, 2025, Relator received a rejection letter regarding the NOTICE OF INCLUSION and was prevented from including the crucial exhibits. ***SUPP 1.1***

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

ARGUMENT

A. Mandamus Standard

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Improper consolidation does not justify the refusal to act

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

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

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

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

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

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

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

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

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

constituting, in whole or in part, the claim sued on, or the matter set up in defense, may be made a part of the pleadings by copies thereof, or the originals, being attached or filed and referred to as such, or by copying the same in the body of the pleading in aid and explanation of the allegations in the petition or answer made in reference to said instruments and shall be deemed a part thereof for all purposes." The request to remove the exhibits specifically for the emergency TRO without any statutory backing raises suspicion that the trial court is actively trying to prevent the record from being properly established.

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

CONCLUSION AND PRAYER

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

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

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

1. Issue a writ of mandamus directing Respondent, the Honorable Kate Stone, Associate Judge of the 233rd District Court of Tarrant County, Texas, to hear and rule on Relator's Emergency Application for Temporary Restraining Order at the earliest practical date;

2. Grant the emergency temporary relief requested in Relator's separate Emergency Motion under TRAP 52.10, filed concurrently with this petition because the orders are facially void;

3. Take judicial notice that Relator has been unlawfully barred from his matrimonial residence and children under these void orders for over a year while the real party in interest has remained completely silent;

4. Take judicial notice that no filed responses, objections, or any substantive information has been provided by the opposing party throughout these proceedings;

5. Take judicial notice that crucial elements of the claims were prohibited from being made a part of the official court record and will be supplemented.

6. Grant such other and further relief, both general and special, at law and in equity, to which Relator may be justly entitled.

Respectfully submitted,

/s/ Charles Dustin Myers
Charles Dustin Myers, Pro Se
[redacted]
Email: chuckdustin12@gmail.com
Phone: 817-546-3693
PRO-SE RELATOR

Certification (TRAP 52.3(j))

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

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
PRO-SE RELATOR

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

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

CERTIFICATE OF SERVICE

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

Hon. Kate Stone J.D.
Associate Judge, 233rd District Court
Tarrant County Family Law Center
200 E. Weatherford St.
Fort Worth, TX 76196
Via electronic submission to the court coordinator
Via email: ADWierzbicki@tarrantcountytx.gov

Morgan Michelle Myers
Real Party in Interest
VIA the EFM at:
MORGANMW02@GMAIL.COM

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116
Via email: coopercarter@majadmin.com

/s/ Charles Dustin Myers
Charles Dustin Myers,
Pro Se Relator

No._____-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding Arising Out of

the 233rd Judicial District Court of Tarrant

County, Texas

Cause Number 233-765358-25

Hon. Kate Stone Presiding

RELATOR'S APPENDIX

Respectfully submitted by:

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

NAME **TAB**

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

AMBER RIGGS
Notary Public - State of Florida
Commission # 341198
Expires on December 16, 2026

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
Notarized remotely online using communication technology via Proof.

Automated Certificate of eService

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

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

Case Contacts

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

M.2053

233-765358-25

ORIGINAL
SAPCR

03.18.25

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FILED
TARRANT COUNTY
3/18/2025 3:25 AM
THOMAS A. WILDER
DISTRICT CLERK

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
First Middle Last.

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.	[redacted]	TARRANT/TEXAS
2.	C.R.M.		TARRANT/TEXAS
3.			
4.			
5.			

M.2054

3. Standing

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

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

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

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

4. Jurisdiction

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

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

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

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

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

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

5. Respondent(s)

Respondent A

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

Respondent A is: (Check one.)

- [x] the mother of the child(ren).
- [ ] the legal father of the following child(ren): _____.
- [ ] an alleged father of the following child(ren): _____.
- [ ] other: _____.
  Write Respondent A's relationship to the child(ren).

Legal Notice: (Check one.)

- [x] I will have a sheriff, constable, or process server give a copy of this Petition to Respondent A here:

  6641 ANNE COURT, WATAUGA, TEXAS 76148.
  PRINT Street Address City State Zip

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

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

- [ ] I think Respondent A will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve Respondent A with this Petition at this time.

- [ ] I cannot find this Respondent. I ask that this Respondent be served by publication.

Respondent B

- [x] Check this box if there are no other Respondents and skip to section 6.

Respondent B's name is: D.
PRINT the full name of Respondent B.

Respondent B is: (Check one.)

- [ ] the mother of the child(ren).
- [ ] the legal father of the following child(ren): _____.
- [ ] an alleged father of the following child(ren): _____.
- [ ] other: _____.
  Write Respondent B's relationship to the child(ren).

Legal Notice: (Check one.)

- [ ] I will have a sheriff, constable, or process server give a copy of this Petition to Respondent B here:

  _____.
  PRINT Street Address City State Zip

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

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

- [ ] I think Respondent B will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve Respondent B with this Petition at this time.

- [ ] I cannot find this Respondent. I ask that this Respondent be served by publication.

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

Respondent C's name is: _____.
PRINT the full name of Respondent C.

Respondent C is: (Check one.)

☐ the mother of the child(ren).

☐ the legal father of the following child(ren): _____.

☐ an alleged father of the following child(ren):
_____.

☐ other: _____.
Write Respondent C's relationship to the child(ren).

Legal Notice: (Check one.)

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

_____.
PRINT Street Address City State Zip

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

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

☐ I think Respondent C will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve Respondent C with this Petition at this time.

☐ I cannot find this Respondent. I ask that this Respondent be served by publication.

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

Respondent D's name is: _____.
PRINT the full name of Respondent D.

Respondent D is: (Check one.)

☐ the mother of the child(ren).

☐ the legal father of the following child(ren): _____.

☐ an alleged father of the following child(ren):
_____.

☐ other: _____.
Write Respondent D's relationship to the child(ren).

Legal Notice: (Check one.)

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

_____.
PRINT Street Address City State Zip

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

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

☐ I think Respondent D will sign a Waiver of Service. Do not send a sheriff, constable, or process server to serve Respondent D with this Petition at this time.

☐ I cannot find this Respondent. I ask that this Respondent be served by publication.

6. Out-of-State Respondent(s)

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

(Check one.)

■ Everyone involved in this case lives in Texas.

☐ The following 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 _____ (Date Filed) in _____ (County) 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 (Date Filed) in TARRANT (County) 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 _____ (Date of Order) in _____ (County) 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, _____.
Date of Order County State

The cause number for the protective order is _____.

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

12. Family Information (Check only if applicable.)

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

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

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

13. Children's Property (Check one.)

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

_____.

14. Health Insurance Availability for Children

The children: (Check all that apply.)

☐ have **private health insurance**.
Name of insurance company: _____
Policy number: _____ Cost of premium: $ _____
Name of person who pays for insurance: _____
The insurance policy ☐ is ☐ is not available through the parent's work.

☐ have health insurance through **Medicaid**.

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

☒ **do not** have health insurance.

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

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

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

15. Dental Insurance Availability for Children

The child(ren): (Check one.)

☐ have **private dental insurance**.

Name of insurance company: _____

Policy number: _____ Cost of premium: $ _____

Name of person who pays for insurance: _____

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

■ **do not** have dental insurance.

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

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

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

16. Public Benefits

The children: (Check all that apply.)

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

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

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

17. Request for Judgment

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

Respectfully,

→ /s/ Charles Dustin Myers — Petitioner's Signature

03/18/2025 — Date

CHARLES DUSTIN MYERS — Petitioner's Name (Print)

(817 456 3693 — Phone

6641 ANNE COURT, WATAUGA, TEXAS 76148 — Mailing Address / City / State / Zip

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

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

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

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

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

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

→/s/ Charles Dustin Myers — Petitioner's Signature

03/18/2025 — Date

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

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

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

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

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

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

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

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

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

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

Automated Certificate of eService

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

Envelope ID: 98573077
Filing Code Description: Petition
Filing Description: ORIGINAL PETITION FOR SAPCR
Status as of 3/19/2025 11:21 AM CST

Case Contacts

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

M.2065

233-765358-25

PETITIONER'S NOTICE OF INTENT TO FILE MANDAMUS

04.07.25

M.2065

233-765358-25

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

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN RE: M.E.M., ET AL.
**CHARLES DUSTIN MYERS, **

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

2025-04-07

PETITIONER'S NOTICE OF INTENT TO FILE MANDAMUS AND EMERGENCY STAY

TO THE HONORABLE JUDGE OF SAID COURT:

I. INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

II. STATEMENT OF FACTS

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

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

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

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

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

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

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

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

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

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

III. ARGUMENT

A. The Court's Ministerial Duty

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

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

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

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

a) The motion was properly filed and noticed for hearing and the parties agreed on a date and time set for April 10th, 2025;

b) Petitioner communicated with court staff, physically appeared at the courthouse ready to present the motion and was told he could present his motion;

c) The motion concerned the immediate welfare of children; and

d) The refusal was based solely on representations about a future filing in another court that had not yet occurred.

B. Clear Abuse of Discretion

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

> i. First, it refused to perform its ministerial duty to hear and rule on a properly filed motion based solely on representations about a future filing in another court. It's as if a doctor refused to treat a bleeding patient because another doctor might, at some future date, claim the patient should be treated at a different hospital.
>
> ii. Second, it failed to recognize that by answering the SAPCR petition in this Court, Respondent submitted to this Court's jurisdiction and should have instead filed a motion to abate or should have moved to transfer the case. The law doesn't allow for half-measures of jurisdiction.
>
> iii. Third, it failed to recognize that this Court maintained jurisdiction until any transfer was completed pursuant to Texas Family Code § 155.005(d) as no final order has been rendered in the 322nd District Court. Jurisdiction isn't a hot potato to be

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

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

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

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

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

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

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

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

C. No Adequate Remedy by Appeal

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

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

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

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

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

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

D. Opposing Counsel's Contradictory Behavior

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

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

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

IV. CONCLUSION

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

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

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

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

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

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

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

V. PRAYER FOR RELIEF

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

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

i. Immediately grant the attached proposed order requesting an emergency TRO preventing the Respondent from barring Petitioner's access to the matrimonial home located at [redacted] 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

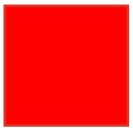
This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service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

M.2084



233-765358-25

PETITIONER'S PRE-OBJECTION TO TRANSFER

04.04.25

M.2084

233-765358-25

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

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN RE: M.E.M., ET AL.
**CHARLES DUSTIN MYERS, **

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

2025-04-04

PETITIONER'S PRE-OBJECTION TO MOTION TO TRANSFER

TO THE HONORABLE COURT:

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

I. INTRODUCTION

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

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

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

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

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

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

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

II. CONCLUSION

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

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

Respectfully submitted,

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

CERTIFICATE OF SERVICE

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

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

Respectfully submitted,

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

Automated Certificate of eService

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

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

M.2088

322-744623-23

DOMINANT JURISDICTION

ANALYSIS

04.15.25

M.2088

322-744263-23

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

NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS

ITMOMO
(AITIO M.E.M., C.R.M., two children)
MORGAN MICHELLE MYERS

Petitioner,

CHARLES DUSTIN MYERS,

Respondent.

2025-04-15

DOMINANT JURISDICTION ANALYSIS

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

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116
coopercarter@majadmin.com

Holly Hayes

2001 Beach St
Fort Worth, TX 76103-2308
817-459-6878
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: 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

M.2101

02-25-00164-CV

MANDAMUS RECORD

04.10.25

M.2101

M.2102

No._____-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding Arising Out of

the 233rd Judicial District Court of Tarrant

County, Texas

Cause Number 233-765358-25

Hon. Associate Judge Kate Stone Presiding

MANDAMUS RECORD

Respectfully submitted by:

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

M.2102

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

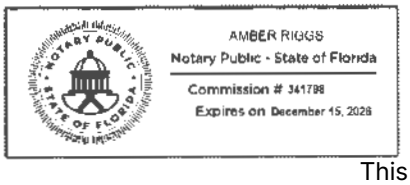
litigation, and to the best of my knowledge, has not been altered in any way.

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.

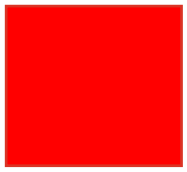
Amber Riggs

___ Personally Known OR ___ Produced Identification

Type of Identification Produced _____DRIVER LICENSE

Notarized remotely online using communication technology via Proof.

M.2106



02-25-00166-CV

EMERGENCY STAY

04.15.25

M.2106

M.2107

No. 02-25-00166-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding arising from

the 322nd Judicial District Court, Tarrant County

Cause Number 322-744263-23

Hon. Jeff Kaitcer Presiding

EMERGENCY MOTION TO STAY PROCEEDINGS

Respectfully submitted by:

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

M.2107

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 16th, 2024's "kick-out" order (MR 6.1) and March 14th, 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 322nd 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 322nd 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 322nd 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
[redacted]
817-546-3693
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@tarrantcountytx.gov

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

COUNSEL FOR REAL PARTY IN INTEREST

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INTERVENOR

Holly Hayes

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CSD-Legal-914@oag.texas.gov
TEXAS O.A.G.

Automated Certificate of eService

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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@tarrantcountytx.gov	4/15/2025 8:13:34 AM	SENT

M.2124

02-25-00171-CV

MANDAMUS CONSOLIDATION

04.16.25

M.2124

M.2125

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
[redacted]
Pro-se Relator

ORAL ARGUMENT REQUESTED

Emergency Relief Requested before 04/24/2025

M.2125

Identity of Parties and Counsel

Relator

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

Respondent

Hon. Kenneth E. Newell
District Judge of the 233rd District Court,
Tarrant County, Texas
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Fort Worth, TX 76196-0227
adwierzbicki@tarrantcountytx.gov
817-884-1794

Real Party in Interest

Morgan Michelle Myers
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Morganmw02@gmail.com
817-235-5189

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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 233rd 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 322nd 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 322nd 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. Berchelmann*, 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 usure 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 came 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 233rd 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 11th 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 233rd (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, unrebutted 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
[redacted]
817-546-3693
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. 5th Floor
Fort Worth, TX 76196
Via electronic submission to the court coordinator
Via email: ADWierzbicki@tarrantcountytx.gov

Morgan Michelle Myers
Real Party in Interest
VIA the EFM at:
MORGANMW02@GMAIL.COM

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116
Via email: coopercarter@majadmin.com

/s/ Charles Dustin Myers
Charles Dustin Myers,
Pro Se Relator

No._____-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding Arising Out of

the 233rd Judicial District Court of Tarrant

County, Texas

Cause Number 233-765358-25

Hon. Kenneth E. Newell Presiding

RELATOR'S APPENDIX

Respectfully submitted by:

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

AFFIDAVIT VERIFYING RELATOR'S APPENDIX

APP# NAME

 M.2152

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

AMBER RIGGS
Notary Public - State of Florida
Commission # 341188
Expires on December 16, 2026

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
Notarized remotely online using communication technology via Proof.

 M.2152

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. 5th Floor
Fort Worth, TX 76196
Via electronic submission to the court coordinator
Via email: ADWierzbicki@tarrantcountytx.gov

Morgan Michelle Myers
Real Party in Interest
VIA the EFM at:
MORGANMW02@GMAIL.COM

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116
Via email: coopercarter@majadmin.com

/s/ Charles Dustin Myers
Charles Dustin Myers,
Pro Se Relator

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

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Filing Description: IFP
Status as of 4/16/2025 10:05 AM CST

Case Contacts

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KENNETH ENEWELL		adwierzbicki@tarrantcountytx.gov	4/16/2025 7:49:45 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/16/2025 7:49:45 AM	SENT

M.2155

02-25-00164-CV

EN BANC SAPCR

04.22.25

M.2155

M.2156

No. 02-25-00164-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

On Petition for Writ of Mandamus

to the 233rd Judicial District Court, Tarrant County

Cause Number 233-765358-25

Hon. Kate Stone Presiding

MOTION FOR EN BANC RECONSIDERATION

Respectfully submitted by:

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

ORAL ARGUMENT REQUESTED

M.2156

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STATUTES

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 233rd 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 233rd 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 233rd 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 233rd 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

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**.

M.2167

A

M.2167

M.2168

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

No. 02-25-00164-CV

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

M.2168

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@tarrantcountytx.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

/s/ Charles Dustin Myers

Charles Dustin Myers

PRO-SE RELATOR

SERVED: 04/22/2025

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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

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COOPER LCARTER		COOPERCARTER@MAJADMIN.COM	4/22/2025 11:49:59 AM	SENT
Kate Stone		adwierzbicki@tarrantcountytx.gov	4/22/2025 11:49:59 AM	SENT

M.2172

322-744623-23

PROCEDURAL IRREGULARITIES WITH TEMPORARY ORDERS

04.15.25

M.2172

M.2173

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

M.2173

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 6th, 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).

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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.

M.2200

Texas Rules of Civil Procedure, Rule 305.

M.2200

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:

Respondent
Hon. James Munford
District Judge, 322nd District Court
Tarrant County Family Law Center
200 E. Weatherford St. 4th Floor
Fort Worth, TX 76196
817-884-1427
Via electronic submission to the court coordinator
Via email: LKBaker@tarrantcountytx.gov

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

COUNSEL FOR REAL PARTY IN INTEREST

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coopercarter@majadmin.com

INTERVENOR

Holly Hayes

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Fort Worth, TX 76103-2308
817-459-6878
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: 99674307
Filing Code Description: No Fee Documents
Filing Description: Legal analysis of current orders.
Status as of 4/15/2025 12:24 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/15/2025 10:06:00 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/15/2025 10:06:00 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/15/2025 10:06:00 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/15/2025 10:06:00 AM	SENT

M.2203

02-25-00171-CV

EN BANC
CONSOLIDATION

04.22.25

M.2203

M.2204

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 233rd Judicial District Court, Tarrant County

Cause Number 233-765358-25

Hon. Kenneth E. Newell Presiding

MOTION FOR EN BANC RECONSIDERATION

Respectfully submitted by:

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

M.2204

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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), *Dal-Briar 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 unadjudicated.

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. Berchelmann*, 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
CHARLES DUSTIN MYERS (pro-se Relator)
[redacted]
Tel.: 817-546-3693
Email: 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 **1,427**.

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

200 E. Weatherford St.

Fort Worth, TX 76196

817-884-1794

Via electronic submission to the court coordinator

Via email: ADWierzbicki@tarrantcountytx.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

/s/ Charles Dustin Myers

Charles Dustin Myers

PRO-SE RELATOR

SERVED: 04/22/2025

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Envelope ID: 99928643
Filing Code Description: Motion for Rehearing
Filing Description: Motion for EN BANC Reconsideration - "The Second Head" - Consolidation
Status as of 4/22/2025 3:02 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/22/2025 11:08:22 AM	SENT
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COOPER LCARTER		COOPERCARTER@MAJADMIN.COM	4/22/2025 11:08:22 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	4/22/2025 11:08:22 AM	SENT

M.2218

322-744263-23

OBJECTION TO TRIAL SETTING AND REQUEST TO STAY PROCEEDINGS -

04.23.25

M.2218

322-744263-23

FILED
TARRANT COUNTY
4/23/2025 11:13 AM
THOMAS A. WILDER
DISTRICT CLERK

NO. 322-744263-23

IN THE 322nd DISTRICT COURT OF TARRANT COUNTY, TEXAS

ITMOMO
(AITIO M.E.M., C.R.M., two children)
MORGAN MICHELLE MYERS

Petitioner,

CHARLES DUSTIN MYERS,

Respondent.

2025-04-23

Objection to Trial Setting and Request for Stay of Proceedings

TO THE HONORABLE COURT:

The undersigned, Charles Dustin Myers, respectfully objects to any attempt to set the above referenced matter for any trial setting, and in support of this objection, shows the following:

Three concurrent mandamuses

There are currently three pending mandamus petitions awaiting resolution in the Second Court of Appeals seeking redress from recent actions taken by COOPER L. CARTER, counsel for Petitioner, to thwart emergency TRO proceedings in the 233rd District Court of Tarrant county.

In sum, these mandamus petitions address the following alleged errors:

1. Void orders; (this case) 02-25-00166-CV
2. Improper consolidation; 02-25-00171-CV
3. Refusal to rule. 02-25-00164-CV

Current issues

Currently, there are several issues that remain unaddressed that need to be resolved:

1. The entire case foundation is fraudulent due to Petitioner's pleadings.
2. The undersigned has sought relief from this situation since March 14, 2024, when the original orders issued on January 16, 2024, which removed the undersigned from his home without the required findings, were leveraged into a settlement agreement that was not consented to by all of the parties and did not serve the best interests of the children.
3. COOPER L. CARTER's authority remains in question, and her inactivity combined with the ambiguity surrounding her representation must be addressed.
4. The undersigned has been forced to live in transient housing and incur extraordinary damages to his business operations due to the Petitioners fraudulent allegations which were never supported by evidence.
5. The children in this matter continue to suffer ongoing and irreparable harm from being separated from their father unjustifiably.
6. There is no child support set up for the children.

Informal service

Furthermore, the court continues to issue notices informally through the court coordinator, which is improper.

Pursuant to Texas Rules of Civil Procedure Rule 21a, service of a notice via email directly, rather than through the electronic filing manager (EFM), does not constitute proper

service if the email address is on file with the EFM. Texas courts have consistently held that electronic service must be made through the EFM when the recipient's email address is registered there. The undersigned's email is registered with the EFM.

Conclusion

Because the undersigned has an email on file with the EFM, there is no court order requiring alternative service, and there is no agreement waiving formal service, any notice of court proceedings not in compliance with rule 21a of the Texas Rules of Civil Procedure is improper.

Furthermore, because there are several issues that remain unaddressed, such as COOPER CARTER'S authority, the ongoing mandamus proceedings, the ongoing irreparable harm to the children, and the facially void orders which have caused detrimental effects to the undersigned, the risk of these issues creating future delays remains high.

The undersigned is prepared to challenge any adverse actions taken against him in the face of these issues and will seek relief until this matter is resolved in accordance with the principles of fairness and justice. The undersigned requests that the court stay all future proceedings until the above matters are resolved.

Respectfully submitted,

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

M.2222

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: 99982204
Filing Code Description: No Fee Documents
Filing Description: Objection to Informal Service
Status as of 4/23/2025 2:47 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
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M.2222

M.2223

02-25-00171-CV

MANDAMUS CONSOLIDATION

04.16.25

M.2223

M.2224

No.02-25-00171-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
[redacted]
Pro-se Relator

ORAL ARGUMENT REQUESTED

Emergency Relief Requested before 04/24/2025

M.2224

Identity of Parties and Counsel

Relator

Charles Dustin Myers
[redacted]
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
adwierzbicki@tarrantcountytx.gov
817-884-1794

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., 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 233rd 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 322nd 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 322nd 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. Berchelmann*, 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 usure 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 came 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 233rd 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 11th 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 233rd (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, unrebutted 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
[redacted]
817-546-3693
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. 5th Floor
Fort Worth, TX 76196
Via electronic submission to the court coordinator
Via email: ADWierzbicki@tarrantcountytx.gov

Morgan Michelle Myers
Real Party in Interest
VIA the EFM at:
MORGANMW02@GMAIL.COM

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116
Via email: coopercarter@majadmin.com

/s/ Charles Dustin Myers
Charles Dustin Myers,
Pro Se Relator

M.2249

No._____-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding Arising Out of

the 233rd Judicial District Court of Tarrant

County, Texas

Cause Number 233-765358-25

Hon. Kenneth E. Newell Presiding

RELATOR'S APPENDIX

Respectfully submitted by:

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

M.2249

AFFIDAVIT VERIFYING RELATOR'S APPENDIX

APP# NAME

 M.2251

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

AMBER RIGGS
Notary Public - State of Florida
Commission # 341118
Expires on December 16, 2026

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
Notarized remotely online using communication technology via Proof.

 M.2251

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. 5th Floor
Fort Worth, TX 76196
Via electronic submission to the court coordinator
Via email: ADWierzbicki@tarrantcountytx.gov

Morgan Michelle Myers
Real Party in Interest
VIA the EFM at:
MORGANMW02@GMAIL.COM

Cooper L. Carter
Marx, Altman & Johnson
2905 Lackland Road
Fort Worth, TX 76116
Via email: coopercarter@majadmin.com

/s/ Charles Dustin Myers
Charles Dustin Myers,
Pro Se Relator

M.2253

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: 99721652
Filing Code Description: Affidavit of Indigence (TRAP 20.1(c),(2))
Filing Description: IFP
Status as of 4/16/2025 10:05 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	4/16/2025 7:49:45 AM	SENT
COOPER LCARTER		COOPERCARTER@MAJADMIN.COM	4/16/2025 7:49:45 AM	SENT
KENNETH ENEWELL		adwierzbicki@tarrantcountytx.gov	4/16/2025 7:49:45 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/16/2025 7:49:45 AM	SENT

M.2253

M.2254

02-25-00171-CV

MANDAMUS RECORD

04.16.25

M.2254

M.2255

NOTICE! THIS DOCUMENT CONTAINS SENSITIVE DATA!

No._____-CV

IN THE

SECOND JUDICIAL DISTRICT COURT OF APPEALS

AT FORT WORTH, TEXAS

IN RE: CHARLES DUSTIN MYERS, *RELATOR*.

Original Proceeding Arising Out of

the 233rd Judicial District Court of Tarrant

County, Texas

Cause Number 233-765358-25

Hon. Kenneth E. Newell Presiding

MANDAMUS RECORD

Respectfully submitted by:

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

M.2255

MANDAMUS RECORD INDEX

MR# NAME

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**.

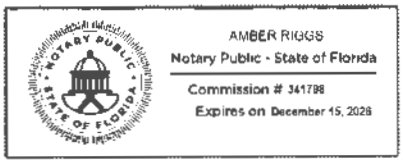
4. Each document included has been accurately reproduced from the court's file or my personal file maintained in the regular course of

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.

/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

___ Personally Known OR ___ Produced Identification Type of Identification Produced _____

Notarized remotely online using communication technology via Proof.

M.2259

233-765358-25

SAPCR COVER LETTER

03.18.25

M.2259

322-744263-23

FILED
TARRANT COUNTY
4/15/2025 10:28 AM
THOMAS A. WILDER
DISTRICT CLERK

Date: March 18, 2025
Via E-File

Thomas A. Wilder, District Clerk
Tarrant County District Courts
200 E. Weatherford St.
Fort Worth, Texas 76196

Re: Original Petition in Suit Affecting Parent-Child Relationship ("SAPCR") – Request to File as Separate Case and Set Immediate Hearing (In the Interest of [M.M.] and [C.M.], minor children; *related to* Cause No. 322-744263-23, In re Marriage of Myers)

Dear Mr. Wilder and Honorable Court:

Please accept for filing the enclosed **Original SAPCR** concerning the above-referenced children. This SAPCR is **intentionally filed as a new, separate case**, rather than under the existing divorce cause, due to unique procedural defects in that divorce proceeding that have left the children in legal and physical limbo. **Immediate intervention** is required to protect the children's best interests. Below, I outline the compelling reasons – supported by law and the record – why this SAPCR **must proceed separately** and be set for an **emergency hearing** at once, instead of being merged into the stalled divorce case.

A. Failure of Opposing Party to Prosecute

1. The divorce Petitioner has wholly failed to prosecute the divorce, leaving it in procedural limbo. Over a year has passed with no meaningful activity toward a final resolution. Notably, after the divorce case was removed to federal court and later remanded, Petitioner **never filed the required certified Order of Remand or gave notice of remand** as mandated by Texas Rule of Civil Procedure 237a. Rule 237a obligates the removing party to promptly file the federal remand order with the state clerk and notify all parties, after which any defendant has 15 days to answer. Petitioner's **omission** of this required step has left the state court record incomplete and the case procedurally suspended. Indeed, due to Petitioner's inaction (and her

counsel's apparent inability to e-file; see Point 8 below), **no remand notice was ever filed**, so the divorce court has not resumed jurisdiction in any practical sense.

2. In addition, Petitioner has **ignored the Texas Supreme Court's time standards** for timely disposition of cases. A divorce case is expected to be resolved within 12 months, yet Petitioner has made no effort to advance it. She has not set a trial or even a status conference; she has allowed critical deadlines to lapse. This lack of diligence violates the duty to prosecute one's claims and warrants dismissal for want of prosecution. In fact, Respondent has been forced to file a Motion to Dismiss for Want of Prosecution (pending before the Court) detailing Petitioner's complete failure to move the case forward. This also remains un-responded to. Petitioner's inaction has left the family with **no active forum** to address urgent child-related issues. Therefore, a **separate SAPCR** is necessary to provide a functioning vehicle for relief. The **children cannot wait** for the Petitioner's indifference or strategic delay to abate.

B. Failure to Oppose Any Relief (Legal Concession)

3. Throughout the divorce case, Petitioner has **not opposed or responded to any of Respondent's filings**, motions, or claims for relief. She and her counsel have remained silent in the face of serious allegations and requests, effectively **conceding the merits** of those issues under Texas law. Respondent has raised grave claims of **fraud, perjury, deception, and child neglect** against Petitioner in his pleadings, yet Petitioner's counsel has **filed no response or defense** to these claims. Respondent also served discovery and Requests for Admissions which went **completely unanswered**, resulting in deemed admissions. He even filed a motion to compel discovery, which Petitioner again **did not oppose**, though unfortunately no hearing has yet been held. Moreover, when Respondent moved for other interim relief (including return to the family home and expanded access to the children), Petitioner filed no opposition. By her

inaction, Petitioner has implicitly **admitted the validity** of Respondent's factual assertions and the justness of his requests.

4. Texas law is clear that a party who fails to respond to motions or claims effectively **waives any objection and accepts the movant's evidence as true**. For example, in the summary judgment context, if a nonmovant files no response, the court may accept the movant's asserted facts as uncontroverted and render judgment if entitlement is shown; issues not timely raised in a written response are waived; see **Tex. R. Civ. P. 166a(c)**. The same principle applies here: Petitioner's total failure to contest Respondent's filings is tantamount to a **legal concession** of those matters. In other words, failure to make timely and specific objections results in waiver of the objections. See *Clark v. Trailways, Inc.*, 774 S.W.2d 644, 647 (Tex. 1989), cert. denied, 493 U.S. 1074, 110 S.Ct. 1122, 107 L.Ed.2d 1028 (1990); *Hartford Accident and Indem. Co. v. McCardell*, 369 S.W.2d 331, 335 (Tex. 1963); *Srite v. Owens-Illinois, Inc.*, 870 S.W.2d 556, 565 (Tex.App. — Houston [1st Dist.] 1993), revised on other grounds, 897 S.W.2d 765). Courts have recognized that a party's failure to respond indicates a belief that the motion has merit.

5. Petitioner's silence speaks volumes. She has never disputed that Respondent should be allowed to return home or see his children – in fact, she has **not opposed any relief requested**. This silence should be treated as acquiescence. Accordingly, there is no reason to keep the children waiting in the paralytic divorce case when **no one is even arguing against** the relief Respondent seeks in this SAPCR. The SAPCR can and should proceed on the uncontroverted facts in Respondent's filings.

C. Best Interests of the Children Demand Immediate Action

6. Every day that passes with the children separated from their father is a day of irreparable harm. The undisputed evidence is that the children are suffering due to Respondent's forced absence from the home. In the months since he was excluded, the children's well-being has precipitously declined: they have fallen behind in school, missed critical medical and dental appointments, and have been emotionally traumatized by the sudden and prolonged separation from their father. No party—not even Petitioner—has asserted that the children would be anything but better off if their father could return to care for them. No one has argued against Respondent's return to the home or his involvement in the children's daily life. It is axiomatic that the best interest of the children is the paramount concern in any case affecting the parent-child relationship. See **Tex. Fam. Code § 153.002 (mandating that "[t]he 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")**; *Lenz v. Lenz*, 79 S.W.3d 10, 14 (Tex. 2002) (emphasizing that courts must place "predominant emphasis" on what best serves the children's welfare, particularly focusing on stability, emotional and educational needs, and maintaining frequent contact with fit parents).

7. The Texas Legislature explicitly prioritized children's best interests in all conservatorship and possession determinations: **"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." Tex. Fam. Code § 153.002.** Texas Supreme Court jurisprudence confirms and expands upon this legislative directive, instructing courts to consider stability, educational continuity, emotional health, and ongoing relationships with fit parents in their best-interest analysis. **See *Lenz*, 79 S.W.3d at 14–15 (holding courts must evaluate what**

will best serve the child's overall welfare, ensuring a stable and emotionally supportive environment and maintaining meaningful and frequent parental contact).

8. Here, it is unquestionably in the children's best interests to have their loving father back in their daily lives without further delay. Texas public policy explicitly states that children should have frequent and continuing contact with parents who have demonstrated the ability to act in their best interest. **See Tex. Fam. Code § 153.001(a) (declaring the public policy of Texas to ensure frequent contact and shared duties between parents and children following separation); *Lenz,* 79 S.W.3d at 14–15 (affirming that Texas policy favors maintaining frequent and meaningful parental involvement in a child's life).**

9. Respondent has demonstrated throughout these proceedings that he is a caring, fit parent whose presence provides the children with stability, support for their education and health, and emotional security. By contrast, the children's current situation—living apart from Respondent for no substantiated reason—is destabilizing and harmful. Texas courts recognize the urgency of child custody matters and have repeatedly underscored **that "justice demands a speedy resolution of child custody and child support issues." *In re Tex. Dep't of Fam. & Protective Servs.*, 210 S.W.3d 609, 613 (Tex. 2006) (orig. proceeding) (quoting *Proffer v. Yates*, 734 S.W.2d 673, 674 (Tex. 1987)).** Simply put, the children's needs cannot wait on procedural formalities or a dormant divorce case. Their welfare requires this SAPCR to be heard immediately so that orders can be promptly put in place to reunite them with their father and address their academic, emotional, and medical needs. No statute or rule forbids initiating a separate SAPCR when it is necessary to protect children's best interests. Indeed, Tex. Fam. Code § 153.002 and the overarching equitable duty of the Court compel swift action here. Respondent is ready, willing, and able to resume caring for his children, and no party has objected to him

doing so. Therefore, the Court must accept this SAPCR and schedule an immediate hearing to serve the children's best interests without further delay. See Lenz, 79 S.W.3d at 14–15 (holding courts must prioritize swift judicial actions in custody matters, protecting the best interests of children).

D. Fraud and Perjury Render the Prior Orders Void

10. The orders entered in the divorce case that currently keep Respondent out of the home and away from the children were obtained through **fraud, misrepresentation, and even perjury**. Because those orders were procured by wrongful means, they are **void ab initio** and cannot be permitted to stand in the way of this SAPCR. Texas law does not tolerate court orders obtained by trickery or false pretenses. Notably, the temporary orders in the divorce (signed January 16, 2024 and later on March 14, 2024) were presented to the Court as "agreed" orders, yet **Respondent never agreed to them** and never signed them. In fact, Respondent had expressly opposed the relief in those orders. The "agreement" was a fiction created by Petitioner's counsel. The record reflects that Petitioner's counsel drafted and submitted those orders **without Respondent's consent or signature**, and which reference a hearing not found on the docket. This is a textbook example of a **fraud on the court**. A judgment or order entered as "agreed" when one party actually objected is void. The Texas Supreme Court's holding in *Burnaman v. Heaton* is directly on point: when a trial court knows a party does not consent to a purported agreed judgment, it must refuse to sign it; any judgment rendered under such circumstances "**is void**." *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951).

11. Here, the court was misled – it was never disclosed that Respondent vehemently disagreed. **Without such consent the judgment is void**. The law will not give effect to a "party's consent" that was never actually given. Moreover, the way those orders were obtained

was rife with material falsehoods. In her filings, Petitioner **knowingly made false statements** to the Court to justify excluding Respondent from the home. For example, in her Application for Protective Order and supporting affidavit, Petitioner grossly misrepresented the facts, painting Respondent as a danger without evidence. She alleged incidents that never occurred or twisted mundane events into false claims of "family violence." These misrepresentations were later exposed, and Petitioner has never attempted to prove them in any evidentiary hearing. Petitioner's intent was plainly to deceive the Court into granting her sole occupancy of the home and custody of the children. Indeed, Respondent's pending Motion to Dismiss details how Petitioner **"knowingly made and presented fraudulent claims to the Court regarding Respondent's property, with the intent to deprive him of his interest in his home"**, and how she acted with intent that *"these false claims be given the same legal effect as valid court orders, misleading the Court and causing Respondent to be wrongfully deprived of his home and livelihood."*

12. These strong findings, which stand uncontroverted, show that the prior orders were procured by **fraud and deception**. Under longstanding Texas precedent, any order obtained by **extrinsic fraud** (fraud that effectively prevents a fair presentation of the case) is void and a nullity. See *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751–52 (Tex. 2003) (judgment obtained by fraud can be set aside; only extrinsic fraud – such as keeping a party away from court or concealing critical facts – justifies relief).

13. Here, Petitioner's fraud was extrinsic in that it **kept Respondent from participating fully** (the "agreed" order ploy) and **kept the Court from learning the true facts**. A litigant who lies to gain advantage in a court order **subverts the process**; the resulting order lacks integrity and is void.

14. In sum, the prior temporary orders that ousted Respondent were **built on a foundation of fraud**. They should carry no weight and pose no obstacle to granting relief in this new SAPCR. This Court not only has the authority to declare such orders void, it has a duty to do so in order to prevent manifest injusticec. See *Burnaman*, 240 S.W.2d at 291. By proceeding with a fresh SAPCR, the Court can consider the issues regarding the children *de novo*, on truthful evidence, untainted by the false premises of the earlier orders. Equity regards as done that which ought to have been done – the Court should restore Respondent, CHARLES DUSTIN MYERS, (Petitioner in the new cause) to his rightful place in the home and children's lives, as if the fraudulent orders had never been entered.

E. Restoring the True Status Quo of the Family

15. Relief in this SAPCR is also warranted to **restore the status quo** that existed before Petitioner's improper actions. The **"last actual, peaceable status quo"** in this family was **Respondent living in the home with the children**, as a present and active father. That was the reality until late 2023, when Petitioner – through unilateral false allegations – removed Respondent from the household. Texas law holds that the purpose of temporary orders and injunctive relief is to maintain or restore the status quo pending trial. See *In re Shifflet*, 462 S.W.3d 528, 537 (Tex. App.—Houston [1st Dist.] 2015, orig. proceeding) (courts aim to restore the last peaceable status quo pending final trial).

16. Here, the **true status quo ante** was the intact family unit with Respondent present. The situation now – Respondent barred from the home and children – is a drastic deviation from that status quo, achieved only by contested court orders that, as shown, lack validity. Every day that Respondent is kept out is a day the family's natural equilibrium is disturbed further.

Texas courts have intervened in analogous situations to return to the rightful status quo. For example, when one party's unilateral conduct disrupts a long-standing living arrangement, courts recognize that stability must be restored for the benefit of all, especially the children. See *Smith v. McDaniel*, 842 S.W.2d 7, 12 (Tex. App.—Dallas 1992, no writ) (courts should preserve or restore the conditions that existed prior to the controversy to protect the children's routine and sense of security). Here, restoring the status quo means **allowing Respondent back into his home and parenting role immediately**. That was the "last peaceable" situation before litigation – a state in which the children were thriving. Notably, the findings in the temporary orders hearing (held without Respondent) even indicate there were no findings of any imminent harm if Respondent were present; the exclusion was based solely on Petitioner's requested relief, not on proven misconduct by Respondent.

17. Thus, there is no safety-based reason to maintain the current deviation from the norm. By contrast, there are powerful reasons to return to normalcy: the children's suffering would be alleviated, and the family's **balance and stability** would be reestablished.

18. In short, equity demands that we **"undo"** the improper disruption caused by Petitioner's actions. This SAPCR allows the Court to do exactly that – to realign temporary orders with reality and justice. *In re Shifflet* instructs that the **last peaceable status quo should be restored pending trial**. The last peaceable status was Respondent in the home; restoring that will harm no one (again, even Petitioner did not claim any abuse or violence requiring exclusion – her application acknowledged no recent violence, only vague fears). Maintaining the current situation, by contrast, gravely harms the children and prejudices Respondent's relationship with them. Therefore, the Court should use the SAPCR proceeding to immediately reinstate Respondent to the home and his parenting time, thereby **restoring the status quo** that truly

serves the children's welfare. Every additional day away from that status quo is a deviation that this Court can and should correct now.

F. The Court's Duty to Act Without Delay for the Children's Welfare

19. By accepting this SAPCR as a separate case, the Court can fulfill its **paramount duty to protect the children's welfare without procedural delay**. Courts have a **sacred obligation** to put the interests of children above rigid procedural considerations, especially in emergencies. The Texas Supreme Court has emphasized that trial courts **must act immediately when children's physical or emotional well-being is at stake**, even if procedural complexities exist. In *In re Tex. Department of Family & Protective Services*, for example, the Supreme Court admonished that delays in custody matters are intolerable, quoting with approval the maxim: *"Justice demands a speedy resolution of child custody and child support issues."* 210 S.W.3d 609, 613 (Tex. 2006). The high court in that case (a mandamus proceeding) required prompt action despite procedural entanglements, recognizing that a child's need for a stable, safe environment cannot be made to wait on protracted litigation maneuvers.

20. Similarly, in *Elizondo v. Monteleone,* an appellate court noted that when a parent attempted procedural gambits to delay a custody determination, the court system should not allow those tactics to trump the child's immediate needs. *Elizondo v. Monteleone*, 96 S.W.3d 705, 708 (Tex. App.—Corpus Christi 2002, no pet.) (courts will not permit jurisdictional technicalities to delay emergency relief in a parent-child case). [(**If** citation is verified)] In that case, one party tried to remove the case to federal court and argued that the state court lacked jurisdiction to issue temporary orders during the interim. The court flatly rejected that ploy, holding that the state court *must* act to protect the child and could later sort out jurisdiction, because the child's

welfare was paramount. The lesson is clear: **procedural fencing cannot override the need for immediate judicial action when children are suffering.**

21. Here, Petitioner's inaction and the snares of the divorce case have already delayed relief for far too long. The children have been without their father for several critical months of their development. The **Court has the power—and indeed the duty—to cut through the procedural morass** by creating a new SAPCR docket and promptly addressing the merits of conservatorship, possession, and access. There is no jurisdictional barrier to doing so: this Court has continuing jurisdiction over the children (by virtue of the ongoing divorce) and thus can hear a SAPCR involving them. Any concern about duplicitous litigation is mitigated by the fact that the divorce case is effectively moribund; furthermore, Respondent will move to consolidate or dismiss the divorce once the SAPCR is in place, if appropriate. What cannot be allowed is more **delay that leaves the children in a fractured situation**. Our Courts are courts of equity as well as law, especially in family matters. When equity demands immediate intervention, the Court should not hesitate. As the Austin Court of Appeals observed, *"when the jurisdiction of the court has been properly invoked in matters affecting minor children, the court's primary consideration is the best interest of the children, and the court may enter any order deemed necessary to protect and conserve the welfare of the child." Elizondo*, 96 S.W.3d at 708 (citing **Tex. Fam. Code § 105.001** on temporary orders for a child). In other words, once the Court is aware of a child in need, it **must act, and act swiftly**.

22. That is precisely the situation here. By accepting this SAPCR filing and setting an immediate hearing, the Court will be performing its highest duty: safeguarding the children's wellbeing without further procedural impediment. Conversely, to refuse the SAPCR or to delay

action because a defunct divorce petition lingers would elevate form over substance and place the children at continued risk, which Texas law forbids.

23. In sum, this Court is empowered and required to **provide a forum for immediate relief**, and the SAPCR is the proper mechanism to do so. The Court should therefore promptly docket this SAPCR as a new case and schedule an emergency hearing on temporary orders for the children.

G. Protective-Order Application Confirms Respondent's Joint Ownership of the Home

24. Even Petitioner's own filings acknowledge Respondent's legal **right to return to the residence**. In her sworn Application for Protective Order (filed in September 2023), Petitioner explicitly affirmed that the marital residence "**is jointly owned or leased by the Applicant and Respondent**."

25. This judicial admission is significant. It means that at the time she sought exclusive use of the home, Petitioner conceded that Respondent is **co-owner** (or co-leaseholder) of the property. There is no dispute, therefore, that Respondent has an **equal property interest and legal right to occupy the home**. Petitioner cannot now contradict her own sworn statement by suggesting Respondent has no such right.

26. Why is this important? Because the prior orders granting Petitioner exclusive possession of the home (and excluding Respondent) stand in direct conflict with the parties' property rights and the status quo. Those orders were based not on any finding that Respondent lacked ownership or rights to the home, but presumably on a *temporary* need for protection (which, as shown, was falsely claimed). With the exposure of Petitioner's allegations as false, there remains **no lawful basis** to keep Respondent out of a home that he owns jointly. Texas

Family Code § 153.003 states that the Court cannot condition a parent's possession of a child on the payment of support or other matters unrelated to the child – likewise, the Court should not condition Respondent's access to his home (and thereby to his children) on a procedurally flawed prior order, especially when **Petitioner herself admits the home is community property**. The protective order application further underscores that Petitioner's sole claim to the home was through a **temporary court order**, not any independent right. When the predicate for that temporary order (alleged family violence) is unproven and disputed, the underlying property rights must prevail.

27. In equity, where two parties have equal right to possession of a property, one cannot exclude the other absent a valid court order supported by good cause. Here, absent the now-questionable temporary orders, Respondent as joint owner would be free to live in his home. The Court should thus give weight to Petitioner's admission of joint ownership and recognize Respondent's **unabated property right**. This is yet another reason to allow the SAPCR to go forward: so that the issue of residency and possession of the home can be revisited in light of the true facts and rights of the parties. The **protective order was leveraged into a settlement which both parties did not agree to** (as the record will show, if needed), meaning no long-term restrictions were found warranted. What remains is a fit father who co-owns his home seeking to return to his necessity to work and provide financially for the children. Petitioner's own pleadings remove any doubt about his entitlement. Accordingly, the Clerk and Court should not hesitate to facilitate Respondent's return via new temporary orders in this SAPCR, as even Petitioner's sworn statements support Respondent's position.

H. Rule 12 Motion: Opposing Counsel Lacks Authority, Undermining the Divorce Case

Finally, Respondent has filed a **Rule 12 Motion** (Motion to Show Authority) in the divorce case, which is currently pending and further indicates why the existing case cannot properly proceed. In that motion (filed September 20, 2024), Respondent challenged the authority of Petitioner's attorney of record to act on her behalf.

28. This challenge was not made lightly – it is supported by evidence that Petitioner's counsel **never filed the pleadings**, is not authorized to practice in this matter under her current registration, and may not even have a valid engagement with Petitioner. Notably, since that motion was filed, **Petitioner's counsel has failed to respond to it or otherwise prove her authority**. Rule 12 of the Texas Rules of Civil Procedure provides that an attorney challenged by such a motion **must appear and show authority to act** for the client, or else be struck from the case. Petitioner's counsel has not met this burden. Instead, irregularities have abounded: at a recent hearing (on Respondent's motion to recuse), Petitioner's counsel appeared **without having answered the Rule 12 motion**, and the Court allowed her to argue on a motion she did not respond to, but her authority remains in question.. Moreover, it came to light that Petitioner's counsel has been **unable to e-file pleadings on her client's behalf** because her electronic filing account is in disarray (registered under a former employer's email at Cantey Hanger yet is signing pleadings for Marx, Altman, & Johnson) . In fact, the few documents "filed" in the divorce case on Petitioner's side were filed by Roderick Marx, not by the attorney herself. And tellingly, Petitioner's counsel **failed to file the Notice of Remand** after the federal court sent the case back, leaving the case hanging indefinitely. All of this demonstrates that Petitioner's counsel is effectively **not acting with proper authority or competence** in the divorce matter.

29. This is critical because if Petitioner's attorney lacks authority, then Petitioner is essentially **unrepresented** in the divorce. Her pleadings (including the Original Petition for

Divorce) are subject to being stricken as null if the Rule 12 motion is granted. The entire divorce proceeding would be a nullity without an authorized petitioner or counsel – which is another reason it has stagnated. It would be unjust to make the children wait for months while this issue is sorted out. By contrast, in a new SAPCR, Petitioner can secure proper counsel or proceed pro se, but the Rule 12 quagmire in the divorce case can be sidestepped for now to get the children relief. The pending Rule 12 motion underscores that the **divorce case is on unstable footing**. It is procedurally snarled by questions of representation. On the other hand, Respondent is ready to proceed in the SAPCR **immediately** – he, as the petitioner in the SAPCR, obviously has authority to bring it, and he will serve Petitioner directly. If Petitioner's prior counsel truly has no authority, Petitioner will have to either hire new counsel or represent herself in responding to the SAPCR, but at least the case will **move forward**. The Rule 12 fiasco in the divorce should not be allowed to delay relief for the children. Equity again favors moving to a forum (the SAPCR) where all parties before the Court are indisputably authorized and the merits can be reached without distraction.

30. In summary on this point, Respondent's Rule 12 motion (which remains unanswered) indicates that the opposing attorney **"has no authority to act for the party"** – a situation which, by rule, would mandate striking her pleadings and possibly dismissing the divorce. Rather than let the case devolve into that chaos (to the children's detriment), the Court should start fresh with this SAPCR. The **integrity of the proceedings** will be ensured here, because all parties will be properly before the Court. Respondent is confident that once this SAPCR is active, Petitioner will either appear on her own or with legitimate counsel and the issues can finally be adjudicated on the merits. Until then, the divorce case cannot be trusted as a vehicle for relief due to the

cloud over Petitioner's representation. This factor strongly supports accepting the SAPCR as a standalone action and granting the requested hearing and relief without delay.

I. Conclusion

31. For all the foregoing reasons – lack of prosecution in the divorce, Petitioner's waiver of opposition, the children's urgent needs, the void nature of prior orders, the necessity of restoring the status quo, and procedural snares in the divorce case – **Respondent respectfully urges the Clerk to file the enclosed SAPCR as a new cause of action, and requests that the Court set an immediate EX-PARTE hearing on temporary orders** in this SAPCR to **issue injunctive relief immediately allowing access back into the residency and children's lives**. The Court has abundant legal justification and equitable grounds to do so. Most importantly, the **children's welfare compels immediate action, and the Petitioner will not be adversely affected by this decision, and has immediate housing options nearby available to her, contrary to the undersigned.** Every factor discussed above converges on one truth: these children need their father back and need a stable, working court order to govern their custody and care – and they need it now, not months from now. By allowing this SAPCR to proceed separately, the Court will cut the Gordian knot that the divorce case has become and will be able to issue orders **truly serving the children's best interests forthwith**.

32. Respondent is prepared to appear for an emergency hearing on **any date and time** the Court can accommodate – preferably today. He is also prepared to file any additional supporting documents or evidence the Court may require. All necessary filing fees for this SAPCR are being paid, and service of process will be promptly effected on the opposing party. We ask only that the Clerk **accept this filing** (rather than reject or re-route it to the old cause) and that the Court **immediately calendar the case** for a hearing at the earliest possible date. If there are any

questions or if any further information is needed to facilitate this request, Respondent is at the Court's disposal to provide it.

33. Thank you very much for your prompt attention to this urgent matter. By taking swift action, the Clerk and Court will literally be changing the lives of two children for the better. The law and justice are on the side of moving forward with this SAPCR. Respondent implores the Court to do so without delay.

Respectfully submitted,

/s/ Charles Dusin Myers
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: 99676236
Filing Code Description: No Fee Documents
Filing Description: SAPCR Cover-letter
Status as of 4/15/2025 12:57 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/15/2025 10:28:09 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/15/2025 10:28:09 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/15/2025 10:28:09 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/15/2025 10:28:09 AM	SENT

M.2278

233-765358-25

RESPONDENT'S ORIGINAL ANSWER

03.20.25

M.2278

 M.2279

233-765358-25

FILED
TARRANT COUNTY
3/20/2025 8:23 AM
THOMAS A. WILDER
DISTRICT CLERK

NO. 233-765358-25

IN THE INTEREST OF	**§**	**IN THE DISTRICT COURT**
	§	
M[redacted] M[redacted] AND C[redacted] M[redacted],	**§**	**233RD JUDICIAL DISTRICT**
	§	
CHILDREN	**§**	**TARRANT COUNTY, TEXAS**

RESPONDENT'S ORIGINAL ANSWER

MORGAN MYERS, Respondent, files this original answer. Respondent has not been issued a driver's license. Respondent has not been issued a Social Security number.

Preservation of Evidence: Petitioner is put on notice to preserve and not destroy, conceal, or alter any evidence or potential evidence relevant to the issues in this case, including tangible documents or items in Petitioner's possession or subject to Petitioner's control and electronic documents, files, or other data generated by or stored on Petitioner's home computer, work computer, storage media, portable systems, electronic devices, online repositories, or cell phone.

1. Information about Children

Information required by section 154.181(b) and section 154.1815 of the Texas Family Code will be provided at a later date.

2. Denial of Allegations

Respondent enters a general denial.

3. Verified Defense

There is another suit pending in Texas between the same parties involving the same claim. That suit is Cause No. 322-744263-23, pending in TARRANT County, Texas, styled "In the Matter of the Marriage of Morgan Myers and Charles Myers And In the Interest Of M[redacted]

 M.2279

M[redacted] and C[redacted] M[redacted], Children.

4. Attorney's Fees, Expenses, Costs, and Interest

It was necessary for Respondent to secure the services of COOPER L. CARTER, a licensed attorney, to prepare and defend this suit. Petitioner's suit was filed frivolously or is designed to harass Respondent.

If the parties are unable to reach an agreement on all issues, Petitioner, CHARLES MYERS, should be ordered to pay reasonable attorney's fees, expenses, and costs through trial and appeal, and a judgment should be rendered in favor of this attorney and against Petitioner and be ordered paid directly to Respondent's attorney, who may enforce the judgment in the attorney's own name. Respondent requests postjudgment interest as allowed by law.

5. Prayer

Respondent prays that all relief prayed for by Petitioner be denied and that Respondent be granted all relief requested in this answer.

Respondent prays for attorney's fees, expenses, and costs as requested above.

Respondent prays for general relief.

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 Respondent

Certificate of Service

I certify that a true copy of this Respondent's Original Answer 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 Respondent

Automated Certificate of eService

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Roderick Marx on behalf of Cooper Carter
Bar No. 24121530
MAJFIRM@YAHOO.COM
Envelope ID: 98671190
Filing Code Description: Answer/Contest/Response/Waiver
Filing Description: RESPONDENT'S ORIGINAL ANSWER
Status as of 3/20/2025 1:59 PM CST

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/20/2025 8:23:15 AM	SENT

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/20/2025 8:23:15 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/20/2025 8:23:15 AM	SENT
CHARLES DMYERS		CHUCKDUSTIN12@GMAIL.COM	3/20/2025 8:23:15 AM	SENT

M.2283

233-765358-25

MOTION TO CONSOLIDATE

03.20.25

M.2283

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[redacted] M[redacted] AND C[redacted] M[redacted],	§	**233RD JUDICIAL DISTRICT**
	§	
CHILDREN	§	**TARRANT COUNTY, TEXAS**

NO. 322-744263-23

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

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 322nd 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

M.2287

233-765358-25

RULE 12 MOTION TO SHOW AUTHORITY

Dated: 03/21/2025

M.2287

M.2288

****THIS IS NOT A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY****

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

Cause No. 233-765358-25

IN RE: M.E.M et al	§	In the (*check one*):
CHARLES DUSTIN MYERS, Petitioner	§	☒ 233rd District Court
vs.	§	☐ County Court at Law No. ____
MORGAN MICHELLE MYERS, Respondent	§	TARRANT County, Texas

Motion for RULE 12 SHOW AUTHORITY

Print your answers

My name is:

CHARLES DUSTIN MYERS

First *Middle* *Last*

I am the ☒ Petitioner ☐ Respondent in this case and request the Court grant this motion for PETITIONER'S RULE 12 MOTION TO SHOW AUTHORITY (*title of motion*). In support, the following is shown:

SEE ATTACHED.

M.2288

M.2289

Respectfully submitted,

/s/ Charles Dustin Myers — 03/21/2025
Your Signature — *Date*

CHARLES DUSTIN MYERS — 817-546-3693
Your Printed Name — *Phone*

[redacted], [redacted], TEXAS [redacted]
Mailing Address — *City* — *State* — *Zip*

CHUCKDUSTIN12@GMAIL.COM
Email Address

Fax # (if any)

Notice of Hearing

The above motion is set for hearing on _____ at _____.M. in

_____

_____ (*designation and location of court*).

SIGNED on _____.

_____
Judge or Clerk

Certificate of Conference *(check one)*

☒ I certify that I telephoned the other party's attorney or the other party (if the other party does not have an attorney), three times, but my phone calls were never returned. Therefore, we were not able to reach an agreement.

☐ I certify that I telephoned the other party's attorney or the other party (if the other party does not have an attorney) and we were not able to reach an agreement.

/s/ Charles Dustin Myers *03/21/2025*
Signature *Date*

Certificate of Service

I certify that I delivered a copy of this document to each party in this case, or if a party is represented by a lawyer to the party's lawyer, by: *(Check one or more)*

☐ Hand delivery to the other party _____

☐ Hand delivery to the other party's lawyer _____

☒ Email to this email address *MORGANMW02@GMAIL.COM COOPERCARTER@MAJADMIN.COM*

☐ Regular mail to this address:_____

_____

☐ Certified mail to this address:_____

_____

☐ Commercial delivery service (for example FedEx) to this address: _____

_____

☐ Fax to fax #:_____

/s/ Charles Dustin Myers 03/21/25
Signature *Date*

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN RE: M.E.M., ET AL. **CHARLES DUSTIN MYERS, ** Petitioner, **MORGAN MICHELLE MYERS,** Respondent. 2025-03-21	PETITIONER'S RULE 12 MOTION TO SHOW AUTHORITY

TO THE HONORABLE JUDGE OF THE 233RD DISTRICT COURT:

COMES NOW, CHARLES DUSTIN MYERS, Petitioner pro se, and files this Rule 12 Motion to Show Authority pursuant to Texas Rule of Civil Procedure 12, and respectfully shows the Court as follows:

1. There is a general presumption that an attorney is acting with authority; however, that presumption is rebuttable. *Breceda v. Whi*, 187 S.W.3d 148, 152 (Tex. App.--El Paso 2006, no pet.). If evidence or circumstances cast doubt on the attorney's authority, the presumption gives way and the attorney must prove actual authority. For example, an attorney who conducted a trial is presumed authorized to pursue an appeal, but that presumption can be rebutted with contrary evidence. Here, the unusual facts surrounding Ms. Carter's involvement thoroughly rebut any presumption of her authority to represent the Respondent named in this matter, Morgan Michelle Myers, as detailed below.

I. Texas Rule of Civil Procedure 12 – Attorney Must Show Authority

A. Carter's Lack of Authority Indicia

2. A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act. The notice of the motion shall be served upon the challenged attorney at least ten days before the hearing on the motion. At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. **Tex. R. Civ. P.**

3. Multiple red flags call into question whether Carter is authorized – or even genuinely acting – as Ms. Myers's counsel, justifying relief under Rule 12. Petitioner respectfully requests that the court requires RODERICK D. MARX and COOPER L. CARTER to appear and show their authority to represent MORGAN MICHELLE MYERS in this matter to clear up the ambiguity surrounding their representation.

B. Pleadings Filed by Proxy

4. Every filing attributed to Carter in this case was filed through another attorney, Roderick Marx, rather than by Carter herself. Mr. Marx is the founding partner of the MAJ firm Carter formerly worked for, and he submitted documents "on her behalf" through the electronic filing manager. In effect, Carter has not personally prosecuted or defended anything – someone else is handling the filings. This raises serious doubts about whether Carter is acting as counsel or whether Mrs. Myers's case is being carried (or neglected) by others without a clear designation. An attorney of record should be the one signing filings or at least directly supervising and endorsing them; if

not, the court and opposing party cannot even be sure the attorney whose name is on the pleadings is truly involved. Such proxy filings strongly indicate that Carter may lack authority or engagement – if she had authority, one would expect her direct participation. Rule 12 is meant to prevent exactly this sort of scenario where a suit might be conducted by someone without clear authorization.

C. Employment/Firm Misrepresentation

5. Carter's own public statements conflict with the representations made to the court about her role. While her pleadings continued to identify her as "Cooper Carter, Marx Altman & Johnson" (with a MAJ email address), her initial response in the instant case was filed by Roderick D Marx, signed by Cooper Carter with the Marx, Altman & Johnson letterhead, and then claimed that Cooper L. Carter was retained in her individual capacity. Further:

i. Carter's public Facebook profile claims that she is no longer employed with Marx, Altman, & Johnson.

ii. Carter's public LinkedIn profile claims that she is no longer employed with Marx, Altman, & Johnson, and that she currently is employed at Cantey and Hanger, LLP.

iii. Carter's Electronic Filing Manager is registered under ccarter@canteyhangar.com.

This level of ambiguity is unnecessary and could be deliberate. In fact, Texas law requires attorneys to keep their State Bar profile updated with current employment information (Tex. Gov't Code § 81.115), which currently reflects her employment with Marx, Altman & Johnson. So the question remains: why would Carter update her Texas State Bar profile to reflect her current employer but leave her social media and LinkedIn outdated?

D. Failure to Participate or Respond (Abandonment)

6. Carter's complete failure to prosecute the divorce case for an extended period also undercuts any claim of active authority. An attorney who is truly acting with a client's authorization is expected to pursue the client's interests diligently – e.g. respond to motions, appear at hearings, move the case forward. Carter, however, has been conspicuously silent. She has not plead any defense for her client, has not participated in any discovery.

7. Carter's abrupt appearance in this suit—after months of silence in the divorce case—mirrors the same confusion and procedural uncertainty that plagued the divorce action. This re-emergence appears tactical, not substantive, and should not obstruct the SAPCR's merits-based progression. She has not mentioned anything about the children, their status, or how the current situation is what's best for them.

8. Carter's only notable action in the last six months related to her client has been to seek consolidation of the SAPCR with the dormant divorce – essentially tethering the active custody matter to a paralyzed divorce case which would further prejudice the children and delay the relief sought.

II. Conflicts of Interest and Duty of Candor

9. Misrepresenting one's role or affiliation can also create **conflicts of interest** and breaches of the duty of candor. If an attorney signs pleadings stating it was "necessary to retain their legal services" while filing under a firm's name, it muddles who was retained – the individual lawyer or the firm. This ambiguity can prejudice the client's interests and the opposing party's understanding of the representation.

10. For example, in the case at hand the answer explicitly stated, *"It was necessary for Morgan [Michelle] Myers to secure the services of COOPER L. CARTER, a licensed attorney, to*

prepare and defend this suit.". Yet, the filing was styled as coming from *"Marx Altman & Johnson"* with Carter as the attorney. If Mrs. Carter was operating as a solo practitioner at that point, the pleading arguably misled the court about who had been hired. This kind of misrepresentation may violate the lawyer's **candor toward the tribunal** (e.g. Tex. Disc. R. 3.03 or its equivalents) since it obscures a material fact – the lawyer's true status. Courts have held that lawyers must not omit facts necessary to keep statements from being misleading. Failing to clarify that the attorney is no longer with the named firm, it could be seen as an omission that makes the filing as a whole misleading.

III. Unauthorized Filings and "Ghost" Representation

12. Having documents filed by another attorney who has not formally appeared is another problematic practice. In proper procedure, every pleading or motion must be signed by an attorney of record – i.e. a lawyer who has made an appearance in the case. Texas is clear: *"Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name."* If Attorney A is counsel of record, it is improper for Attorney B (who has not appeared in the case) to file documents on A's behalf without disclosure or court permission.

13. In the example above, the e-filing system's certificate shows **"Roderick Marx on behalf of Cooper Carter"** as the filer, neither of which have formally appeared. This kind of "ghost filing" blurs who is responsible for the document. **Courts frown upon undisclosed involvement of attorneys** because it can circumvent accountability and confuse the record. At best, it is an irregular practice; at worst, it could be seen as misrepresentation to the court. Here, given the same circumstances exist in the divorce case which has been abandoned, Petitioner believes the situation leans more towards misrepresentation.

14. Procedurally, if an attorney who is not counsel of record submits a filing, the court may treat that filing as nullity or require it to be redone. **No appearance means no authority to act**. From an ethical standpoint, using another lawyer to file pleadings without notice may implicate rules against aiding in rule violations. **Lawyers are forbidden from assisting or inducing others to violate the rules** (see Tex. Disc. R. 8.04(a)(1). If Attorney A knows they should appear officially but instead has Attorney B file a document to evade a procedural requirement, both attorneys tread on thin ice. They could be seen as trying to circumvent the rules of the tribunal. At a minimum, this lack of transparency undermines trust. The proper course would have been for the second attorney to file a notice of appearance (if joining the case) or for the original attorney to personally sign and file the pleading. Having someone "cover" a filing without formal acknowledgment is not a recognized practice. In short, **any attorney involved in a case needs to either be of record or stay behind the scenes entirely**. But if an attorney actually files or signs on behalf of the attorney of record, that person effectively **steps into the role of counsel without the court's knowledge**, which is improper. It is better to err on the side of disclosure – either by formal association of that attorney or by avoiding involvement in filing.

15. As pointed out, the Petitioner believes that this is occurring because Carter's EFM account is setup under her prior employer's email address. So why not change it to reflect the correct address and file your own pleadings? Lastly, these same issues have been present in the divorce matter, and although Carter was served with a Rule 12 motion in that case on September 20, 2024, she has yet to clear up this issue.

IV. CONCLUSION AND PRAYER

For the above stated reasons, Petitioner requests the following relief from the court:

1. That before any requested relief is granted and before any motion can be set for hearing by COOPER L. CARTER, that she be required to appear alongside RODERICK D. MARX and show their authority to represent MORGAN MICHELLE MYERS in this matter;
2. If the authority to represent MORGAN MICHELLE MYERS cannot be shown, Petitioner requests that the court strike all pleadings and motions filed by either attorney in this SAPCR pursuant to Rule 12 of the Texas Rules of Civil Procedure and;
3. Grant any further relief that the court deems just and equitable given the circumstances.

Respondent affirms that the above titled motion was filed in good faith, and the relief sought ultimately serves the bests interests of the children named in this suit.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS
CHUCKDUSTIN12@GMAIL.COM
817-546-3693
[redacted]
PRO-SE

AFFIDAVIT OF CHARLES DUSTIN MYERS

STATE OF TEXAS § § COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, personally appeared CHARLES DUSTIN MYERS, who, being duly sworn, deposed and stated:

1. "My name is CHARLES DUSTIN MYERS. I am over 18 years of age, of sound mind, and fully competent to make this affidavit. I have personal knowledge of the facts herein stated, and they are true and correct.

2. I am the Petitioner in Cause No. 233-765358-25, currently pending in the 233rd District Court of Tarrant County, Texas.

3. I filed this Rule 12 Motion to Show Authority due to reasonable and substantial doubt regarding the authority of attorneys COOPER L. CARTER and RODERICK D. MARX to represent Respondent, MORGAN MICHELLE MYERS.

4. I have personally observed and documented procedural irregularities, including but not limited to: a. Failure of attorney COOPER L. CARTER to formally appear or file a notice of appearance in the case, creating ambiguity regarding her representation. b. Pleadings attributed to COOPER L. CARTER being filed solely through attorney RODERICK D. MARX, raising questions regarding actual representation authority and participation. c. Inconsistencies in public statements and professional profiles by COOPER L. CARTER concerning her current employment and representation status. d. The complete absence of meaningful participation or prosecution of related divorce proceedings for a prolonged period, contrasted by her sudden appearance and procedural interference in this Suit Affecting Parent-Child Relationship (SAPCR).

5. These facts collectively cast substantial and justifiable doubt upon the claimed representation of MORGAN MICHELLE MYERS by COOPER L. CARTER and RODERICK D. MARX, necessitating judicial inquiry.

6. My primary motivation in filing this Rule 12 Motion is to ensure clarity of legal representation, procedural integrity, and, most importantly, to safeguard the best interests and welfare of the children involved in this case.

7. I believe wholeheartedly that Cooper L. Carter is litigating in bad faith, has no genuine interest in the best interests of the Children, and only exists as a barrier to the relief the Petitioner has diligently sought for over a year for his children.

FURTHER AFFIANT SAYETH NOT."

Charles Dustin Myers 03/21/2025

CHARLES DUSTIN MYERS
CHUCKDUSTIN12@GMAIL.COM
817-546-3693
[redacted]
PRO-SE

CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, Respondent, CHARLES DUSTIN MYERS, certifies that the above motion, Petitioner's Rule 12 Motion to Show Authority, has been filed with the electronic filing manager and served on the parties of record on this 21st day of March 2025, including:

MORGAN MICHELLE MYERS, RESPONDENT

Via her email registered under the EFM: MORGANMW02@GMAIL.COM

COOPER L. CARTER

Via her email not registered under the EFM: COOPERCARTER@MAJADMIN.COM

Charles Dustin Myers 03/21/2025

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

Commonwealth of Virginia
County of Newport News Virigina

The foregoing instrument was subscribed and sworn before me on 03/21/2025 by Charles Dustin Myers.

Micheala Keisha Grant
8070793

My commission expires: 08/31/2027

Notarized remotely online using

M.2301

233-765358-25

EMERGENCY TRO AND

ORDER SETTING HEARING

Dated: 03/24/2025

M.2301

M.2302

233-765358-25

FILED
TARRANT COUNTY
3/24/2025 4:42 PM
THOMAS A. WILDER
DISTRICT CLERK

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN RE: M.E.M., ET AL.

**CHARLES DUSTIN MYERS, **

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

2025-03-24

EMERGENCY MOTION FOR TRO

TO THE HONORABLE COURT:

Petitioner, CHARLES DUSTIN MYERS ("Father"), urgently brings before this court an EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER to be issued immediately and without prior notice to the Respondent, MORGAN MICHELLE MYERS ("Mother"), for the safety and welfare of their two minor children M.E.M. and C.R.M., the parties' biological children. The Respondent has been informed of this request for a TRO as well as her attorney, COOPER L. CARTER. Petitioner has received

M.2302

no response from either individual. Swift injunctive relief is needed to safeguard the well-being of the children – including immediate medical needs, schooling needs, financial needs, and emotional needs that the Petitioner has the ability, desire, and duty to satisfy.

The Respondent has disrupted the stable living environment enjoyed by the children up until the Petitioner's unlawful exclusion on March 6, 2024. They have been left without a Father for over thirteen months without any legal justification and are now being raised by their elderly great-grandparents in place of their Father.

The forthcoming and undisputed facts uncover the true intent behind the Respondent's actions and clearly demonstrate the need for the Petitioner's immediate re-entry into their lives.

I. STATEMENT OF JURISDICTION

This Court has jurisdiction, and the authority grants the requested relief because no valid existing orders bar such action. The only prior orders affecting the parties were issued in the 322nd District Court of Tarrant County, but those orders are void and of no legal effect. Under Texas Family Code § 201.013(b), an associate judge's order does not become final unless and until the referring district court judge signs the order.

Moreover, the orders claim that all parties agree to the terms of the order despite the Petitioner's signature being absent. In the prior proceedings (Cause Nos. 322-744263-23 in the 322nd District Court), an associate judge signed a "temporary" order on March 14, 2024 that purported to be an agreement between the parties. Critically, no district judge of the 322nd District Court ever signed or adopted that order, as required by law. TEX. FAM. CODE Sec. 201.013. Given this fact, the orders have no legal effect and

should be declared void by this court, or in the alternative, voidable, and vacated without delay. There is effectively no valid court order currently governing the parties' residence or conservatorship rights. This Court may therefore proceed to protect the children's welfare and the parties' rights as justice requires, unimpeded by the defective 322nd District Court order.

Furthermore, this court has jurisdiction because the Respondent cannot argue that the related cause number retains dominated jurisdiction. Texas law does allow a court to lose dominant jurisdiction if the party with the first suit proceeded in bad faith or the suit is not actively pursued. Both apply here, as demonstrated below. The first suit was unquestionably brought in bad faith, and the case hasn't been actively pursued for over six months by the opposition, leaving the children in procedural limbo and their needs unaddressed.

II. STATEMENT OF FACTS

1. On December 12, 2023, Petitioner discovered over 6,500 text messages exchanged between the Respondent and an individual named DAMEN GAULT KAZLAUSKAS by checking the usage history on the joint AT&T account owned by the Respondent's grandmother and paid for by the Petitioner, who had access to the account. (these records are voluminous and will be provided at hearing)

2. On December 14, 2023, in response to this discovery, the Respondent made plans to visit the residence of an individual named DANIEL KENNETH BRANTHOOVER, her stepfather.

3. During this trip, the Respondent withdrew the entirety of funds within the joint marital bank account, totaling $1,576, and transferred the funds to Mr. Branthoover's PayPal account, which is reflected in the Petitioner's bank statements as "dmb575".

4. The Respondent and Mr. Branthoover both admitted this transaction occurred via text message evidence.

5. The Petitioner requested the funds be returned on December 16, 2023, and informed Mr. Branthoover of the fund's intent being for the Children's Christmas gifts and household bills related to Petitioner's business operations.

6. The intentions of the trip to Mr. Branthoover's residence located in Yukon, Oklahoma were then made clear in his response when Mr. Branthoover informed the Respondent via text message that "he would be getting divorced" and that he "hope[s] [he] can help with the paperwork."

7. On December 17, 2023, the Petitioner was served an eviction notice by the Respondent's grandmother, which cited a protective order and a divorce as the grounds for eviction. Exhibit 5

8. On December 18, 2023, the Petitioner filed for divorce in the 322nd District Court of Tarrant County claiming financial indigency and waived the 60-day waiting period due to claiming an active protective order was in effect against Petitioner, as well as made the claim that she believed herself or the children would be abused or harassed if any contact info were given to Petitioner.

9. On December 19, 2023, Mr. Branthoover reached out via text message and informed the Petitioner not to contact "his client" any further.

10. On December 22, 2023, the Respondent filed for another protective order claiming that family violence had occurred on December 18, 2023, in the presence of the children. Exhibit 8

11. On the same evening that she filed for protection, the Respondent can be seen at home with the Petitioner in no emergency. Exhibit 9

12. Between December 23 and January 16, the Petitioner and Respondent peacefully cohabitated with the children continuing their normal routine where the Petitioner stayed home and worked during the day and would pick the children up from school and care for them in the evenings and on weekends.

13. The Petitioner was responsible for the children's daily meals, bathing, helped in getting them ready for school, taking them to school, and picking them up from school throughout their lives alongside the Respondent.

14. On January 16, 2023, the 322nd District Court of Tarrant County ordered the Petitioner to vacate the matrimonial home at [redacted]Texas and the case was reset for January 22, 2024.

15. On January 19, 2024, Petitioner retained Dan Bacalis, a licensed attorney.

16. On January 22, 2024, after the reset hearing was already supposed to have started, RESPONDENT retained COOPER L. CARTER in the lobby of the 322nd

District Court on the fly and then requested a continuance, which was granted, and the case reset to February 1st, 2024.

17. On February 1, 2024, the parties appeared by counsel and entered into a settlement agreement via an Associate Judge's Report that had the following provisions ordered by the Associate Judge:

i. A typed written Order conforming to this Report will follow within 20 days from the date this report is signed.

ii. The order shall be prepared by DAN BACALIS.

iii. Each attorney should approve the Order.

iiii. The parties do not need to approve the Order.

iiiii. The attorney reviewing the Order will have (5) days to do so.

iiiiii. There are no 10 day letters.

iiiiiii. 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.

18. On February 5, 2024, Petitioner terminated the services of Dan Bacalis.

19. On February 8, 2024, Petitioner put the court on notice that he rescinded the agreement and filed an EMERGENCY MOTION TO RECONSIDER EVIDENCE AND VACATE TEMPORARY ORDERS containing the following exhibits:

DKT.53 - A.1 - TEXT RECORDS AND VISUALIZATIONS

DKT.54 - EXHIBIT A.2 - TEXT TO PAPAW

DKT.55 - EXHIBIT A.3 - FINANCIAL TRANSACTION

DKT.56 - EXHIBIT A.4 - OVERDRAWN ACCOUNT

DKT.57 - EXHIBIT A.5 - EVICTION NOTICE TORN

DKT.58 - EXHIBIT B.1 - DIVORCE PETITION

DKT.59 - EXHIBIT B.2 - DISMISSED EVICTION

DKT.60 - EXHIBIT C.1 - FILINGS REGARDING PROTECTIVE ORD

DKT.61 - EXHIBIT C.2 - 01.16.2024 RENDITION UNSIGNED

DKT.62 - EXHIBIT C.3 - RENDITION FOR JANUARY 22ND, 2024

21. On February 12, 2024, an order was rendered effectuating the termination of Dan Bacalis by the court.

22. On February 22, 2024, Petitioner filed a MOTION FOR PARTIAL SUMMARY JUDGEMENT with an attached parenting plan.

23. On February 27, 2024, a notice of hearing was filed with the clerk and scheduled the Petitioner's EMERGENCY MOTION TO RECONSIDER EVIDENCE AND VACATE TEMPORARY ORDERS for March 14, 2024.

24. On March 6, 2024, while walking his two children to school, the RESPONDENT ran inside the marital home and locked the Petitioner out of the home.

25. On March 14, 2024, RESPONDENT and her counsel, COOPER L. CARTER, were seen in the conference room preparing Temporary Orders moment before the hearing was to begin.

26. On March 14, 2024, Petitioner was handed a document titled "Temporary Orders" which had already been signed by the opposing party.

27. On page 1 of the orders, the orders claimed "All parties consent to the terms of these orders as evidenced by the signatures below."

28. On March 14, 2024, the Associate Judge denied the Petitioner's emergency motion.

29. On March 14, 2024, the Associate Judge adopted the Associate Judge's Report signed by the parties on February 1st and ordered the Petitioner to sign them by 1:30 P.M. that same day.

30. On March 26, 2024, the Temporary Orders signed on March 14, 2024, were filed with the clerk.

31. On March 26, 2024, the Petitioner filed a request for findings of fact and conclusions of law.

32. On April 8, 2024, the Petitioner filed a Petition for Writ of Mandamus in the Second Court of Appeals.

33. On April 10, 2024, the Petitioner's Petition for Writ of Mandamus was denied.

34. On April 22, 2024, the Petitioner filed a Motion for Rehearing in the Second

36. On April 24, 2024, Petitioner filed an OBJECTION to the MOTION FOR PRETRIAL CONFERENCE.

37. On April 25, 2024, Petitioner's motion for rehearing was denied.

38. On April 27, 2024, Petitioner filed a Motion for Reconsideration En Banc with the Second Court of Appeals.

39. On April 30, 2024, Petitioner filed a notice of completion regarding the 'children in the middle' course.

40. On May 2, 2024, Petitioner's motion for reconsideration en banc was denied.

41. On May 13, Petitioner filed a PETITION FOR WRIT OF MANDAMUS in the Texas Supreme Court.

42. On June 2, 2024, the RESPONDENT's grandmother called the Petitioner, raising several concerns regarding the children's well-being.

43. On June 28, 2024, the Texas Attorney General's Office filed an INTERVENTION.

44. On July 1, 2024, the Petitioner filed an OBJECTION TO INTERVENTION pleading.

45. On August 30, 2024, the Petitioner's mandamus was denied in the Texas Supreme Court.

46. On September 10, 2024, the Petitioner filed a MOTION FOR REHEARING in the Texas Supreme Court.

47. On September 17, 2024, the Petitioner served a REQUEST FOR DISCOVERY, PRODUCTION, AND ADMISSIONS on the opposing party.

48. On September 20, 2024, the Petitioner filed a RULE 12 MOTION TO SHOW AUTHORITY against COOPER L. CARTER.

49. On September 26, 2024, the Petitioner filed a MOTION FOR TEMPORARY ORDERS, later amended on September 27, 2024.

50. On October 7, 2024, the Petitioner filed a JOINT MOTION TO RECUSE the district and associate judges from the case.

51. Petitioner's motion for rehearing was denied by the Texas Supreme Court on October 18, 2024.

52. On November 1, 2024, Justice E. Lee Gabriel was assigned to hear the recusal motion.

53. On November 4, 2024, Petitioner filed a PRE-TRIAL MOTION IN LIMINE.

54. On November 6, 2024, the Petitioner requested confirmation from the clerk that Justice E. Lee Gabriel took her required Oath of Office.

55. On November 15, 2024, Petitioner filed a MOTION TO COMPEL DISCOVERY regarding the discovery requests sent on September 17, 2024.

56. On November 19, 2024, an order DENYING the recusal of the associate and district judges was filed with the clerk.

57. On December 12, 2024, the Petitioner filed a NOTICE OF REMOVAL with the 322nd District Court, and removed the case to the Northern District of Texas.

58. On December 14, 2024, the case was REMANDED by the Northern District of Texas for lack of subject matter jurisdiction.

59. On January 12, 2025, Petitioner filed a MOTION TO DISMISS FOR WANT OF PROSECUTION.

60. On March 18, 2025, Petitioner filed an original SAPCR and motion for injunctive relief with this court.

61. On March 22, 2025, the Petitioner learned through a family member that Respondent's public Facebook profile states "In a Relationship since February, 2024".

62. On March 22, 2025, the Petitioner informed the opposing party of this motion.

63. On March 23, 2025, the Petitioner filed this suit with this court seeking immediate and emergency relief given the extraordinary circumstances leading up to this point.

III. IMMEDIATE NEED FOR RELIEF

64. Every day that Petitioner remains barred from his home and children inflicts irreparable injury on both Petitioner and the children. Irreparable harm means an injury that cannot be adequately compensated for money damages or corrected later. That is exactly the case here.

65. Petitioner is being deprived of the irreplaceable experience of parenting his children during their formative years. No amount of monetary compensation or later visitation can make up for the lost time, missed milestones, and emotional bonding that has been denied for over a year. Courts have recognized that interference with custodial or visitation rights constitutes irreparable harm, as time lost with one's child is gone forever. The children are likewise losing the benefit of a father's love, guidance, and daily care – a harm that is unquestionably irreparable. If this wrongful separation continues, the risk increases that the parent-child bond could be permanently damaged. Reunification becomes harder as more time passes; thus the urgency is extreme.

66. The children have been suffering confusion, instability, and emotional distress due to the sudden absence of Petitioner and the drastic changes imposed by Respondent. They went from having both parents in their daily life to seeing only one parent, with no satisfactory explanation. Respondents' insertion of a new father-figure (Mr. Kazlauskas) has exacerbated their confusion and anxiety. This kind of emotional turmoil in young children can lead to long-term psychological issues – a classic irreparable injury, as the court cannot later repair the trauma inflicted on a child's sense of security. Restoring Petitioner's presence is needed now to begin healing the damage and to reassure the children that their father has not abandoned them. The more time that passes, the deeper the potential harm to the children's mental health.

67. Petitioner's fundamental right to maintain his familial relationship with his children (protected by the U.S. and Texas Constitutions) is being violated. Such a violation is inherently irreparable. Deprivation of one's home – being ousted without cause – is also a profound personal harm for which there is no adequate remedy at law.

Petitioner has effectively been made a stranger to his own family and property based on false pretenses. If the Court does not act, the Petitioner will continue to suffer intangible harms such as loss of income, anguish, and the erosion of his role as a father, none of which can be quantified or compensated later.

IV. THE RESPONDENT'S MISCONDUCT

Perjury and Aggravated Perjury (Tex. Penal Code §§ 37.02–.03)

68. Texas law makes it a crime to make false statements under oath. Perjury occurs when a person, with intent to deceive, makes a false statement under oath in a proceeding where an oath is required.

69. If the false statement is made in connection with an "official proceeding" and is material, it becomes Aggravated Perjury, a third-degree felony. In civil cases, knowingly submitting false affidavits or testimony can also constitute perjury and be treated as a fraud upon the court. Courts have recognized that false sworn statements in family law matters are serious misconduct, undermining the judicial process and potentially warranting sanctions or even criminal referral (e.g., Skepnek v. Mynatt, 8 S.W.3d 377, 381 (Tex. App. – El Paso 1999) (attorney sanctioned $30,000 for filing false affidavit).

70. Here, Respondent swore to multiple false statements under oath, meeting all elements of perjury and aggravated perjury. For example:

False Affidavit of Indigency

71. On December 18, 2023, Respondent filed a sworn "Affidavit of Inability to Pay" court costs, claiming she had only $20 in her bank account. This statement was knowingly false. Just two days prior, Respondent had transferred $1,576.00 in marital funds to herself, as confirmed by text messages with her relative (Dan Branthoover) on December 16. She then appeared in court swearing she was penniless and could not afford the $400 filing fee. In that same affidavit, Respondent also lied that she alone paid certain expenses (two car loans and $800 rent plus utilities), when in fact Petitioner had been paying those bills; he continued to pay for the vehicles Respondent claimed to finance on her own. Bank statements and financial records will clearly establish this fact on the merits. Respondent's counsel has never refuted these facts. Thus, Respondent made multiple false statements under oath, meeting Penal Code § 37.02. Because these affidavits were filed in court proceedings and were material to the case (securing a fee waiver and influencing the court's actions), they also qualify as aggravated perjury under § 37.03. Each false statement was material to issues before the court (Respondent's financial status and credibility), satisfying the materiality requirement.

False Statements in Protective Order Filings

72. Respondent submitted false sworn statements in her applications for protective orders. Texas Family Code § 82.009 requires that an application for a temporary ex parte protective order "contain a detailed description of the facts" of alleged family violence and be sworn as true by the applicant. Respondent sought an ex parte protective order on or about Dec. 14, 2023, claiming abuse, yet on Dec. 22, 2023, she was photographed laughing and playing with the children alongside Petitioner – conduct wholly inconsistent with someone in fear of imminent harm. In fact, that same day, she

had applied for a second protective order against the Petitioner with similar allegations. No credible evidence of family violence was ever presented in thirteen months of litigation but has been used as a barrier from accessing the home where the Petitioner is needed.

73. The contextual evidence of falsity (her normal familial behavior with Petitioner the same day she sought Protection) defeated her sworn claims of "fear" or violence and display that they were indeed fabricated. At the very least, her contradictory sworn assertions – e.g. claiming on Dec. 18 to have an "active" protective order based on family violence (to justify a divorce waiver) when in truth none existed – demonstrate a reckless disregard for the truth under oath.

74. These false protective order filings were not isolated incidents but part of a calculated strategy to remove Petitioner from the family home and children's lives. The timing of these filings—immediately after the discovery of Respondent's extramarital relationship with Mr. Kazlauskas—reveals their true purpose: not to protect against genuine violence, but to preemptively silence Petitioner and prevent him from exposing Respondent's infidelity and financial misconduct. By falsely claiming fear while simultaneously engaging in normal family activities with Petitioner, Respondent demonstrated the fabricated nature of her allegations.

75. The pattern of deception is unmistakable: Respondent drained the family bank account on December 15-16, filed false indigency claims on December 18, falsely claimed an existing protective order in her divorce petition that same day, then filed yet another protective order application on December 22—all while continuing to interact

normally with Petitioner at home. This coordinated sequence of events shows a premeditated plan to use the legal system as a weapon against Petitioner rather than as the shield of protection it was designed to be.

Controlling Law

76. False testimony or affidavits in a civil proceeding can warrant severe consequences. While the proper remedy for "intrinsic" fraud (false statements on issues litigated at trial) is often a new trial or sanctions rather than voiding a judgment, courts do not hesitate to act on clear perjury. Texas courts have inherent authority to address fraud on the court, and criminal prosecution for aggravated perjury is a possibility for egregious lies under oath. Indeed, aggravated perjury in court proceedings is a felony punishable by 2–10 years' imprisonment (Tex. Penal Code § 37.03(b)).

77. That is precisely what has occurred in this case, and Respondent should face some consequences for her actions, but Petitioner believes that prolonged incarceration would not be in the best interests of his children, but that some form of legal repercussion is necessary to deter similar behavior in the future. She has made no effort to defend these claims, no effort to prosecute her case, and the Petitioner prays that this court realize the severity of this situation on those effected most: the children.

V. BEST INTEREST OF THE CHILDREN

78. The Texas Family Code references "the best interest of the child" 109 times throughout its text, and throughout the entirety of the code itself – the word "always" only appears once. TEX. FAM. CODE. Sec. 153.002. (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.)

79. Here, this statutory mandate was grossly violated by the Respondent and her purported counsel, who have suddenly become active in the litigation here despite remaining silent for over eight months in the parallel case destined for dismissal.

80. Indeed, the instant case reveals a Mother with an agenda to erase the parent the children relied on the most from their lives despite a valid legal reason, and has disregarded their livelihood in the process.

81. Respondent's conduct constitutes a blatant violation of the "best interest" standard mandated by Texas Family Code §§ 153.001 and 153.002. Texas law declares it the public policy of this state to assure that children have frequent and continuing contact with parents who act in the child's best interest, to provide a safe and stable environment for the child, and to encourage both parents to share in raising the child. Moreover, the best interest of the child must always be the court's primary consideration in matters of conservatorship and access. Respondent has flagrantly defied these principles by prioritizing her extramarital relationship with Mr. Damen Kazlauskas over the emotional, psychological, and familial stability of her own children.

Orchestrated Campaign of Deception at the Family's Expense

82. The evidence reveals a disturbing pattern: Respondent orchestrated a comprehensive campaign of deception that sacrificed her children's emotional well-being and family stability to pursue her extramarital relationship. This was not a series of isolated incidents but a calculated strategy that unfolded in precise sequence:

83. First, Respondent engaged in an extramarital relationship with Mr. Kazlauskas (evidenced by over 6,500 text messages);

84. Second, upon discovery of this relationship, she immediately sought assistance from Mr. Branthoover to draft legal documents;

85. Third, she drained the family's financial resources ($1,576) that were intended for the children's Christmas gifts;

86. Fourth, she filed false protective order applications and a fraudulent indigency affidavit;

87. Fifth, she misrepresented to the court that an active protective order existed when none did;

88. Finally, she used these fraudulent filings to remove Petitioner from the family home and children's lives.

89. Each step in this sequence was designed not to protect the children but to advance Respondent's personal agenda at their expense. The children have been collateral damage in Respondent's effort to reconstruct her life with Mr. Kazlauskas, who she now publicly acknowledges as her partner "since February 2024"—a relationship that began while she was still actively living with Petitioner and the children.

Deception and Psychological Confusion of the Children

90. Respondent has knowingly misled the minor children about the status of their family by telling them that she and Petitioner are already divorced, even though the divorce is not final. This deliberate falsehood serves Respondent's personal narrative but

wreaks emotional havoc on the children. They are left in a state of confusion—believing their family has been permanently fractured when in fact the legal marriage remains intact. By intentionally misrepresenting such a fundamental truth, Respondent has shown a willingness to confuse and emotionally harm her children to justify her own choices, in direct contravention of her duty to prioritize the children's emotional well-being.

Prioritizing an Extramarital Relationship Over Family

91. Compounding the harm, Respondent is openly celebrating a relationship with Mr. Kazlauskas – a man with whom she entered an extramarital relationship while still married to Petitioner. She has flaunted this relationship and positioned Mr. Kazlauskas as a replacement father figure to the children, celebrating milestones with him that should be reserved for family. In doing so, Respondent elevates her personal relationship over her children's need for stability and continuity with their real father. This behavior sends the children a disturbing message: that their father's role in their lives is interchangeable or unimportant. Such a message is detrimental to the children's best interests, as it undermines their sense of security, identity, and trust in their family structure and the close relationship that they have shared with their father throughout their lives.

Active Alienation and Erasure of the Father

92. Respondent has gone to alarming lengths to minimize and erase Petitioner's presence in the children's lives. She has introduced Mr. Kazlauskas to the children as if he were a new parent, while simultaneously telling the children that Petitioner (their father) is no longer in their lives. This calculated act of alienation strikes at the very heart

of Texas public policy, which seeks to ensure children maintain frequent and continuing contact with both parents.

93. Instead of fostering the father–child relationship, Respondent has deliberately attempted to sever it. The children are being taught through Respondent's words and actions that their father has effectively disappeared and been substituted by a stranger, causing profound emotional damage and confusing the children about who their father is. This behavior is not only cruel; it is directly contrary to the children's best interests and Texas's clear directives that children benefit from the love and involvement of both parents.

93. The children's current living situation—being raised primarily by elderly great-grandparents rather than their capable and willing father—further demonstrates how Respondent's personal agenda has superseded the children's needs. Rather than allowing Petitioner to fulfill his parental role and provide daily care and support to the children, Respondent has relegated this responsibility to extended family members, depriving the children of their father's presence, guidance, and care during crucial developmental years.

94. Respondent's systematic use of false protective orders, perjured testimony, and procedural manipulation has created a legal fiction that has kept Petitioner from his children for over thirteen months. This separation was not based on any legitimate safety concern or the children's best interests, but solely on Respondent's desire to reconstruct her family unit with Mr. Kazlauskas at the center—effectively erasing Petitioner from the children's lives to accommodate her new relationship.

95. The harm to the children from this prolonged, unjustified separation from their father cannot be overstated. Research consistently shows that children benefit from the active involvement of both parents, and that unnecessary disruption of the parent-child bond can cause lasting psychological damage. By prioritizing her personal relationship over her children's need for both parents, Respondent has demonstrated a fundamental misalignment with the "best interest" standard that Texas law demands be the "primary consideration" in all matters affecting children.

96. Despite the Respondent’s egregious actions, the Petitioner wishes her no ill will as she is the mother of his Children and only seeks an amicable path forward that suits their best interests. As of now, the Children need their father, and this situation engineered by the Respondent shows that her fitness as a parent has been called into question, and her priorities are not in the correct place. Petitioner vows his return to the family home will only bring much needed stability to his children and will be in their best interests for their day-to-day livelihood.

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully prays that this Honorable Court:

(1). Issue an immediate Temporary Restraining Order for the safety and welfare of the children without notice to Respondent, restraining Respondent from:

a. Denying Petitioner access to the children;

b. Denying Petitioner access to the family residence at [redacted], [redacted], Texas 7[redacted]

c. Disturbing the peace of the Children;

d. Disrupting the status quo of the children as it existed on March 6, 2024;

c. Removing the children from Tarrant County, Texas;

d. Making disparaging remarks about Petitioner to or in the presence of the children;

e. Interfering with Petitioner's possession of and access to the children;

f. Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of the parties;

g. Falsifying any records relating to the children or property;

h. Misrepresenting any facts to the children regarding the marriage, divorce proceedings, or Petitioner's role in their lives;

i; Bringing the Children near DAMEN GAULT KAZLAUSKAS;

(5). Set a hearing on Petitioner's request for a Temporary Injunction at the earliest possible date not later than 14 days from the electronic delivery of this TRO to the Respondent;

(6). After hearing, issue a Temporary Injunction containing the same prohibitions as this Temporary Restraining Order;

(7). After trial, if no agreement can be reached, grant Petitioner primary conservatorship of the children;

(8). After trial, if no agreement can be reached, grant Petitioner exclusive possession of the family residence until damages can be fully restored and alternative residency can be established nearby the Children;

(10). Grant such other and further relief to which Petitioner may be justly entitled.

It's been a long road. The Petitioner prays he may now return home to his children and prepare for this difficult time in a manner which comports with their fundamental needs.

Thank you.

Respectfully submitted,

/s/ Charles Dustin Myers

CHARLES DUSTIN MYERS, Pro Se

[redacted]

[redacted]

Phone: 817-546-3693

Email: CHUCKDUSTIN12@GMAIL.COM

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 4.11(11)(e)

Petitioner certifies that after diligent attempts to reach both the Respondent and her Counsel, all attempts were unsuccessful.

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

Automated Certificate of eService

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Envelope ID: 98863782
Filing Code Description: Proposed Order
Filing Description: PROPOSED ORDER
Status as of 3/26/2025 3:31 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	3/25/2025 2:10:47 PM	NOT SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	3/25/2025 2:10:47 PM	NOT SENT

M.2327

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

233-765358-25

Cause Number 233-765358-25

Print cause number and other court information exactly as it appears on the petition filed in this case.

In the interest of:

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

Child(ren)

In the: (check one):

233
Court Number

☒ District Court
☐ County Court at Law

TARRANT County, Texas

Temporary Restraining Order and Order Setting Hearing

On 03/24/2025 (Date) Petitioner, CHARLES DUSTIN MYERS (Your full name) presented a motion for a temporary restraining order to this Court.

Respondent's name is: MORGAN MICHELLE MYERS (Respondent's full name).

The child(ren) who are the subject of this suit are:

	Child's name	Date of Birth	Gender
1.	M[redacted] E[redacted] M[redacted]	[redacted]	FEMALE
2.	C[redacted] R[redacted] M[redacted]	[redacted]	FEMALE
3.			
4.			
5.			

1. The Court finds that the issuance of a temporary restraining order is necessary to protect the child(ren) who are the subject of this suit.

IT IS THEREFORE ORDERED that the Clerk of this Court issue a temporary restraining order that immediately restrains Respondent from doing the following:

(check off each restraint that the Judge orders at the hearing)

☐ Threatening the child(ren) with imminent bodily injury. (See Texas Family Code 6.501(a)(5))

☐ Causing bodily injury to the child(ren). (See Texas Family Code 6.501(a)(4))

☒ Disturbing the peace of the child(ren). (See Texas Family Code 105.001(a)(3))

M.2327

M.2328

- [x] Removing the child(ren) beyond a geographic area identified by the Court. (See Texas Family Code 105.001(a)(4))
- [x] Withdrawing the child(ren) from the school or day-care facility where they are presently enrolled without the written consent of Petitioner.
- [x] Hiding or secreting the child(ren) from Petitioner.
- [x] Engaging in any criminal activity while the child(ren) are in the Respondent's possession.
- [ ] Using alcohol or illegal drugs 24 hours prior to or during his/her possession of the child(ren).

2. The Court further finds that it clearly appears from specific facts shown by Petitioner's affidavit that immediate and irreparable injury or harm will result to the child(ren) before notice can be served and a hearing can be held.

The injury or harm to the child(ren) is:

The children are suffering daily from their father being prevented access to the marital home. The Respondent has prevented access since March 6, 2024, knowing the Petitioner's need for the residence to work. This has left the children without the care of either parent for the majority of the time, and are being told that the divorce has been finalized and that their father is a bad person.

The above injury or harm would be irreparable because:

Prior to the Respondent's removal, the Children were cared for both emotionally and financially by the Petitioner. The Respondent knowingly and willingly sabotaged this relationship to further her own agenda with a separate relationship. The emotional well-being and stability of the children have been destroyed, and their stable life has been dismantled by the Respondent in bad faith. There exists no legal basis for the current situation to persist, and the children are already showing signs of distress, emotional trauma, and are beginning to struggle academically. The children need the Petitioner's stable, nurturing care during this difficult time, and they will soon lose all access to their Father who will be homless given the circumstances.

The temporary restraining order is granted without notice because:

The Petitioner has been fighting for over a year to get back into his residence to no avail. The Respondent has refused to participate, and continues to prioritize her new relationship over the children. Notice would only spark more deceptive legal actions from the Respondent to try and subvert justice.

M.2328

Petitioner will be able to surprise the children by picking them up from school, and they will finally be reuinted with their father,

something that they anticipate and desperately need. The Respondent has shown no ability to act in the children's best interests.

It is therefore ordered that:

☐ The bodies of the child(ren) be attached and that the child(ren) be placed in the possession of:

☐ The Petitioner

☐ The following person: _____
(See Texas Family Code 105.001(c)(1-2))

☐ Respondent is excluded from possession of or access to the child(ren) until notice can be served and a hearing can be held.

☐ Respondent's possession of or access to the child(ren) is limited as follows until notice can be served and a hearing can be held:

☐ Respondent is excluded from unsupervised possession of the child(ren). Possession of the child(ren) shall be supervised by:

☐ Any person approved in writing by Petitioner

☐ A person approved by the Court: _____

☐ Respondent is excluded from overnight visits with the child(ren). Any day visits shall begin no earlier than _____ a.m. and shall end no later than _____ p.m.

■ Respondent may not allow the child(ren) to have any contact with the following person(s):
DAMEN GAULT KAZLAUSKAS

■ Respondent may not engage in the following acts during any periods of possession or access:
Respondent must not forbid the Petitioner from access to the marital home. Respondent must not disturb the peace of the children.

Respondent must maintain an amicable candor towards all members of the household.

Both parties must maintain the status quo as it was prior to the unlawful lockout of Petitioner which occurred on March 6, 2024.

3. This restraining order is effective immediately and will continue in full force and effect until it expires by its terms within a time period determined by the Court (not to exceed 14 days), unless within that time frame the order is extended for good cause shown, or unless the Respondent consents that it may be extended for a longer period. See Texas Rule of Civil Procedure 680.

This restraining order expires on the following date: 2025/04/12.

THE VIOLATION OF A TEMPORARY RESTRAINING ORDER IS PUNISHABLE BY CONTEMPT AND THE ORDER IS SUBJECT TO AND ENFORCEABLE UNDER CHAPTER 157 OF THE TEXAS FAMILY CODE. See Texas Family Code 105.001(f).

4. The requirement of a bond is waived. See Texas Family Code 105.001(d).

Order to Appear

IT IS ORDERED that Petitioner's application for temporary injunction and temporary orders be scheduled for a hearing at the earliest possible date and that the Clerk of this Court issue notice to Respondent to appear in person before this Court at the following date, time, and place (as required by Texas Rule of Civil Procedure 680):

Date: _____

Time:_____

Address: _____

_____

The purpose of the hearing is to determine whether the Court should order the following temporary relief while this case is pending:

a. Convert the preceding temporary restraining order into a temporary injunction.

b. Enter temporary orders for the safety and welfare of the child(ren), including but not limited to conservatorship, possession and access.

c. Enter any other orders that are necessary for the safety and welfare of the child(ren).

SIGNED on _____, 20_____, at _____ __.m.

_____
PRESIDING JUDGE

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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M.2332

233-765358-25

TRO COMMUNICATIONS

M.2332

M.2333

EXHIBIT 1
TRO COMMUNICATIONS

03/21/25

M.2333

Gmail FUDSTOP <chuckdustin12@gmail.com>

Notice of Temporary EX-Parte TRO

2 messages

FUDSTOP <chuckdustin12@gmail.com> Fri, Mar 21, 2025 at 10:44 PM
To: Cooper Carter <coopercarter@majadmin.com>

Ms. Carter,

Pursuant to **Tarrant County Local Rule 3.30(c)** , this letter provides notice that I intend to present an **Emergency Ex Parte Application for Temporary Restraining Order (TRO)** seeking immediate relief in the interest of my children's well-being and to prevent irreparable harm to my property, family relationships, and ability to earn a living.

The TRO will **NOT** request **exclusive temporary use of the marital residence** but that if your client has issue, she has alternative housing and has used possession of the residence to damage my livelihood and restrict my parenting time. The application will include verified evidence supporting the necessity of immediate relief, including:

- Verified communications acknowledging my need for the home to work
- Records of financial losses from displacement (Airbnb receipts, business losses, etc.)
- Evidence of your client disposing of or concealing my personal property
- Proof that the children have been left unsupervised overnight by your client on multiple occasions.
- Documentation from the school showing excessive absences and academic concerns regarding M[redacted].
- Text evidence between myself and the multiple AIRBNB hosts showcasing the difficulty faced in setting up operations outside of the reliable setup of the house.
- Photographs and texts contradicting claims made in previous pleadings
- Dental neglect of my youngest daughter (photos of untreated cavities)
- Financial documents showing I paid all vehicle and rent obligations, contrary to your client's claims
- Text messages between myself and the grandparents of your client showing we can be amicable during this situation and put the children first.
- Photo evidence showing the only way I have to communicate with my daughters is via an online game, ROBLOX, due to your client preventing communications.
- My criminal record showing that I have never been convicted of a violent crime.
- The current temporary orders which are facially void and can be collaterally attacked in any court at any time.

Again, there is absolutely zero reason to have me barred from the residence and strip the children of their parents. It contradicts the lodestone of the Family Code which is in the best interests of the children.

This is the more logical solution. If we pursued this route in the beginning, we'd already be divorced and the children's financial stability wouldn't have been sacrificed. There is no risk of danger. There is no risk of harm to the children. There is only the possibility of recovery. **That is in their best interests.**

There is no legal reason your client has to want me out of the house other than just that. She cannot unilaterally decide that I agree to everything and then do as she pleases with my personal belongings and neglect the children in multiple areas.

Your argument that I agreed to the orders in place falls flat on its face for many reasons which will not be repeated here.

I am providing this notice strictly to comply with **Local Rule 11(e)**. I will proceed to present the application to the Court **without further delay** due to the nature of the harm and urgency involved.

If you wish to discuss these matters, I'm happy to do so - otherwise I will inform the court that you ***do not agree*** to the orders upon submission.

This situation cannot continue, and the alternatives that are available must be pursued to uphold the best interests of the children before any further damage to their well-being is sustained.

Respectfully,
Charles Dustin Myers

FUDSTOP <chuckdustin12@gmail.com> Sat, Mar 22, 2025 at 3:17 PM
To: Cooper Carter <coopercarter@majadmin.com>, Morgan Wilson <morganmw02@gmail.com>

Cooper,

Petitioner (your client) filed the original divorce petition in December 2023 in the 322nd District Court (Cause No. 322-744263-23). In that petition, she alleged **false claims of family violence** and sought a waiver of the 60-day waiting period for divorce, ostensibly to expedite temporary relief by labeling me as an abuser and claiming she had an **active order of protection against me at the time of filing**.

On February 1, 2024, a temporary orders hearing was held before an **Associate Judge**. The parties (through counsel) announced an apparent agreement on temporary custody and other matters. The associate judge signed an *"Associate Judge's Report for Temporary Orders"*, titled as "Agreed Temporary Orders." Importantly, this report **did not itself constitute a signed court order**; instead, it outlined the agreed terms and directed further action before any order would be final. Specifically, the report stated that **Respondent's attorney (Dan Bacalis) would prepare a formal temporary orders document**, which would be prepared from 20 days from the date of signing, which would have been **February 22nd, 2024.** It also required that **both attorneys were to approve it to form within 5 days (have 5 days to approve the order)**, and that if **no agreement on form was reached, a motion to sign would need to be filed within 30 days**. The report noted that the parties' personal approval was not required for entry of the order, implying the attorneys' sign-off or a court motion would suffice. No district judge signed an order at that time – the associate judge's report was essentially a **recommendation** to be formalized in a written order.

Immediately after the Feb 1 hearing, Respondent lost confidence in his attorney's actions and **fired his attorney**. Believing that the "agreement" did not reflect the child's best interests or was entered under false pretenses (due to Petitioner's unfounded allegations), Respondent promptly **withdrew his consent** to the announced terms. On February 5, 2024, *before any temporary order was signed by the court,* Respondent (now pro se) filed an *Emergency Motion to Reconsider and Vacate Temporary Orders*. This motion put the court on notice that Respondent **no longer consented** to the supposed agreed terms and that he objected to any temporary order being entered as announced.

Despite this, the reconsideration was denied and no findings were ever entered. In fact, the order **explicitly ordered Respondent to sign the orders to which he did not agree in violation of his own directives.**

Texas law is clear that an associate judge's report or proposed order is *not* a final, enforceable court order unless and until it is adopted and signed by the referring court. Under the Family Code, an associate judge may conduct hearings and recommend orders, but those recommendations *remain subject to approval by the district court judge.* Section 201.011 of the Texas Family Code provides that an associate judge's report "may contain the associate judge's findings, conclusions, or recommendations and may be in the form of a proposed order". In other words, the associate judge's report (even if titled "Temporary Orders") is essentially a *draft* or advisory decision; it does **not** itself carry the force of a court order until the proper procedures are completed.

Family Code § 201.013 unambiguously outlines how and when an associate judge's proposal becomes an order of the court. If a party timely requests a de novo hearing by the referring judge, the associate judge's proposed order may be enforced in the interim (except for certain matters) pending that hearing. **However, if no timely request for a de novo hearing is filed, the statute states that "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."**

Thus, absent a de novo appeal, an associate judge's recommendation **must be signed by the district judge** to have any legal effect. Until the judge signs it, it is merely a *proposed* order, not an actual court order.

Because the February 1, 2024 temporary orders were never signed or adopted by the court, Respondent was (and is) under no legal obligation to follow them, and neither party could properly enforce those terms through contempt or other remedies. A party cannot be held in contempt for violating a **non-existent court order**. Here, the "Agreed Temporary Orders" are, at most, an agreement between the parties that was not entered as a judgment. When Respondent withdrew his agreement (as discussed below), even that contractual underpinning fell apart. The Family Code's requirements were not met, and thus the purported temporary orders are **void ab initio** due to lack of rendition or entry by the referring court.

The stage is thus set for this Court to intervene, because as of now, **there is no operative temporary order governing the child's conservatorship or possession**.

The Purported Temporary Orders Are Void and Subject to Collateral Attack in This SAPCR

Because the February 1, 2024 temporary orders were never properly entered as a court order (and would have been invalid if entered without consent - which is clearly the case here), they are **void** and can be attacked in this proceeding. Generally, once a court renders a final judgment, parties are constrained to challenge that judgment on direct appeal or in the original case; *collateral attacks* on final judgments are disfavored. **However, only a *void* judgment is subject to collateral attack in a separate proceeding.** *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex. 2005) ("*Browning v. Placke*, 698 S.W.2d 362, 363 (Tex. 1985)")

In this SAPCR, Respondent is effectively **collaterally attacking** the temporary orders from the divorce case by asserting their invalidity. Such a collateral challenge is permissible here because those orders are void. As the Texas Supreme Court has explained, *"Only a void judgment may be collaterally attacked." Id.*

Accordingly, Respondent asks this Court to **formally declare** that the March 26, 2024 "Agreed Temporary Orders" (and any interlocutory rulings associated with them) in Cause No. 322-744263-23 are **void, of no effect, and not binding** on the parties. This declaration will remove any doubt or argument by Petitioner that those terms still govern the parties' rights. It will also foreclose any attempt to enforce or rely on those non-orders (for example, in claims of violation or in arguing res judicata). The Court has the authority in equity and under the Uniform Declaratory Judgments Act (Tex. Civ. Prac. & Rem. Code chapter 37) to declare the rights and status of the parties vis-à-vis that prior proceeding – particularly given that the SAPCR directly concerns the child who was also at issue in the divorce temporary orders. Granting such relief is appropriate to prevent confusion and multiplicative litigation. Once the prior "orders" are declared void, this Court can proceed to issue fresh temporary orders for the child without any conflict or cloud from the divorce case.

In sum, the prior temporary orders are a legal nullity and this Court should treat them as such. The Court's order declaring them void will simply recognize the reality that, due to the procedural faults and lack of consent, those orders never had legal existence. This clarification is critical to move forward in protecting the child's welfare, as discussed next.

Immediate Emergency Relief Is Necessary to Protect the Child's Best Interest

Every day that passes without a valid temporary order is a day of potential harm or uncertainty for the child. The current situation – a divorce case stuck in limbo with no operative orders, and parents in dispute – is untenable for a child's well-being. The child has effectively been living under an informal or contested arrangement since February 2024. Petitioner has acted as though she has primary custody under the (void) temporary orders, while Respondent has been sidelined and denied the normal possession or decision-making that a proper order (or a true agreement) would have provided him. This dynamic, fueled by Petitioner's unproven allegations of family violence, has caused significant stress and instability for the child. Respondent fears that Petitioner is leveraging the appearance of an order to restrict his contact with the child and to make unilateral decisions that are not in the child's best interest. Meanwhile, the divorce proceeding has not moved forward to a final resolution – **over 12 months** have elapsed since the March hearing, with no trial setting in sight. This stalemate directly affects the child: there is no clear court-sanctioned framework for conservatorship, visitation, or support, and your client has only introduced chaos into their lives.

This Court, now handling the SAPCR, has both the authority and the duty to step in and provide stability. Under Tex. Fam. Code § 105.001, **"the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child,"** including orders for temporary conservatorship and possession.

The Family Code specifically empowers courts to act **expeditiously** to protect a child: if there is immediate danger to the child's physical or emotional health, the court can even issue temporary orders **without notice** (such as a temporary restraining order) to address the emergency. Here, Respondent asserts that the child's emotional welfare is indeed in jeopardy. The lack of a valid order has enabled Petitioner to marginalize Respondent's role in the child's life, purportedly under the guise of the void temporary orders. Petitioner's false accusations of violence – never tested or proven in court – have created a pretext for her to limit Respondent's access. Consequently, the child is being unjustly deprived of time and a relationship with Respondent, who has been a loving father with no history of abuse. This scenario is precisely what emergency temporary orders are designed to prevent. The Court should not allow a procedural quagmire to result in a child effectively losing a parent or receiving inferior care.

Most importantly, the **"best interest of the child" is the paramount consideration** in any conservatorship or possession decision. *See* 153.002 TEX. FAM. CODE.

All Texas courts must ensure that their orders first and foremost serve the child's best interest. By that standard, continuing under the shadow of void orders and parental discord is plainly not in this child's best interest. Instead, the child's best interest calls for fresh, valid temporary orders that set forth clear, fair, and safe arrangements for custody and visitation while the parents' disputes are resolved. The Court should craft these orders based on current evidence and the child's needs – not based on an outdated and unconsented plan from February. The Family Code's public policy (Tex. Fam. Code § 153.001) favors frequent, continuing contact with fit parents and stable environments free of violence or abuse. Here, Respondent is ready, willing, and able to care for the child and poses no danger, and he simply seeks a [illegible] custody schedule that allows the child to have both parents in his life. Petitioner's unsupported claims of family

violence (made to gain a litigation advantage) should not dictate the child's reality any longer, especially since those claims have not been substantiated in any court hearing.

Why your consolidation motion and response are insufficient, and will fail, or be met with mandamus if granted (after reconsideration)

Normally, even without continuing *exclusive* jurisdiction, a prior *pending* suit would require the new suit to be consolidated or abated (as discussed above with § 6.407 and dominant jurisdiction). The mother (divorce petitioner) could argue that the original court "has jurisdiction" over the children by virtue of the pending divorce, so the SAPCR should not proceed separately. However, the **void nature of the prior temporary orders** is a game-changer. If those orders are void, then the original case has not effectively adjudicated anything regarding the children's current custody or support. The SAPCR petitioner can contend that because the prior orders are null, there is no valid existing order or active management of the children's case, and the new court is free to act in the children's best interests. This is the **EXACT argument made**. In effect, the argument is that the divorce case's jurisdiction over the children lapsed into dormancy or "dormant jurisdiction" due to your failure to prosecute the case.

It's important to distinguish *jurisdiction* from *orders*. The **continuing jurisdiction doctrine** would typically prevent a different court from issuing orders if a final order existed or if another court was actively handling the case. But here the SAPCR is filed in the *same county* as the divorce. There is no risk of two different counties competing; it's an internal issue. The SAPCR effectively asks the **court to take up a new cause number** and to recognize that the old cause has stalled and its orders are void.

EVEN IF the void argument fails, there is another nuance to this area of law. Despite the lack of a final order, the pending divorce still technically invokes the court's jurisdiction over the children. Typically, the proper course is to *revive or dismiss* the dormant divorce, rather than maintain a wholly separate SAPCR on the side. Texas courts adhere to the principle that the first suit filed (here, the divorce) should dominate; a later-filed suit concerning the same subject (the children) can be abated to prevent conflicting rulings. In fact, in ***In re Shifflet***, for example, a party attempted parallel litigation regarding child custody, and the court emphasized that modifications must be filed in the court with jurisdiction over the original case

The **only exception** to the one-court rule is narrow. Texas law **does allow** a court to **lose dominant jurisdiction if the party with the first suit proceeded in bad faith or the suit is not actively pursued.** Both apply here. The first suit was unquestionably brought in bad faith, as the declaration of an active protective order being in effect against the Respondent was **an intentional fabrication designed to provide your client with an advantage.** Despite this, the Texas legislature should have prevented the first hearing from **ever happening, because 6.405b of the Texas Family Code** required your client to present the alleged order to the court ***BEFORE ANY HEARING.***

CONCLUSION

Thus, the SAPCR is appropriately before the court, and the only argument you made in your Response fails. The court denied my attempt to open this separate suit, requiring me to file a **17 page argument** as to why the case should be accepted, and then it was.

So your response **effectively mirrors the first denial from the court,** which amounts to no response being filed at all.

It is clear you are not representing your client in a manner to uphold the law or the best interests of the children, but to only appear when needed to obstruct the much needed justice that the children need and deserve.

This is my position.

Charles Dustin Myers

Gmail

FUDSTOP <chuckdustin12@gmail.com>

CAUSE# 233-765358-25 EX-PARTE TRO

5 messages

FUDSTOP <chuckdustin12@gmail.com> Wed, Mar 26, 2025 at 5:48 PM
To: FLCCoordinator@tarrantcountytx.gov

Hello,

This is Charles Dustin Myers, Petitioner in the above captioned cause, and I received an automated reply deferring me to this email when originally reaching out to the Honorable Coordinator.

The original email's purpose was to inform the Honorable Coordinator that I had just received notification through the EFM that the emergency ex-parte TRO had been accepted by the court.

I am following up to inquire about the status of the request.

I thank you for your attention to this urgent matter, and I will wait for further directive from the court to proceed accordingly.

As mentioned in the motion, the Respondent in this matter and her counsel of record have been duly notified of the relief being sought and the motion itself, but have not responded to any attempts to communicate regarding this urgent matter.

Thank you and have a wonderful evening.

Respectfully,

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

Tegan B. Allison <TBAllison@tarrantcountytx.gov> Thu, Mar 27, 2025 at 8:45 AM
To: FUDSTOP <chuckdustin12@gmail.com>

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.

Thank you,

Tegan Allison

Auxiliary Court Coordinator

Tarrant County Family Law Center

Phone: (817)884-1614

200 E Weatherford

Fort Worth, TX 76196

TBAllison@tarrantcountytx.gov

From: FUDSTOP <chuckdustin12@gmail.com>
Sent: Wednesday, March 26, 2025 5:49 PM
To: Courts - FLC Coordinator <FLCCoordinator@tarrantcountytx.gov>
Subject: CAUSE# 233-765358-25 EX-PARTE TRO

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 8:59 AM
To: "Tegan B. Allison" <TBAllison@tarrantcountytx.gov>

Ms. Allison,

Thank you for the update.

Is there a time available tomorrow to come and present the order? Preferably between 9am and 2pm?

I have informed the opposing party of the intent to present the order and will provide the time and date upon determination of the court's availability.

Thank you for your assistance.

Charles Dustin Myers
Chuckdustin12@gmail.com
817-546-3693
[Quoted text hidden]

image001.jpg
6K

Tegan B. Allison <TBAllison@tarrantcountytx.gov> Thu, Mar 27, 2025 at 9:05 AM
To: FUDSTOP <chuckdustin12@gmail.com>

You may present the order during that time. Please keep in mind that the court will be closed from 12pm-1:30pm for lunch and administrative tasks.

Thank you,

Tegan Allison

Auxiliary Court Coordinator

Tarrant County Family Law Center

Phone: (817)884-1614

200 E Weatherford

Fort Worth, TX 76196

TBAllison@tarrantcountytx.gov

From: FUDSTOP <chuckdustin12@gmail.com>
Sent: Thursday, March 27, 2025 9:00 AM
To: Tegan B. Allison <TBAllison@tarrantcountytx.gov>
Subject: Re: CAUSE# 233-765358-25 EX-PARTE TRO

EXTERNAL EMAIL ALERT! Think Before You Click!

Ms. Allison,

Thank you for the update.

Is there a time available tomorrow to come and present the order? Preferably between 9am and 2pm?

I have informed the opposing party of the intent to present the order and will provide the time and date upon determination of the court's availability.

Thank you for your assistance.

Charles Dustin Myers

Chuckdustin12@gmail.com

817-546-3693

On Thu, Mar 27, 2025, 8:45 AM Tegan B. Allison <TBAllison@tarrantcountytx.gov> 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.
>
> Thank you,
>
> *Tegan Allison*
>
> Auxiliary Court Coordinator
>
> Tarrant County Family Law Center
>
> Phone: (817)884-1614
>
> 200 E Weatherford
>
> Fort Worth, TX 76196
>
> TBAllison@tarrantcountytx.gov
>
> [Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 9:19 AM
To: "Tegan B. Allison" <TBAllison@tarrantcountytx.gov>

Ms. Allison,

Thank you very much.

I have informed opposing counsel that I intend to present the TRO tomorrow at 9:00 AM, the relief being sought, and if anything changes I will inform the court and likewise the opposing party.

Have a wonderful day.

Respectfully,

Charles Dustin Myers
Chuckdustin12@gmail.com
817-546-3693
[Quoted text hidden]

---

4 attachments

~WRD0000.jpg
1K

image001.jpg
6K

image001.jpg
6K

~WRD0000.jpg
1K

M.2343

EXHIBIT 2
TRO COMMUNICATIONS
03/24/25

M.2343

Gmail

FUDSTOP <chuckdustin12@gmail.com>

RE ITIO MYERS CHILDREN, CAUSE NO. 233-765358-25 CL-12105

3 messages

Cooper Carter <coopercarter@majadmin.com> Mon, Mar 24, 2025 at 10:03 AM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good Morning,

Opposing party is a pro se Petitioner in the above referenced case. He has filed a SAPCR petition regarding this matter. There is a current pending divorce case that encompasses issues regarding children. Our office has filed an Answer as well as a Motion to Consolidate and proposed order in this case to consolidate this SAPCR into the pending divorce proceeding in the 322nd.

Could you please provide dates and times that the Court is available to hear my motion?

Opposing party has been cc-ed to this e-mail for convenience.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

WILL NOT RESPOND.

From: Cooper Carter <coopercarter@majadmin.com>
Sent: Monday, March 24, 2025 10:03 AM
To: Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov>
Cc: 'Charlie Vids' <chuckdustin12@gmail.com>
Subject: RE ITIO MYERS CHILDREN, CAUSE NO. 233-765358-25 CL-12105

EXTERNAL EMAIL ALERT! Think Before You Click!

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Mon, Mar 24, 2025 at 10:15 AM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Cooper Carter <coopercarter@majadmin.com>

Ms. Wierzbicki, Mr. Carter,

Thank you for the update. However, I must respectfully object to the assertion that this is a mandatory consolidation.

Under Texas Rule of Civil Procedure 174(a), consolidation is discretionary and not automatic where doing so would cause delay, injustice, or prejudice to a party. Additionally, the Texas Supreme Court in Curtis v. Gibbs, 511 S.W.2d 263 (Tex. 1974) expressly carved out exceptions to dominant jurisdiction where:

The original case was filed in bad faith,

The case isn't been prosecuted;

Equity and justice require an independent forum.

All three conditions are present here. The SAPCR was filed in good faith after the 322nd case became procedurally stalled and legally defective—with no Notice of Remand, no evidentiary rulings on the children, and pending dispositive motions including unopposed requests for dismissal.

It would be prejudicial to the children to consolidate a case that had no ability to proceed.

Thank you.

Respectfully,
Charles Dustin Myers
Pro Se Petitioner
[Quoted text hidden]

Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov> Mon, Mar 24, 2025 at 10:08 AM
To: Cooper Carter <coopercarter@majadmin.com>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good morning,

The Motion to Consolidate just needs to be filed in the 322nd Divorce case and sent to their Judge to sign; no hearing necessary, it's a mandatory consolidation.

Thank you,

Angie D. Wierzbicki

Court Coordinator

233rd Judicial District Court

(817) 884-2686

Tarrant County Family Law Center

200 E. Weatherford St., 5th Floor

Ft. Worth, TX 76196

*****PLEASE NOTE: YOU MUST PROVIDE LOCAL COURT RULE DOCUMENTS IF YOU ARE SET FOR A HEARING IN EITHER COURT. FAILURE TO PROVIDE LOCAL COURT RULE DOCUMENTS COULD RESULT IN THE RESET OF YOUR CASE*****

YOU MUST INCLUDE EVERYONE ON YOUR EMAIL COMMUNICATION. IF YOU FAIL TO INCLUDE OPPOSING COUNSEL OR SELF REPRE

M.2347

EXHIBIT 3
TRO COMMUNICATIONS

03/26/25

M.2347

Gmail

FUDSTOP <chuckdustin12@gmail.com>

Notice

1 message

FUDSTOP <chuckdustin12@gmail.com> Wed, Mar 26, 2025 at 7:19 PM
To: Cooper Carter <coopercarter@majadmin.com>, Morgan Myers <morganmw02@gmail.com>

Friends on other side,

The Emergency EX-PARTE TRO has been filed and accepted by the court and is awaiting the judge's review.

If a hearing is required, I will CC Cooper in the email correspondence.

If a hearing is not required, I will serve each of you with a copy of the TRO and proposed order in accordance with the rules no later than seven days prior to the hearing.

The TRO has the following provisions:

* **Respondent is PROHIBITED from preventing Petitioner from entering the matrimonial residence located at** [redacted]

*** Respondent is PROHIBITED from disturbing the peace of the minor children named in this suit.**

*** Petitioner and Respondent are PROHIBITED from acting without candor towards all members of the household in the presence of the children.**

*** Respondent is PROHIBITED from bringing the children in the presence of DAMEN GAULT KAZLAUSKAS.**

*** Respondent is PROHIBITED from taking the children outside of Tarrant County, Texas.**

These provisions, if granted, will be in effect until a full hearing is held no later than **14 days after the order is signed by the judge.**

Once the notice of hearing is served on all parties, I will be filing a motion for pre-trial conference to discuss the Rule 12 motion filed and served last week to ensure those issues are resolved prior to trial.

At the hearing, the relief I am seeking is to convert the provisions from the TRO into temporary injunctions which will be the exact same but will ask for them to remain until further order of the court and reset the status quo to March 6, 2024, which was the last peaceful time enjoyed by all parties prior to the Respondent's unlawful lockout.

If a continuance is needed in order to get your affairs in order for the Rule 12 conference, please reach out as I have no problem signing an agreed continuance if more time is needed.

I am not seeking sanctions at this time.

If granted, I believe the preceding details suit the best interests of M[redacted] and C[redacted], preserves their emotional and financial well-being, allows myself to repair the substantial damage caused from the prior thirteen months, promotes an amicable co-parenting relationship, and most importantly upholds Texas Law in ensuring that children have continuous, frequent access **to both parents** and that **parents are encouraged** to work together during and after divorce because doing so **is in their best interests.**

I'm not looking to punish, hurt, or ruin anyone. I'm simply looking to do what's best for the kids and start working together to finish this so we can all move on with our lives.

If you have any suggestions, modifications, or alternative solutions, please feel free to reach out and let me know, or schedule a time and place to meet in person that best meets your schedule.

Respectfully,

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

M.2350

EXHIBIT 4
TRO COMMUNICATIONS

03/27/25

M.2350

Gmail

FUDSTOP <chuckdustin12@gmail.com>

TRO + Exhibits + Proposed Order

1 message

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 5:54 PM
To: Cooper Carter <coopercarter@majadmin.com>, Morgan Myers <morganmw02@gmail.com>

Attached for your reference is the TRO, proposed order, and exhibits.

Respectfully,

Charles Dustin Myers
[redacted]
chuckdustin12@gmail.com

3 attachments

emergency_motion_formatted (3) (2).pdf
273K

PROPOSED ORDER (2).pdf
185K

EXHIBITS - TRO.pdf
8784K

Gmail

FUDSTOP <chuckdustin12@gmail.com>

ITIO MORGAN CHILDREN, CAUSE NO. 233-765358-25 CL-12105

6 messages

Cooper Carter <coopercarter@majadmin.com> Thu, Mar 27, 2025 at 6:20 PM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good Evening,

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.

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.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 7:03 PM
To: Cooper Carter <coopercarter@majadmin.com>

Court staff,

Ms. Carter's recent correspondence is improper for several reasons, and appears to be an attempt to delay or interfere with proceedings in which she has otherwise failed to meaningfully participate in. The following reasons support this statement:

1. An objection to consolidation is already on file and remains unopposed. It cites controlling Texas precedent. Any suggestion that consolidation is agreed upon or inevitable is misleading. Instead, she should properly file with the court why the consolidation is improper or at the very least argue against Petitioner's position.

2. Ms. Carter has not fulfilled her obligation under Texas Rule of Civil Procedure 237a to file a Notice of Remand. Until she does, she is prohibited from proceeding or filing anything in the 322nd District Court as they currently do not have jurisdiction over this matter until this obligation is fulfilled.

3. Her authority to represent the Respondent remains under challenge pursuant to a Rule 12 motion filed September 20, 2024. No hearing has been held, no written statement of authority has been filed, and no ruling has been made. Until resolved, Rule 12 bars her from participating in either proceeding.

4. Ms. Carter has not prosecuted the case in the 322nd District Court in over eight months. This inaction has prejudiced the Petitioner and delayed resolution of urgent matters affecting the children.

5. She has failed to file any objections, responsive pleadings, or legal arguments opposing the relief requested—including the Emergency TRO now pending.

6. Rather than reaching out to Petitioner to resolve any scheduling conflict, Ms. Carter improperly attempted to influence the court by email. This violates the spirit of cooperation required by the rules, particularly where her participation is procedurally barred.

7. Ms. Carter's conduct appears designed to delay relief and subvert the best interest of the children, despite her failure to oppose the requested relief in any meaningful way.

8. She has been provided with full notice of the Emergency TRO, the proposed order, supporting exhibits, and the time and location of presentment. She has no legal basis to subvert Petitioner's due process rights.

In summary, Ms. Carter has not provided anything of substance in either Court, has not prosecuted the case, has not argued on behalf of her client, or followed proper procedure.

Simply labeling the opposition as pro se and claiming that the consolidation will be filed without disclosing the above facts is dishonest and should not be permitted as it will only cause further unnecessary delays to the relief being sought without any substance being provided.

Again, all of these points have been argued in both courts, and it is her duty as counsel to handle these matters in accordance with Texas Law.

These matters should be handled between the parties - not attempt to influence court staff after hours.

The reason we are here in the first place is due to the above unanswered facts. Ms. Carter has had ample time to file an objection, response, or counter argument, but has chosen not to do so.

It would've been far more appropriate for Ms. Carter to have reached out to me directly to discuss scheduling conflicts.

Prior to the latest email, there was no indication Ms. Carter intended to participate at all despite being provided with all relevant materials.

The court should disregard this email correspondence in its entirety for the reasons stated herein as it is highly prejudicial to Petitioner and the children.

Pro se litigants are expected to follow the rules of procedure to the same extent licensed attorneys are.

This email chain should be disregarded in its entirety.

Have a good evening.

Respectfully,
Charles Dustin Myers
Petitioner, Pro Se
[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Thu, Mar 27, 2025 at 7:07 PM
To: Cooper Carter <coopercarter@majadmin.com>, "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>

Court staff,

Ms. Carter's recent correspondence is improper for several reasons, and appears to be an attempt to delay or interfere with proceedings in which she has otherwise failed to meaningfully participate in. The following reasons support this statement:

1. An objection to consolidation is already on file and remains unopposed. It cites controlling Texas precedent. Any suggestion that consolidation is agreed upon or inevitable is misleading. Instead, she should properly file with the court why the consolidation is improper or at the very least argue against Petitioner's position.

2. Ms. Carter has not fulfilled her obligation under Texas Rule of Civil Procedure 237a to file a Notice of Remand. Until she does, she is prohibited from proceeding or filing anything in the 322nd District Court as they currently do not have jurisdiction over this matter until this obligation is fulfilled.

3. Her authority to represent the Respondent remains under challenge pursuant to a Rule 12 motion filed September 20, 2024. No hearing has been held, no written statement of authority has been filed, and no ruling has been made. Until resolved, Rule 12 bars her from participating in either proceeding.

4. Ms. Carter has not prosecuted the case in the 322nd District Court in over eight months. This inaction has prejudiced the Petitioner and delayed resolution of urgent matters affecting the children.

5. She has failed to file any objections, responsive pleadings, or legal arguments opposing the relief requested—including the Emergency TRO now pending.

6. Rather than reaching out to Petitioner to resolve any scheduling conflict, Ms. Carter improperly attempted to influence the court by email. This violates the spirit of cooperation required by the rules, particularly where her participation is procedurally barred.

7. Ms. Carter's conduct appears designed to delay relief and subvert the best interest of the children, despite her failure to oppose the requested relief in any meaningful way.

8. She has been provided with full notice of the Emergency TRO, the proposed order, supporting exhibits, and the time and location of presentment. She has no legal basis to subvert Petitioner's due process rights.

In summary, Ms. Carter has not provided anything of substance in either Court, has not prosecuted the case, has not argued on behalf of her client, or followed proper procedure.

Simply labeling the opposition as pro se and claiming that the consolidation will be filed without disclosing the above facts is dishonest and should not be permitted as it will only cause further unnecessary delays to the relief being sought without any substance being provided.

M.2355

EXHIBIT 5
TRO COMMUNICATIONS
03/28/25

M.2355

Again, all of these points have been argued in both courts, and it is her duty as counsel to handle these matters in accordance with Texas Law.

These matters should be handled between the parties - not attempt to influence court staff after hours.

The reason we are here in the first place is due to the above unanswered facts. Ms. Carter has had ample time to file an objection, response, or counter argument, but has chosen not to do so.

It would've been far more appropriate for Ms. Carter to have reached out to me directly to discuss scheduling conflicts.

Prior to the latest email, there was no indication Ms. Carter intended to participate at all despite being provided with all relevant materials.

The court should disregard this email correspondence in its entirety for the reasons stated herein as it is highly prejudicial to Petitioner and the children.

Pro se litigants are expected to follow the rules of procedure to the same extent licensed attorneys are.

This email chain should be disregarded in its entirety.

Have a good evening.

Respectfully,
Charles Dustin Myers
Petitioner, Pro Se

[Quoted text hidden]

Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov> Fri, Mar 28, 2025 at 9:15 AM
To: Cooper Carter <coopercarter@majadmin.com>
Cc: Charlie Vids <chuckdustin12@gmail.com>

Good morning,

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.

Thank you,

Angie D. Wierzbicki

Court Coordinator

233rd Judicial District Court

(817) 884-2686

Tarrant County Family Law Center

200 E. Weatherford St., 5th Floor

Ft. Worth, TX 76196

*****PLEASE NOTE: YOU MUST PROVIDE LOCAL COURT RULE DOCUMENTS IF YOU ARE SET FOR A HEARING IN EITHER COURT. FAILURE TO PROVIDE LOCAL COURT RULE DOCUMENTS COULD RESULT IN THE RESET OF YOUR CASE*****

YOU MUST INCLUDE EVERYONE ON YOUR EMAIL COMMUNICATION. IF YOU FAIL TO INCLUDE OPPOSING COUNSEL OR SELF REPRESENTED LITIGANTS, I WILL NOT RESPOND.

From: Cooper Carter <coopercarter@majadmin.com>
Sent: Thursday, March 27, 2025 6:20 PM
To: Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov>
Cc: 'Charlie Vids' <chuckdustin12@gmail.com>
Subject: ITIO MORGAN CHILDREN, CAUSE NO. 233-765358-25 CL-12105

[Quoted text hidden]

Angie D. Wierzbicki <ADWierzbicki@tarrantcountytx.gov> Fri, Mar 28, 2025 at 9:19 AM
To: Cooper Carter <coopercarter@majadmin.com>
Cc: Charlie Vids <chuckdustin12@gmail.com>

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 usure of their procedures.

Thank you,

Angie D. Wierzbicki

Court Coordinator

233rd Judicial District Court

(817) 884-2686

Tarrant County Family Law Center

200 E. Weatherford St., 5th Floor

Ft. Worth, TX 76196

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YOU MUST INCLUDE EVERYONE ON YOUR EMAIL COMMUNICATION. IF YOU FAIL TO INCLUDE OPPOSING COUNSEL OR SELF REPRESENTED LITIGANTS, I WILL NOT RESPOND.

[Quoted text hidden]

FUDSTOP <chuckdustin12@gmail.com> Fri, Mar 28, 2025 at 9:59 AM
To: "Angie D. Wierzbicki" <ADWierzbicki@tarrantcountytx.gov>
Cc: Cooper Carter <coopercarter@majadmin.com>

Hello all,

Sorry for the delay. I had to hunt down wifi.

Available dates are:

04/10/25 at 930 AM

04/09/25 at 130 PM

04/08/25 at 930 AM

04/07/25 at 130 PM

Thank you.

Any of these dates work for me.

Respectfully,

Charles Myers
8175463693
[Quoted text hidden]

image001.png
120K

M.2360

EXHIBIT 6

03/28/25

M.2360

 requirement of a bond is waived. See Texas Family Code §6.502(c).

Order to Appear

IT IS ORDERED that Petitioner's application for temporary injunction and temporary orders be scheduled for a hearing at the earliest possible date and that the Clerk of this Court issue notice to Respondent to appear in person before this Court at the following date, time, and place (as required by Texas Rule of Civil Procedure 680):

Date: April 10, 2025

Time: 9:30 AM

Address: 233rd Associate Court, 5th Floor
200 E. Weatherford St., Ft. Worth, TX 76196

The purpose of the hearing is to determine whether the Court should order the following temporary relief while this case is pending:

a. Convert the preceding temporary restraining order into a temporary injunction.

b. Enter temporary orders for the safety and welfare of the child(ren), including but not limited to conservatorship, possession and access.

c. Enter any other orders that are necessary for the safety and welfare of the child(ren).

SIGNED on _____ 20_____ at _____ m.

_____
PRESIDING JUDGE

M.2362

EXHIBIT 7
TRO COMMUNICATIONS
04/03/2025

M.2362

Gmail

FUDSTOP <chuckdustin12@gmail.com>

RE MOTION FOR CONSOLIDATION CL-12105

2 messages

Cooper Carter <coopercarter@majadmin.com> Thu, Apr 3, 2025 at 1:33 PM
To: Charlie Vids <chuckdustin12@gmail.com>

Good Afternoon,

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.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

2 attachments

Motion to Consolidate V.1.pdf
13K

Order on Motion to Consolidate V1.pdf
10K

FUDSTOP <chuckdustin12@gmail.com> Thu, Apr 3, 2025 at 1:55 PM
To: Cooper Carter <coopercarter@majadmin.com>

Cooper,

I've already objected.

You have no legal authority to do so until you address my objection filed and served to you.

Furthermore, you have not sent the Notice required by rule 237a of the Texas Rules of Civil Procedure and have not shown you authority to represent the Petitioner in this matter.

Finally, you claimed to have been retained in your individual capacity yet are claiming Marx Altman and Johnson is filing pleadings on your behalf, and Roderick D. Marx is not a party in this suit nor has he made a formal appearance.

You're well aware of these obligations, and any order resulting from this motion will be challenged via the proper legal proceedings.

You cannot continue to disregard the rules of procedure, fail to respond to motions or evidence served to you, and continue to expect favors from the bench in leu of you performing your duties as a licensed attorneys.

You are put on notice that if any such motion is presented to the court in the face of the above facts or the unanswered objection already served to you, I will move for your disqualification immediately and will provide the Texas OAG with your information and detailed misconduct as well as the State Bar of Texas.

Further, you have not provided or served a copy of the proposed order which you intend to present, which is required.

This conversation will be filed and made apart of the official court record.

Respectfully submitted,

Charles Myers
817-546-3693
Chuckdustin12@gmail.com
[Quoted text hidden]

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: 99676236
Filing Code Description: No Fee Documents
Filing Description: SAPCR Cover-letter
Status as of 4/15/2025 12:57 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/15/2025 10:28:09 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	4/15/2025 10:28:09 AM	SENT
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/15/2025 10:28:09 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/15/2025 10:28:09 AM	SENT

M.2366

233-765358-25

NMOTION TO CONSOLIDATE

Dated:
04/03/2025

M.2366

NO. 322-744263-23

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

NO. 233-765358-25

IN THE INTEREST OF	§	**IN THE DISTRICT COURT**
	§	
M[redacted] M[redacted] AND C[redacted] M[redacted],	§	**233RD JUDICIAL DISTRICT**
	§	
CHILDREN	§	**TARRANT COUNTY, TEXAS**

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 322nd 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 April 3, 2025:

CHARLES MYERS by electronic filing manager.

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

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Roderick Marx on behalf of Cooper Carter
Bar No. 24121530
MAJFIRM@YAHOO.COM
Envelope ID: 99245636
Filing Code Description: Motion (No Fee)
Filing Description: MOTION TO CONSOLIDATE
Status as of 4/4/2025 8:18 AM CST

Associated Case Party: MORGANMICHELLEMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
Cooper L.Carter		coopercarter@majadmin.com	4/3/2025 1:32:16 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/3/2025 1:32:16 PM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/3/2025 1:32:16 PM	SENT

Associated Case Party: ATTORNEY GENERAL OF TEXAS

Name	BarNumber	Email	TimestampSubmitted	Status
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/3/2025 1:32:16 PM	SENT

Gmail

FUDSTOP <chuckdustin12@gmail.com>

RE MOTION FOR CONSOLIDATION CL-12105

2 messages

Cooper Carter <coopercarter@majadmin.com> Thu, Apr 3, 2025 at 1:33 PM
To: Charlie Vids <chuckdustin12@gmail.com>

Good Afternoon,

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.

Thank you,

Cooper L. Carter

Attorney at Law

Marx, Altman & Johnson

2905 Lackland Road

Fort Worth, Texas 76116

Tel: (817) 926-6211

Fax: (817) 926-6188

Order on Motion to Consolidate V1.pdf
10K

FUDSTOP <chuckdustin12@gmail.com> Thu, Apr 3, 2025 at 1:55 PM
To: Cooper Carter <coopercarter@majadmin.com>

Cooper,

I've already objected.

You have no legal authority to do so until you address my objection filed and served to you.

Furthermore, you have not sent the Notice required by rule 237a of the Texas Rules of Civil Procedure and have not shown you authority to represent the Petitioner in this matter.

Finally, you claimed to have been retained in your individual capacity yet are claiming Marx Altman and Johnson is filing pleadings on your behalf, and Roderick D. Marx is not a party in this suit nor has he made a formal appearance.

You're well aware of these obligations, and any order resulting from this motion will be challenged via the proper legal proceedings.

You cannot continue to disregard the rules of procedure, fail to respond to motions or evidence served to you, and continue to expect favors from the bench in leu of you performing your duties as a licensed attorneys.

You are put on notice that if any such motion is presented to the court in the face of the above facts or the unanswered objection already served to you, I will move for your disqualification immediately and will provide the Texas OAG with your information and detailed misconduct as well as the State Bar of Texas.

Further, you have not provided or served a copy of the proposed order which you intend to present, which is required.

This conversation will be filed and made apart of the official court record.

Respectfully submitted,

Charles Myers
817-546-3693
Chuckdustin12@gmail.com
[Quoted text hidden]

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Roderick Marx on behalf of Cooper Carter
Bar No. 24121530
MAJFIRM@YAHOO.COM
Envelope ID: 99245636
Filing Code Description: Motion (No Fee)
Filing Description: MOTION TO CONSOLIDATE
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Name	BarNumber	Email	TimestampSubmitted	Status
Cooper L.Carter		coopercarter@majadmin.com	4/3/2025 1:32:16 PM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	4/3/2025 1:32:16 PM	SENT

Associated Case Party: CHARLESDUSTINMYERS

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	4/3/2025 1:32:16 PM	SENT

Associated Case Party: ATTORNEY GENERAL OF TEXAS

Name	BarNumber	Email	TimestampSubmitted	Status
HOLLY HAYES		csd-filer-914@texasattorneygeneral.gov	4/3/2025 1:32:16 PM	SENT

MR 14

NOTICE OF INTENT TO FILE MANDAMUS

Dated: 04/07/2025

233-765358-25

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

NO. 233-765358-25

IN THE 233RD DISTRICT COURT OF TARRANT COUNTY, TEXAS

IN RE: M.E.M., ET AL.
**CHARLES DUSTIN MYERS, **

Petitioner,

MORGAN MICHELLE MYERS,

Respondent.

2025-04-07

PETITIONER'S NOTICE OF INTENT TO FILE MANDAMUS AND EMERGENCY STAY

TO THE HONORABLE JUDGE OF SAID COURT:

I. INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

II. STATEMENT OF FACTS

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

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

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

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

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

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

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

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

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

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

III. ARGUMENT

A. The Court's Ministerial Duty

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

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

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

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

a) The motion was properly filed and noticed for hearing and the parties agreed on a date and time set for April 10th, 2025;

b) Petitioner communicated with court staff, physically appeared at the courthouse ready to present the motion and was told he could present his motion;

c) The motion concerned the immediate welfare of children; and

d) The refusal was based solely on representations about a future filing in another court that had not yet occurred.

B. Clear Abuse of Discretion

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

> i. First, it refused to perform its ministerial duty to hear and rule on a properly filed motion based solely on representations about a future filing in another court. It's as if a doctor refused to treat a bleeding patient because another doctor might, at some future date, claim the patient should be treated at a different hospital.
>
> ii. Second, it failed to recognize that by answering the SAPCR petition in this Court, Respondent submitted to this Court's jurisdiction and should have instead filed a motion to abate or should have moved to transfer the case. The law doesn't allow for half-measures of jurisdiction.
>
> iii. Third, it failed to recognize that this Court maintained jurisdiction until any transfer was completed pursuant to Texas Family Code § 155.005(d) as no final order has been rendered in the 322nd District Court. Jurisdiction isn't a hot potato to be

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

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

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

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

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

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

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

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

C. No Adequate Remedy by Appeal

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

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

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

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

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

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

D. Opposing Counsel's Contradictory Behavior

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

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

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

IV. CONCLUSION

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

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

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

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

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

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

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

V. PRAYER FOR RELIEF

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

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

i. Immediately grant the attached proposed order requesting an emergency TRO preventing the Respondent from barring Petitioner's access to the matrimonial home located at [redacted] Texas [redacted] pursuant to Texas Family Code § 105.001(b) and serve the order on all parties of record through the EFM pursuant to rule 21a of the Texas Rules of Civil Procedure;

ii. Have the parties confer with the court coordinator to set this matter for a hearing within 14 days from the signing of the order, and require Respondent's written response no later than 7 days before the hearing;

iii. Take judicial notice that this Court has personal jurisdiction over the respondent to issue a TRO given her response to the original SAPCR;

iv. Take judicial notice that no opposition to the requested relief appears on record;

v. Grant such other and further relief as the Court deems just and necessary to protect the best interests of the children, under § 153.002 and aid the parties in satisfying Texas State policy under § 153.001.

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

Respectfully submitted,

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

CERTIFICATE OF SERVICE

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

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

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

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

Served on: 04/07/2025

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

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

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