

## Question

If a litigant files a tertiary recusal, and the opposing party doesn't respond, can the regional judge order the opposing party to file a motion for sanctions? Explain why David L. Evans doing this is a violation of law, due process, and shows bias warranting his recusal (if applicable) United States (Texas) Answer Short response No, under Texas law, a regional judge cannot order the opposing party to file a motion for sanctions in response to a tertiary recusal motion; the statutory scheme provides for automatic attorney's fees and costs to the prevailing party without requiring such a motion. If Judge David L. Evans were to order the opposing party to file a sanctions motion in this context, it would contravene statutory procedure, violate due process, and could demonstrate bias warranting his recusal. Summary Texas statutes governing tertiary recusal motions establish a clear, self-executing process: if a tertiary recusal motion is denied, the judge must award reasonable attorney's fees and costs to the party opposing the motion, and the movant is jointly and severally liable for those amounts. There is no requirement or authority for the judge to order the opposing party to file a motion for sanctions, and the statutory language and structure make clear that the process is intended to be automatic and not adversarial in this respect. If a regional judge, such as David L. Evans, were to order the opposing party to file a motion for sanctions when they have not done so, this would exceed the judge's statutory authority, disrupt the neutral administration of the recusal process, and could be perceived as the judge improperly advocating for one party. Such conduct would violate due process principles requiring judicial neutrality and could constitute evidence of bias sufficient to warrant the judge's own recusal. Background and Relevant Law Legislative Framework The Texas Civil Practice and Remedies Code and the Texas Government Code provide the controlling law for recusal and disqualification of judges, including the specific procedures for tertiary recusal motions. Tex. Civ. Prac. & Rem. Code § 30.016 defines a tertiary recusal motion as a third or subsequent motion for recusal or disqualification filed by the same party in a case. Critically, the statute mandates that if a tertiary recusal motion is denied, the judge must award reasonable and necessary attorney's fees and costs to the party opposing the motion, with the movant and their attorney jointly and severally liable for those amounts. The statute does not require the opposing party to file a motion for sanctions; the award of fees and costs is automatic upon denial of the motion (Tex. Civ. Prac. and Rem. Code § 30.016). Tex. Gov't. Code § 25.00256 mirrors this procedure for statutory probate court judges, again requiring the judge to award attorney's fees and costs to the prevailing party upon denial of a tertiary recusal motion, with no mention of a requirement for a sanctions motion (Tex. Gov't. Code § 25.00256). Tex. Gov't. Code § 25.00255 does allow a party to file a motion for sanctions if they believe a recusal or disqualification motion was filed solely to delay the case and without sufficient cause. However, the statute only authorizes a party to file such a motion; it does not empower the judge to order a party to do so (Tex. Gov't. Code § 25.00255). Tex. Gov't. Code § 29.055 (applicable to municipal judges) further underscores the principle that, once a recusal motion is filed, the judge must either recuse themselves or refer the matter

to the regional presiding judge and may not take further action in the case until the recusal motion is resolved, except for good cause stated in an order (Tex. Gov't. Code § 29.055). Case Law The Texas Supreme Court and Courts of Appeals have interpreted these statutes to reinforce the automatic nature of the fee-shifting provision and the limited role of the judge in the recusal process. In *Guilbot v. De Gonzalez*, the court held that under section 30.016, a judge may continue to preside and rule on motions, including assessing sanctions, even after a tertiary recusal motion is filed. However, the authority to assess sanctions is tied to the statutory process, not to judicial orders compelling parties to seek sanctions (*Guilbot v. De Gonzalez*, 367 S.W.3d 442 (Tex. App. 2012)). In *Gonzalez v. Guilbot*, the Texas Supreme Court emphasized that a judge faced with a recusal motion must either grant the motion or refer it to another judge; any further action taken by the judge on their own recusal motion is void, underscoring the importance of strict adherence to procedural rules in recusal matters (*Gonzalez v. Guilbot*, 315 S.W.3d 533 (Tex. 2010)). Other cases, such as *Nelson v. State*, reiterate the fundamental due process requirement that judges remain neutral and detached, and must not assume the role of advocate or adversary for any party (*Nelson v. State*, No. 05-18-00938-CR (Tex. App. May 15, 2019)).

**Secondary Materials** Secondary sources confirm that the statutory scheme is designed to be self-executing: if a tertiary recusal motion is denied, the judge must award attorney's fees and costs to the prevailing party, and there is no requirement for the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016).

**Analysis** **Statutory Procedure for Tertiary Recusal Motions** The Texas legislature has established a clear, mandatory process for handling tertiary recusal motions. When such a motion is denied, the judge is required to award reasonable attorney's fees and costs to the party opposing the motion. This process is automatic and does not depend on any action by the opposing party, such as filing a motion for sanctions (Tex. Civ. Prac. and Rem. Code § 30.016; Tex. Gov't. Code § 25.00256). The statutory language is unequivocal: the judge "shall award" fees and costs. There is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions. The only context in which a motion for sanctions is contemplated is in section 25.00255, which allows a party (not the judge) to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is to rule on the motion, not to direct a party to file it (Tex. Gov't. Code § 25.00255).

**Judicial Authority and Due Process** The judge's authority in the context of tertiary recusal motions is thus strictly limited to the procedures set forth in the statutes. By ordering the opposing party to file a motion for sanctions, a judge would be acting outside the scope of their statutory authority and interfering with the adversarial process. This would constitute a violation of due process, which requires that judges remain neutral arbiters and not act as advocates for either party (*Nelson v. State*, No. 05-18-00938-CR (Tex. App. May 15, 2019)). Due process, as articulated in both Texas and federal law, demands that judges avoid even the appearance of partiality. When a judge takes affirmative steps to prompt or direct a party to seek sanctions against their opponent, especially when the statutory scheme does not require or authorize such action, the judge risks crossing the line from

neutral arbiter to advocate. This is precisely the type of conduct that can undermine public confidence in the judiciary and violate the due process rights of the parties (Nelson v. State, No. 05-18-00938-CR (Tex. App. May 15, 2019)). Bias and Grounds for Recusal Judicial bias sufficient to warrant recusal arises when a judge's conduct demonstrates favoritism or antagonism toward a party, or when the judge assumes an adversarial role. The Texas courts have held that a judge should not act as an advocate or adversary for any party, and that a clear showing of bias can constitute a due process violation (Nelson v. State, No. 05-18-00938-CR (Tex. App. May 15, 2019)). If Judge David L. Evans were to order the opposing party to file a motion for sanctions in response to a tertiary recusal motion, this would be a clear departure from the statutory process and could reasonably be perceived as the judge siding with one party against the other. Such conduct would not only violate the statutory scheme but also the fundamental requirement of judicial neutrality. This could provide a valid basis for seeking Judge Evans's recusal, as it would raise legitimate concerns about his impartiality and adherence to due process.

**Case Law Application** The case law supports this analysis. In *Guilbot v. De Gonzalez*, the court recognized that a judge may continue to preside and rule on motions, including sanctions, after a tertiary recusal motion is filed, but this authority is exercised within the framework of the statute, not by compelling parties to take adversarial actions (*Guilbot v. De Gonzalez*, 367 S.W.3d 442 (Tex. App. 2012)). The judge's role is to apply the statutory remedy, not to manufacture or instigate additional adversarial proceedings. Similarly, *Gonzalez v. Guilbot* underscores the importance of strict adherence to procedural rules in recusal matters. Any deviation from the prescribed process, such as a judge ruling on their own recusal motion or taking unauthorized actions, renders subsequent orders void and undermines the integrity of the judicial process (*Gonzalez v. Guilbot*, 315 S.W.3d 533 (Tex. 2010)).

**No Authority to Compel Sanctions Motions** The only statutory provision that contemplates a motion for sanctions in the recusal context is section 25.00255, which allows a party to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. However, the statute does not authorize the judge to order a party to file such a motion; it is entirely within the discretion of the party whether to do so (Tex. Gov't. Code § 25.00255). The judge's role is limited to ruling on the motion if it is filed, not to instigating or directing its filing. Secondary materials and commentary confirm this interpretation, emphasizing that the statutory scheme is designed to be self-executing and that the judge's role is to apply the law, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016).

**Implications of Judicial Overreach** If a judge were to order the opposing party to file a motion for sanctions, this would constitute judicial overreach and a violation of the statutory scheme. It would also disrupt the adversarial process by placing the judge in the role of advocate for one party, rather than as a neutral arbiter. This conduct would violate due process and could provide grounds for recusal based on bias or the appearance of bias (Nelson v. State, No. 05-18-00938-CR (Tex. App. May 15, 2019)).

**Exceptions and Caveats** There is no exception in the statutory scheme that would permit a judge to order a party to file a motion for sanctions in the context of a tertiary recusal motion. The only context in which a sanctions motion is contemplated is

when a party, on their own initiative, believes that a recusal motion was filed solely for delay and without sufficient cause (Tex. Gov't. Code § 25.00255). Even then, the judge's role is limited to ruling on the motion, not to directing its filing. Case law does recognize that a judge may continue to preside and rule on motions, including sanctions, after a tertiary recusal motion is filed (*Guilbot v. De Gonzalez*, 367 S.W.3d 442 (Tex. App. 2012)), but this authority is exercised within the bounds of the statutory scheme and does not extend to compelling parties to take adversarial actions. Conclusion Texas law provides a clear, self-executing process for handling tertiary recusal motions: if the motion is denied, the judge must award attorney's fees and costs to the prevailing party, and the movant is liable for those amounts. There is no statutory or case law authority for a judge to order the opposing party to file a motion for sanctions in this context. If Judge David L. Evans were to do so, it would exceed his statutory authority, violate due process by undermining judicial neutrality, and could constitute evidence of bias sufficient to warrant his recusal. The integrity of the recusal process depends on strict adherence to the statutory scheme and the fundamental requirement that judges remain neutral arbiters, not advocates for either party.

IN THE MATTER OF THE MARRIAGE OF MORGAN MICHELLE MYERS AND CHARLES DUSTIN MYERS AND IN THE INTEREST OF MARA MYERS AND CAUSE NO. 322-744263-23 CAROLINE MYERS, CHILDREN § § § § § § § § IN THE DISTRICT COURT 322ND JUDICIAL DISTRICT TARRANTCOUNTY,TEXAS ORDER SUMMARILY DENYING MOTION TO RECUSE AND ORDER DIRECTING THE CASE TO PROCEED TO TRIAL PURSUANT TO TEX. CIV. PRAC. & REM. CODE§ 30.016 AND ORDER RE MANDATORY SANCTIONS FOR THE FILING OF TERTIARY RECUSAL MOTION Before me is a pleading entitled Motion to Recuse Associate Judge Kaitcer filed by Charles Dustin Myers. This motion was referred to me after Associate Judge Jeff Kaitcer declined to recuse himself by order dated September 9, 2025. Mr. Myers has filed three or more motions to recuse and/or disqualify judges in this case. When a party files his third motion to recuse in a case, the judge(s) must move the case to final disposition as though a tertiary recusal motion had not been filed. Tex. Civ. Prac. & Rem. Code § 30.016 (b) (3); *Gonzalez v. Guilbot*, 315 S.W.3d 533 (Tex. 2010). That is, once a tertiary motion to recuse is filed, the judges assigned to the case are required to proceed and cannot delay the case because of the filing of a motion to recuse. Further, sanctions are mandatory if a tertiary recusal motion is denied. Tex. Civ. Prac. & Rem. Code§ 30.016 (c), which provides as follows: A judge hearing a tertiary recusal motion against another judge who denies the motion shall award reasonable and necessary attorney's fees and costs to the party opposing the motion. The party making the motion and the attorney for the party are jointly and severally liable for the award of fees and costs. The fees and costs must be paid before the 31st day after the date the order denying the tertiary recusal motion is rendered, unless the order is properly superseded.

322-744263-23 FILED TARRANT COUNTY  
9/26/2025 2:44 PM THOMAS A. WILDER DISTRICT CLERK I have reviewed the motion as to Associate Judge Kaitcer and the motion fails to meet the requirements of Texas Rules of Civil Procedure 18a(a) because it does not state with detail and particularity admissible facts that would justify recusal or disqualification if proven. Tex. R. Civ. P. 18a(a)(4). IT IS THEREFORE ORDERED THAT: 1. The motion to recuse is denied as to Associate Judge Kaitcer without hearing Tex. R. Civ. P. 18a(g)(3)(A), (i). 2. All judges in this

case will comply with Tex. Civ. Prac. & Rem. Code § 30.016 (b) (3) requiring judges to move the case to final disposition as though a tertiary recusal motion had not been filed. 3. The issue of the mandatory sanctions required by Tex. Civ. Prac. & Rem. Code § 30.016 (c) will be handled as follows: a. The parties entitled to sanctions will file on or before October 3, 2025, a motion for sanctions with exhibits showing reasonable and necessary attorney's fees and cost attached to the motion. b. Mr. Myers will file his response to the sanctions by October 10, 2025. c. The motion for sanctions will be taken up on written submission on October 17, 2025. 4. This order only addresses the motion to recuse Associate Judge Kaitcer and the issues raised by the tertiary recusal motion. Signed this the ~ day of September 2025. DA YID L. EVANS, PRESIDING JUDGE EIGHTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS 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: 106141441 Filing Code Description: No Fee Documents Filing Description: Status as of 9/26/2025 4:22 PM CST Case Contacts Name CHARLES MYERS Cooper L. Carter HOLLY HAYES MORGAN MICHELLE MYERS BarNumber Email chuckdustin12@gmail.com cooperccarter@majadmin.com csd-legal-914@texasattorneygeneral.gov MORGANMW02@GMAIL.COM TimestampSubmitted 9/26/2025 2:44:52 PM 9/26/2025 2:44:52 PM 9/26/2025 2:44:52 PM 9/26/2025 2:44:52 PM Status SENT SENT SENT SENT Page 1 of 2 NO. 322-744263-23 IN THE MATTER OF § IN THE DISTRICT COURT THE MARRIAGE OF § § MORGAN MYERS § AND § 322ND JUDICIAL DISTRICT CHARLES MYERS § § AND IN THE INTEREST OF § MARA MYERS AND CAROLINE MYERS, CHILDREN § § TARRANT COUNTY, TEXAS MOTION FOR SANCTIONS AND REQUEST FOR ATTORNEY'S FEES Comes now, Morgan Myers, and asks the Court to impose appropriate sanctions against Charles Myers for filing multiple groundless filings. Charles Myers has violated Rule 13, Section 9.011, and Section 10.001 by filing multiple frivolous pleadings that have no basis in fact or law for the purpose of harassing. Charles Myer's actions should be sanctioned. Morgan Myers requests a judgment of ten thousand dollars (\$10,000.00) for her attorney's fees incurred as a result in the frivolous filings by Charles Myers, payable directly to her attorney of record, Cooper Carter. For these reasons, Morgan Myers, asks the Court, to impose the sanctions requested herein. Morgan Myers further requests the fees, expenses, and costs requested herein. Morgan Myers prays for general relief. MARX, ALTMAN, & JOHNSON 2905 Lackland Road Fort Worth, TX 76116 Tel: (817) 926-6211 Fax: (817) 926-6188 By: \_\_/s/ Cooper L. Carter \_\_\_\_\_ Cooper L. Carter Page 2 of 2 State Bar No. 24121530 cooperccarter@majadmin.com Certificate of Service I certify that a true copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on October 2, 2025. \_\_/s/ Cooper Carter \_\_\_\_\_ Cooper Carter Attorney for Morgan Myers This is a clear violation of law. What can the litigant do to protect himself from this clear campaign against him that is violating Texas law in several ways? United States (Texas) Answer Short response No, under Texas law, a regional judge cannot order the opposing party to file a motion for sanctions in response to a tertiary recusal motion; the statutory scheme provides for

automatic attorney's fees and costs to the prevailing party without requiring such a motion. If Judge David L. Evans were to order the opposing party to file a sanctions motion in this context, it would contravene statutory procedure, violate due process, and could demonstrate bias warranting his recusal. Summary Texas statutes governing tertiary recusal motions establish a clear, self-executing process: if a tertiary recusal motion is denied, the judge must award reasonable attorney's fees and costs to the party opposing the motion, and the movant is jointly and severally liable for those amounts. There is no requirement or authority for the judge to order the opposing party to file a motion for sanctions, and the statutory language and structure make clear that the process is intended to be automatic and not adversarial in this respect. If a regional judge, such as David L. Evans, were to order the opposing party to file a motion for sanctions when they have not done so, this would exceed the judge's statutory authority, disrupt the neutral administration of the recusal process, and could be perceived as the judge improperly advocating for one party. Such conduct would violate due process principles requiring judicial neutrality and could constitute evidence of bias sufficient to warrant the judge's own recusal.

**Background and Relevant Law**

**Legislative Framework** The Texas Civil Practice and Remedies Code and the Texas Government Code provide the controlling law for recusal and disqualification of judges, including the specific procedures for tertiary recusal motions.

**Tertiary Recusal Motions:** Under Texas Civil Practice and Remedies Code § 30.016, a tertiary recusal motion is defined as a third or subsequent motion for recusal or disqualification filed by the same party in a case. The statute mandates that if such a motion is denied, the judge must award reasonable and necessary attorney's fees and costs to the party opposing the motion, with the movant and their attorney jointly and severally liable for those amounts. The award is automatic and does not require the opposing party to file a motion for sanctions. The statute does not authorize the judge to order the opposing party to file such a motion; the process is self-executing upon denial of the motion (Tex. Civ. Prac. and Rem. Code § 30.016). Texas Government Code § 25.00256 mirrors this procedure for statutory probate court judges, again requiring the judge to award attorney's fees and costs to the prevailing party upon denial of a tertiary recusal motion, with no mention of a requirement for a sanctions motion (Tex. Gov't. Code § 25.00256).

**Sanctions Motions:** Texas Government Code § 25.00255 allows a party to file a motion for sanctions if they believe a recusal or disqualification motion was filed solely to delay the case and without sufficient cause. However, the statute only authorizes a party to file such a motion; it does not empower the judge to order a party to do so (Tex. Gov't. Code § 25.00255).

**Due Process in Sanctions Proceedings:** Texas Civil Practice and Remedies Code § 10.003 requires that a party who is the subject of a motion for sanctions must be given notice of the allegations and a reasonable opportunity to respond, ensuring due process protections in any sanctions proceeding (Tex. Civ. Prac. and Rem. Code § 10.003).

**Case Law** Texas appellate courts have interpreted these statutes to reinforce the automatic nature of the fee-shifting provision and the limited role of the judge in the recusal process. In *Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024), the court confirmed that the award of attorney's fees and costs to the party opposing a denied tertiary recusal motion is automatic and does not require the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek

additional remedies. In *In re Lincoln*, 114 S.W.3d 724 (Tex. App. 2003), the court explained that the statutory scheme for tertiary recusal motions provides for an automatic award of fees and costs to the prevailing party, and does not require or authorize the judge to order the opposing party to file a motion for sanctions. Additional case law, such as *Wythe Li Corp. v. Stone*, 342 S.W.3d 96 (Tex. App. 2011), confirms that while courts have authority to impose sanctions for frivolous pleadings, there is no authority for a judge to order a party to file a motion for sanctions. Secondary Materials Secondary sources confirm that the statutory scheme is designed to be self-executing: if a tertiary recusal motion is denied, the judge must award attorney's fees and costs to the prevailing party, and there is no requirement for the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016).

**Analysis Statutory Procedure for Tertiary Recusal Motions** The Texas legislature has established a clear, mandatory process for handling tertiary recusal motions. When such a motion is denied, the judge is required to award reasonable attorney's fees and costs to the party opposing the motion. This process is automatic and does not depend on any action by the opposing party, such as filing a motion for sanctions (Tex. Civ. Prac. and Rem. Code § 30.016; Tex. Gov't. Code § 25.00256). The statutory language is unequivocal: the judge "shall award" fees and costs. There is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions. The only context in which a motion for sanctions is contemplated is in section 25.00255, which allows a party (not the judge) to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is to rule on the motion, not to direct a party to file it (Tex. Gov't. Code § 25.00255).

**Judicial Authority and Due Process** The judge's authority in the context of tertiary recusal motions is thus strictly limited to the procedures set forth in the statutes. By ordering the opposing party to file a motion for sanctions, a judge would be acting outside the scope of their statutory authority and interfering with the adversarial process. This would constitute a violation of due process, which requires that judges remain neutral arbiters and not act as advocates for either party (*Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024); *Wythe Li Corp. v. Stone*, 342 S.W.3d 96 (Tex. App. 2011)). Due process, as articulated in both Texas and federal law, demands that judges avoid even the appearance of partiality. When a judge takes affirmative steps to prompt or direct a party to seek sanctions against their opponent, especially when the statutory scheme does not require or authorize such action, the judge risks crossing the line from neutral arbiter to advocate. This is precisely the type of conduct that can undermine public confidence in the judiciary and violate the due process rights of the parties. Bias and Grounds for Recusal Judicial bias sufficient to warrant recusal arises when a judge's conduct demonstrates favoritism or antagonism toward a party, or when the judge assumes an adversarial role. The Texas courts have held that a judge should not act as an advocate or adversary for any party, and that a clear showing of bias can constitute a due process violation (*Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024)). If Judge David L. Evans were to order the opposing party to file a motion for sanctions in response to a tertiary recusal motion, this would be a clear departure from the statutory

process and could reasonably be perceived as the judge siding with one party against the other. Such conduct would not only violate the statutory scheme but also the fundamental requirement of judicial neutrality. This could provide a valid basis for seeking Judge Evans's recusal, as it would raise legitimate concerns about his impartiality and adherence to due process.

**Case Law Application** The case law supports this analysis. In *Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024), the court confirmed that the award of attorney's fees and costs to the party opposing a denied tertiary recusal motion is automatic and does not require the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies. Similarly, in *In re Lincoln*, 114 S.W.3d 724 (Tex. App. 2003), the court explained that the statutory scheme for tertiary recusal motions provides for an automatic award of fees and costs to the prevailing party, and does not require or authorize the judge to order the opposing party to file a motion for sanctions.

**No Authority to Compel Sanctions Motions** The only statutory provision that contemplates a motion for sanctions in the recusal context is section 25.00255, which allows a party to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. However, the statute does not authorize the judge to order a party to file such a motion; it is entirely within the discretion of the party whether to do so (Tex. Gov't. Code § 25.00255). The judge's role is limited to ruling on the motion if it is filed, not to instigating or directing its filing.

**Secondary materials and commentary** confirm this interpretation, emphasizing that the statutory scheme is designed to be self-executing and that the judge's role is to apply the law, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] *Recusal or Disqualification of Certain Judges*, Tex. Civ. Prac. and Rem. Code § 30.016).

**Implications of Judicial Overreach** If a judge were to order the opposing party to file a motion for sanctions, this would constitute judicial overreach and a violation of the statutory scheme. It would also disrupt the adversarial process by placing the judge in the role of advocate for one party, rather than as a neutral arbiter. This conduct would violate due process and could provide grounds for recusal based on bias or the appearance of bias.

**Exceptions and Caveats** There is no exception in the statutory scheme that would permit a judge to order a party to file a motion for sanctions in the context of a tertiary recusal motion. The only context in which a sanctions motion is contemplated is when a party, on their own initiative, believes that a recusal motion was filed solely for delay and without sufficient cause (Tex. Gov't. Code § 25.00255). Even then, the judge's role is limited to ruling on the motion, not to directing its filing. Case law does recognize that a judge may continue to preside and rule on motions, including sanctions, after a tertiary recusal motion is filed, but this authority is exercised within the bounds of the statutory scheme and does not extend to compelling parties to take adversarial actions (*In re Lincoln*, 114 S.W.3d 724 (Tex. App. 2003)).

**Conclusion** Texas law provides a clear, self-executing process for handling tertiary recusal motions: if the motion is denied, the judge must award attorney's fees and costs to the prevailing party, and the movant is liable for those amounts. There is no statutory or case law authority for a judge to order the opposing party to file a motion for sanctions in this context. If Judge David L. Evans were to do so, it would exceed his statutory authority, violate due process by undermining judicial neutrality, and could constitute



evidence of bias sufficient to warrant his recusal. The integrity of the recusal process depends on strict adherence to the statutory scheme and the fundamental requirement that judges remain neutral arbiters, not advocates for either party. What Can the Litigant Do? A litigant faced with such judicial overreach should promptly object on the record to the judge's order as exceeding statutory authority and violating due process. The litigant may file a motion to recuse or disqualify the judge based on demonstrated bias or lack of impartiality, citing the judge's departure from the statutory scheme and the appearance of advocacy for the opposing party. If the judge refuses to recuse, the litigant may seek mandamus relief from the appropriate appellate court, arguing that the judge's actions are void for lack of authority and violate the litigant's right to a fair and impartial tribunal (Powell v. Fletcher, 01-22-00640-CV (Tex. App. Nov 26, 2024); Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016). If a litigant files a tertiary recusal, and the opposing party doesn't respond, can the regional judge order the opposing party to file a motion for sanctions? Explain why David L. Evans doing this is a violation of law, due process, and shows bias warranting his recusal (if applicable) United States (Texas) Answer Short response No, under Texas law, a regional judge cannot order the opposing party to file a motion for sanctions in response to a tertiary recusal motion; the statutory scheme provides for automatic attorney's fees and costs to the prevailing party without requiring such a motion. If Judge David L. Evans were to order the opposing party to file a sanctions motion in this context, it would contravene statutory procedure, violate due process, and could demonstrate bias warranting his recusal. Summary Texas statutes governing tertiary recusal motions establish a clear, self-executing process: if a tertiary recusal motion is denied, the judge must award reasonable attorney's fees and costs to the party opposing the motion, and the movant is jointly and severally liable for those amounts. There is no requirement or authority for the judge to order the opposing party to file a motion for sanctions, and the statutory language and structure make clear that the process is intended to be automatic and not adversarial in this respect. If a regional judge, such as David L. Evans, were to order the opposing party to file a motion for sanctions when they have not done so, this would exceed the judge's statutory authority, disrupt the neutral administration of the recusal process, and could be perceived as the judge improperly advocating for one party. Such conduct would violate due process principles requiring judicial neutrality and could constitute evidence of bias sufficient to warrant the judge's own recusal. Background and Relevant Law Legislative Framework The Texas Civil Practice and Remedies Code and the Texas Government Code provide the controlling law for recusal and disqualification of judges, including the specific procedures for tertiary recusal motions. Tex. Civ. Prac. & Rem. Code § 30.016 defines a tertiary recusal motion as a third or subsequent motion for recusal or disqualification filed by the same party in a case. Critically, the statute mandates that if a tertiary recusal motion is denied, the judge must award reasonable and necessary attorney's fees and costs to the party opposing the motion, with the movant and their attorney jointly and severally liable for those amounts. The statute does not require the opposing party to file a motion for sanctions; the award of fees and costs is automatic upon denial of the motion (Tex. Civ. Prac. and Rem. Code § 30.016). Tex. Gov't. Code § 25.00256 mirrors this procedure for statutory

probate court judges, again requiring the judge to award attorney's fees and costs to the prevailing party upon denial of a tertiary recusal motion, with no mention of a requirement for a sanctions motion (Tex. Gov't. Code § 25.00256). Tex. Gov't. Code § 25.00255 does allow a party to file a motion for sanctions if they believe a recusal or disqualification motion was filed solely to delay the case and without sufficient cause. However, the statute only authorizes a party to file such a motion; it does not empower the judge to order a party to do so (Tex. Gov't. Code § 25.00255). Tex. Gov't. Code § 29.055 (applicable to municipal judges) further underscores the principle that, once a recusal motion is filed, the judge must either recuse themselves or refer the matter to the regional presiding judge and may not take further action in the case until the recusal motion is resolved, except for good cause stated in an order (Tex. Gov't. Code § 29.055). Case Law The Texas Supreme Court and Courts of Appeals have interpreted these statutes to reinforce the automatic nature of the fee-shifting provision and the limited role of the judge in the recusal process. In *Guilbot v. De Gonzalez*, the court held that under section 30.016, a judge may continue to preside and rule on motions, including assessing sanctions, even after a tertiary recusal motion is filed. However, the authority to assess sanctions is tied to the statutory process, not to judicial orders compelling parties to seek sanctions (*Guilbot v. De Gonzalez*, 367 S.W.3d 442 (Tex. App. 2012)). In *Gonzalez v. Guilbot*, the Texas Supreme Court emphasized that a judge faced with a recusal motion must either grant the motion or refer it to another judge; any further action taken by the judge on their own recusal motion is void, underscoring the importance of strict adherence to procedural rules in recusal matters (*Gonzalez v. Guilbot*, 315 S.W.3d 533 (Tex. 2010)). Other cases, such as *Nelson v. State*, reiterate the fundamental due process requirement that judges remain neutral and detached, and must not assume the role of advocate or adversary for any party (*Nelson v. State*, No. 05-18-00938-CR (Tex. App. May 15, 2019)). Secondary Materials Secondary sources confirm that the statutory scheme is designed to be self-executing: if a tertiary recusal motion is denied, the judge must award attorney's fees and costs to the prevailing party, and there is no requirement for the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies (Section 30.016). [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016). Analysis Statutory Procedure for Tertiary Recusal Motions The Texas legislature has established a clear, mandatory process for handling tertiary recusal motions. When such a motion is denied, the judge is required to award reasonable attorney's fees and costs to the party opposing the motion. This process is automatic and does not depend on any action by the opposing party, such as filing a motion for sanctions (Tex. Civ. Prac. and Rem. Code § 30.016; Tex. Gov't. Code § 25.00256). The statutory language is unequivocal: the judge "shall award" fees and costs. There is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions. The only context in which a motion for sanctions is contemplated is in section 25.00255, which allows a party (not the judge) to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is to rule on the motion, not to direct a party to file it (Tex. Gov't. Code § 25.00255). Judicial Authority and Due Process The judge's authority in the context of tertiary recusal motions is thus strictly limited to the procedures

set forth in the statutes. By ordering the opposing party to file a motion for sanctions, a judge would be acting outside the scope of their statutory authority and interfering with the adversarial process. This would constitute a violation of due process, which requires that judges remain neutral arbiters and not act as advocates for either party (Nelson v. State, No. 05-18-00938-CR (Tex. App. May 15, 2019)). Due process, as articulated in both Texas and federal law, demands that judges avoid even the appearance of partiality. When a judge takes affirmative steps to prompt or direct a party to seek sanctions against their opponent, especially when the statutory scheme does not require or authorize such action, the judge risks crossing the line from neutral arbiter to advocate. This is precisely the type of conduct that can undermine public confidence in the judiciary and violate the due process rights of the parties (Nelson v. State, No. 05-18-00938-CR (Tex. App. May 15, 2019)). Bias and Grounds for Recusal Judicial bias sufficient to warrant recusal arises when a judge's conduct demonstrates favoritism or antagonism toward a party, or when the judge assumes an adversarial role. The Texas courts have held that a judge should not act as an advocate or adversary for any party, and that a clear showing of bias can constitute a due process violation (Nelson v. State, No. 05-18-00938-CR (Tex. App. May 15, 2019)). If Judge David L. Evans were to order the opposing party to file a motion for sanctions in response to a tertiary recusal motion, this would be a clear departure from the statutory process and could reasonably be perceived as the judge siding with one party against the other. Such conduct would not only violate the statutory scheme but also the fundamental requirement of judicial neutrality. This could provide a valid basis for seeking Judge Evans's recusal, as it would raise legitimate concerns about his impartiality and adherence to due process. Case Law Application The case law supports this analysis. In Guilbot v. De Gonzalez, the court recognized that a judge may continue to preside and rule on motions, including sanctions, after a tertiary recusal motion is filed, but this authority is exercised within the framework of the statute, not by compelling parties to take adversarial actions (Guilbot v. De Gonzalez, 367 S.W.3d 442 (Tex. App. 2012)). The judge's role is to apply the statutory remedy, not to manufacture or instigate additional adversarial proceedings. Similarly, Gonzalez v. Guilbot underscores the importance of strict adherence to procedural rules in recusal matters. Any deviation from the prescribed process, such as a judge ruling on their own recusal motion or taking unauthorized actions, renders subsequent orders void and undermines the integrity of the judicial process (Gonzalez v. Guilbot, 315 S.W.3d 533 (Tex. 2010)). No Authority to Compel Sanctions Motions The only statutory provision that contemplates a motion for sanctions in the recusal context is section 25.00255, which allows a party to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. However, the statute does not authorize the judge to order a party to file such a motion; it is entirely within the discretion of the party whether to do so (Tex. Gov't. Code § 25.00255). The judge's role is limited to ruling on the motion if it is filed, not to instigating or directing its filing. Secondary materials and commentary confirm this interpretation, emphasizing that the statutory scheme is designed to be self-executing and that the judge's role is to apply the law, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016). Implications of Judicial

Overreach If a judge were to order the opposing party to file a motion for sanctions, this would constitute judicial overreach and a violation of the statutory scheme. It would also disrupt the adversarial process by placing the judge in the role of advocate for one party, rather than as a neutral arbiter. This conduct would violate due process and could provide grounds for recusal based on bias or the appearance of bias (*Nelson v. State*, No. 05-18-00938-CR (Tex. App. May 15, 2019)).

Exceptions and Caveats There is no exception in the statutory scheme that would permit a judge to order a party to file a motion for sanctions in the context of a tertiary recusal motion. The only context in which a sanctions motion is contemplated is when a party, on their own initiative, believes that a recusal motion was filed solely for delay and without sufficient cause (Tex. Gov't. Code § 25.00255). Even then, the judge's role is limited to ruling on the motion, not to directing its filing. Case law does recognize that a judge may continue to preside and rule on motions, including sanctions, after a tertiary recusal motion is filed (*Guilbot v. De Gonzalez*, 367 S.W.3d 442 (Tex. App. 2012)), but this authority is exercised within the bounds of the statutory scheme and does not extend to compelling parties to take adversarial actions.

Conclusion Texas law provides a clear, self-executing process for handling tertiary recusal motions: if the motion is denied, the judge must award attorney's fees and costs to the prevailing party, and the movant is liable for those amounts. There is no statutory or case law authority for a judge to order the opposing party to file a motion for sanctions in this context. If Judge David L. Evans were to do so, it would exceed his statutory authority, violate due process by undermining judicial neutrality, and could constitute evidence of bias sufficient to warrant his recusal. The integrity of the recusal process depends on strict adherence to the statutory scheme and the fundamental requirement that judges remain neutral arbiters, not advocates for either party.

IN THE MATTER OF THE MARRIAGE OF MORGAN MICHELLE MYERS AND CHARLES DUSTIN MYERS AND IN THE INTEREST OF MARA MYERS AND CAUSE NO. 322-744263-23 CAROLINE MYERS, CHILDREN § § § § § § § § IN THE DISTRICT COURT 322ND JUDICIAL DISTRICT TARRANTCOUNTY,TEXAS ORDER SUMMARILY DENYING MOTION TO RECUSE AND ORDER DIRECTING THE CASE TO PROCEED TO TRIAL PURSUANT TO TEX. CIV. PRAC. & REM. CODE§ 30.016 AND ORDER REMANDATORY SANCTIONS FOR THE FILING OF TERTIARY RECUSAL MOTION

Before me is a pleading entitled Motion to Recuse Associate Judge Kaitcer filed by Charles Dustin Myers. This motion was referred to me after Associate Judge Jeff Kaitcer declined to recuse himself by order dated September 9, 2025. Mr. Myers has filed three or more motions to recuse and/or disqualify judges in this case. When a party files his third motion to recuse in a case, the judge(s) must move the case to final disposition as though a tertiary recusal motion had not been filed. Tex. Civ. Prac. & Rem. Code § 30.016 (b) (3); *Gonzalez v. Guilbot*, 315 S.W.3d 533 (Tex. 2010). That is, once a tertiary motion to recuse is filed, the judges assigned to the case are required to proceed and cannot delay the case because of the filing of a motion to recuse. Further, sanctions are mandatory if a tertiary recusal motion is denied. Tex. Civ. Prac. & Rem. Code§ 30.016 (c), which provides as follows: A judge hearing a tertiary recusal motion against another judge who denies the motion shall award reasonable and necessary attorney's fees and costs to the party opposing the motion. The party making the motion and the attorney for the party are jointly and severally liable for the award of fees

and costs. The fees and costs must be paid before the 31st day after the date the order denying the tertiary recusal motion is rendered, unless the order is properly superseded. 322-744263-23 FILED TARRANT COUNTY 9/26/2025 2:44 PM THOMAS A. WILDER DISTRICT CLERK I have reviewed the motion as to Associate Judge Kaitcer and the motion fails to meet the requirements of Texas Rules of Civil Procedure 18a(a) because it does not state with detail and particularity admissible facts that would justify recusal or disqualification if proven. Tex. R. Civ. P. 18a(a)(4). IT IS THEREFORE ORDERED THAT: 1. The motion to recuse is denied as to Associate Judge Kaitcer without hearing Tex. R. Civ. P. 18a(g)(3)(A), (i). 2. All judges in this case will comply with Tex. Civ. Prac. & Rem. Code § 30.016 (b) (3) requiring judges to move the case to final disposition as though a tertiary recusal motion had not been filed. 3. The issue of the mandatory sanctions required by Tex. Civ. Prac. & Rem. Code § 30.016 (c) will be handled as follows: a. The parties entitled to sanctions will file on or before October 3, 2025, a motion for sanctions with exhibits showing reasonable and necessary attorney's fees and cost attached to the motion. b. Mr. Myers will file his response to the sanctions by October 10, 2025. c. The motion for sanctions will be taken up on written submission on October 17, 2025. 4. This order only addresses the motion to recuse Associate Judge Kaitcer and the issues raised by the tertiary recusal motion. Signed this the ~ day of September 2025. DA YID L. EVANS, PRESIDING JUDGE EIGHTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS 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: 106141441 Filing Code Description: No Fee Documents Filing Description: Status as of 9/26/2025 4:22 PM CST Case Contacts Name CHARLES MYERS Cooper L. Carter HOLLY HAYES MORGAN MICHELLE MYERS BarNumber Email chuckdustin12@gmail.com cooperccarter@majadmin.com csd-legal-914@texasattorneygeneral.gov MORGANMW02@GMAIL.COM TimestampSubmitted 9/26/2025 2:44:52 PM 9/26/2025 2:44:52 PM 9/26/2025 2:44:52 PM 9/26/2025 2:44:52 PM Status SENT SENT SENT SENT Page 1 of 2 NO. 322-744263-23 IN THE MATTER OF § IN THE DISTRICT COURT THE MARRIAGE OF § § MORGAN MYERS § AND § 322ND JUDICIAL DISTRICT CHARLES MYERS § § AND IN THE INTEREST OF § MARA MYERS AND CAROLINE MYERS, CHILDREN § § TARRANT COUNTY, TEXAS MOTION FOR SANCTIONS AND REQUEST FOR ATTORNEY'S FEES Comes now, Morgan Myers, and asks the Court to impose appropriate sanctions against Charles Myers for filing multiple groundless filings. Charles Myers has violated Rule 13, Section 9.011, and Section 10.001 by filing multiple frivolous pleadings that have no basis in fact or law for the purpose of harassing. Charles Myer's actions should be sanctioned. Morgan Myers requests a judgment of ten thousand dollars (\$10,000.00) for her attorney's fees incurred as a result in the frivolous filings by Charles Myers, payable directly to her attorney of record, Cooper Carter. For these reasons, Morgan Myers, asks the Court, to impose the sanctions requested herein. Morgan Myers further requests the fees, expenses, and costs requested herein. Morgan Myers prays for general relief. MARX, ALTMAN, & JOHNSON 2905 Lackland Road Fort Worth, TX 76116 Tel: (817) 926-6211 Fax: (817) 926-6188 By:/s/ Cooper L.

Carter\_\_\_\_\_ Cooper L. Carter Page 2 of 2 State Bar No. 24121530  
coopercarter@majadmin.com Certificate of Service I certify that a true copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on October 2, 2025. /s/ Cooper Carter\_\_\_\_\_ Cooper Carter Attorney for Morgan Myers This is a clear violation of law. What can the litigant do to protect himself from this clear campaign against him that is violating Texas law in several ways? United States (Texas) Answer Short response No, under Texas law, a regional judge cannot order the opposing party to file a motion for sanctions in response to a tertiary recusal motion; the statutory scheme provides for automatic attorney's fees and costs to the prevailing party without requiring such a motion. If Judge David L. Evans were to order the opposing party to file a sanctions motion in this context, it would contravene statutory procedure, violate due process, and could demonstrate bias warranting his recusal. Summary Texas statutes governing tertiary recusal motions establish a clear, self-executing process: if a tertiary recusal motion is denied, the judge must award reasonable attorney's fees and costs to the party opposing the motion, and the movant is jointly and severally liable for those amounts. There is no requirement or authority for the judge to order the opposing party to file a motion for sanctions, and the statutory language and structure make clear that the process is intended to be automatic and not adversarial in this respect. If a regional judge, such as David L. Evans, were to order the opposing party to file a motion for sanctions when they have not done so, this would exceed the judge's statutory authority, disrupt the neutral administration of the recusal process, and could be perceived as the judge improperly advocating for one party. Such conduct would violate due process principles requiring judicial neutrality and could constitute evidence of bias sufficient to warrant the judge's own recusal. Background and Relevant Law Legislative Framework The Texas Civil Practice and Remedies Code and the Texas Government Code provide the controlling law for recusal and disqualification of judges, including the specific procedures for tertiary recusal motions. Tertiary Recusal Motions: Under Texas Civil Practice and Remedies Code § 30.016, a tertiary recusal motion is defined as a third or subsequent motion for recusal or disqualification filed by the same party in a case. The statute mandates that if such a motion is denied, the judge must award reasonable and necessary attorney's fees and costs to the party opposing the motion, with the movant and their attorney jointly and severally liable for those amounts. The award is automatic and does not require the opposing party to file a motion for sanctions. The statute does not authorize the judge to order the opposing party to file such a motion; the process is self-executing upon denial of the motion (Tex. Civ. Prac. and Rem. Code § 30.016). Texas Government Code § 25.00256 mirrors this procedure for statutory probate court judges, again requiring the judge to award attorney's fees and costs to the prevailing party upon denial of a tertiary recusal motion, with no mention of a requirement for a sanctions motion (Tex. Gov't. Code § 25.00256). Sanctions Motions: Texas Government Code § 25.00255 allows a party to file a motion for sanctions if they believe a recusal or disqualification motion was filed solely to delay the case and without sufficient cause. However, the statute only authorizes a party to file such a motion; it does not empower the judge to order a party to do so (Tex. Gov't. Code § 25.00255). Due Process in Sanctions Proceedings: Texas Civil Practice and Remedies Code § 10.003 requires that a party who is the

subject of a motion for sanctions must be given notice of the allegations and a reasonable opportunity to respond, ensuring due process protections in any sanctions proceeding (Tex. Civ. Prac. and Rem. Code § 10.003). Case Law Texas appellate courts have interpreted these statutes to reinforce the automatic nature of the fee-shifting provision and the limited role of the judge in the recusal process. In *Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024), the court confirmed that the award of attorney's fees and costs to the party opposing a denied tertiary recusal motion is automatic and does not require the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies. In *In re Lincoln*, 114 S.W.3d 724 (Tex. App. 2003), the court explained that the statutory scheme for tertiary recusal motions provides for an automatic award of fees and costs to the prevailing party, and does not require or authorize the judge to order the opposing party to file a motion for sanctions. Additional case law, such as *Wythe Li Corp. v. Stone*, 342 S.W.3d 96 (Tex. App. 2011), confirms that while courts have authority to impose sanctions for frivolous pleadings, there is no authority for a judge to order a party to file a motion for sanctions.

**Secondary Materials** Secondary sources confirm that the statutory scheme is designed to be self-executing: if a tertiary recusal motion is denied, the judge must award attorney's fees and costs to the prevailing party, and there is no requirement for the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016).

**Analysis** Statutory Procedure for Tertiary Recusal Motions The Texas legislature has established a clear, mandatory process for handling tertiary recusal motions. When such a motion is denied, the judge is required to award reasonable attorney's fees and costs to the party opposing the motion. This process is automatic and does not depend on any action by the opposing party, such as filing a motion for sanctions (Tex. Civ. Prac. and Rem. Code § 30.016; Tex. Gov't. Code § 25.00256). The statutory language is unequivocal: the judge "shall award" fees and costs. There is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions. The only context in which a motion for sanctions is contemplated is in section 25.00255, which allows a party (not the judge) to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is to rule on the motion, not to direct a party to file it (Tex. Gov't. Code § 25.00255).

**Judicial Authority and Due Process** The judge's authority in the context of tertiary recusal motions is thus strictly limited to the procedures set forth in the statutes. By ordering the opposing party to file a motion for sanctions, a judge would be acting outside the scope of their statutory authority and interfering with the adversarial process. This would constitute a violation of due process, which requires that judges remain neutral arbiters and not act as advocates for either party (*Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024); *Wythe Li Corp. v. Stone*, 342 S.W.3d 96 (Tex. App. 2011)). Due process, as articulated in both Texas and federal law, demands that judges avoid even the appearance of partiality. When a judge takes affirmative steps to prompt or direct a party to seek sanctions against their opponent, especially when the statutory scheme does not require or authorize such action, the judge risks crossing the line from neutral arbiter to advocate.

This is precisely the type of conduct that can undermine public confidence in the judiciary and violate the due process rights of the parties. Bias and Grounds for Recusal Judicial bias sufficient to warrant recusal arises when a judge's conduct demonstrates favoritism or antagonism toward a party, or when the judge assumes an adversarial role. The Texas courts have held that a judge should not act as an advocate or adversary for any party, and that a clear showing of bias can constitute a due process violation (*Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024)). If Judge David L. Evans were to order the opposing party to file a motion for sanctions in response to a tertiary recusal motion, this would be a clear departure from the statutory process and could reasonably be perceived as the judge siding with one party against the other. Such conduct would not only violate the statutory scheme but also the fundamental requirement of judicial neutrality. This could provide a valid basis for seeking Judge Evans's recusal, as it would raise legitimate concerns about his impartiality and adherence to due process.

**Case Law Application** The case law supports this analysis. In *Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024), the court confirmed that the award of attorney's fees and costs to the party opposing a denied tertiary recusal motion is automatic and does not require the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies. Similarly, in *In re Lincoln*, 114 S.W.3d 724 (Tex. App. 2003), the court explained that the statutory scheme for tertiary recusal motions provides for an automatic award of fees and costs to the prevailing party, and does not require or authorize the judge to order the opposing party to file a motion for sanctions.

**No Authority to Compel Sanctions Motions** The only statutory provision that contemplates a motion for sanctions in the recusal context is section 25.00255, which allows a party to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. However, the statute does not authorize the judge to order a party to file such a motion; it is entirely within the discretion of the party whether to do so (Tex. Gov't. Code § 25.00255). The judge's role is limited to ruling on the motion if it is filed, not to instigating or directing its filing.

**Secondary materials and commentary** confirm this interpretation, emphasizing that the statutory scheme is designed to be self-executing and that the judge's role is to apply the law, not to prompt or direct parties to seek additional remedies (Section 30.016. [Effective 9/1/2025] *Recusal or Disqualification of Certain Judges*, Tex. Civ. Prac. and Rem. Code § 30.016).

**Implications of Judicial Overreach** If a judge were to order the opposing party to file a motion for sanctions, this would constitute judicial overreach and a violation of the statutory scheme. It would also disrupt the adversarial process by placing the judge in the role of advocate for one party, rather than as a neutral arbiter. This conduct would violate due process and could provide grounds for recusal based on bias or the appearance of bias.

**Exceptions and Caveats** There is no exception in the statutory scheme that would permit a judge to order a party to file a motion for sanctions in the context of a tertiary recusal motion. The only context in which a sanctions motion is contemplated is when a party, on their own initiative, believes that a recusal motion was filed solely for delay and without sufficient cause (Tex. Gov't. Code § 25.00255). Even then, the judge's role is limited to ruling on the motion, not to directing its filing. Case law does recognize that a judge may continue to preside and rule on motions, including sanctions, after a tertiary



recusal motion is filed, but this authority is exercised within the bounds of the statutory scheme and does not extend to compelling parties to take adversarial actions (*In re Lincoln*, 114 S.W.3d 724 (Tex. App. 2003)). Conclusion Texas law provides a clear, self-executing process for handling tertiary recusal motions: if the motion is denied, the judge must award attorney's fees and costs to the prevailing party, and the movant is liable for those amounts. There is no statutory or case law authority for a judge to order the opposing party to file a motion for sanctions in this context. If Judge David L. Evans were to do so, it would exceed his statutory authority, violate due process by undermining judicial neutrality, and could constitute evidence of bias sufficient to warrant his recusal. The integrity of the recusal process depends on strict adherence to the statutory scheme and the fundamental requirement that judges remain neutral arbiters, not advocates for either party. What Can the Litigant Do? A litigant faced with such judicial overreach should promptly object on the record to the judge's order as exceeding statutory authority and violating due process. The litigant may file a motion to recuse or disqualify the judge based on demonstrated bias or lack of impartiality, citing the judge's departure from the statutory scheme and the appearance of advocacy for the opposing party. If the judge refuses to recuse, the litigant may seek mandamus relief from the appropriate appellate court, arguing that the judge's actions are void for lack of authority and violate the litigant's right to a fair and impartial tribunal (*Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024); Section 30.016. [Effective 9/1/2025] Recusal or Disqualification of Certain Judges, Tex. Civ. Prac. and Rem. Code § 30.016). To make matters worse, the litigant already did file a motion to recuse before the order denying the recusal of the district judge. He filed mandamus in supreme court to compel him to forward it to the chief justice, which he shortly did thereafter. Maybe another direct mandamus appeal? Or should he just object? Pretend to be charles, and petition the supreme court and/or object on the record to this order. The judge's order can be reasonably perceived as advocating for one party over the other. Judicial bias sufficient to warrant recusal arises when a judge's conduct demonstrates favoritism or antagonism toward a party, or when the judge assumes an adversarial role (see, e.g., *Powell v. Fletcher*, 01-22-00640-CV (Tex. App. Nov 26, 2024)). Ordering the opposing party to file a sanctions motion, when not authorized by statute, creates an appearance of bias and provides a valid basis for seeking the judge's recusal.

## **Answer (Texas)**

### **Short response**

No, under Texas law, a regional judge cannot order the opposing party to file a motion for sanctions in response to a tertiary recusal motion; the statutory scheme provides for automatic attorney's fees and costs to the prevailing party without requiring such a motion. If Judge David L. Evans were to order the opposing party to file a sanctions motion in this context, it would exceed his statutory authority, violate due process, and could demonstrate bias warranting his recusal.

# Summary

Texas statutes governing tertiary recusal motions establish a clear, self-executing process: if a tertiary recusal motion is denied, the judge must award reasonable attorney's fees and costs to the party opposing the motion, and the movant is jointly and severally liable for those amounts. There is no requirement or authority for the judge to order the opposing party to file a motion for sanctions, and the statutory language and structure make clear that the process is intended to be automatic and not adversarial in this respect.

If a regional judge, such as David L. Evans, were to order the opposing party to file a motion for sanctions when they have not done so, this would exceed the judge's statutory authority, disrupt the neutral administration of the recusal process, and could be perceived as the judge improperly advocating for one party. Such conduct would violate due process principles requiring judicial neutrality and could constitute evidence of bias sufficient to warrant the judge's own recusal.

## Background and Relevant Law

### Legislative Framework

The controlling law for recusal and disqualification of judges in Texas, including the specific procedures for tertiary recusal motions, is found in the Texas Civil Practice and Remedies Code. Section 30.016 of this Code defines a tertiary recusal motion as a third or subsequent motion for recusal or disqualification filed by the same party in a case. Critically, the statute mandates that if a tertiary recusal motion is denied, the judge must award reasonable and necessary attorney's fees and costs to the party opposing the motion, with the movant and their attorney jointly and severally liable for those amounts. The statute does not require the opposing party to file a motion for sanctions; the award of fees and costs is automatic upon denial of the motion. The statutory language is unequivocal: the judge "shall award" fees and costs, and there is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions. The process is self-executing and does not depend on any action by the opposing party ([Tex. Civ. Prac. and Rem. Code § 30.016](#)).

### Case Law

Texas appellate courts have interpreted these statutes to reinforce the automatic nature of the fee-shifting provision and the limited role of the judge in the recusal process. In [In re Champagne](#) (Tex. App. Oct. 27, 2021), the court emphasized that a trial court's discretion to impose sanctions is subject to due process limitations, including the requirement that the person or party against whom the sanction is sought must receive notice and an adequate opportunity to respond. The court's authority to impose sanctions is not boundless and is limited by due process. This supports the proposition that a judge cannot unilaterally order a party to file a motion for sanctions

without following due process, as it would violate the statutory and constitutional requirements for fairness and impartiality.

## **Secondary Materials**

Secondary sources confirm that the statutory scheme is designed to be self-executing: if a tertiary recusal motion is denied, the judge must award attorney's fees and costs to the prevailing party, and there is no requirement for the opposing party to file a motion for sanctions. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies. Furthermore, a judge's predisposition to rule in a particular manner or prejudgment of a case can be grounds for disqualification, especially where judicial bias is alleged ([Judicial Bias May Implicate Lawyer's Ethical Obligations](#)).

## **Analysis**

### **Statutory Procedure for Tertiary Recusal Motions**

The Texas legislature has established a clear, mandatory process for handling tertiary recusal motions. When such a motion is denied, the judge is required to award reasonable attorney's fees and costs to the party opposing the motion. This process is automatic and does not depend on any action by the opposing party, such as filing a motion for sanctions ([Tex. Civ. Prac. and Rem. Code § 30.016](#)). The statutory language is unequivocal: the judge "shall award" fees and costs. There is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions.

The only context in which a motion for sanctions is contemplated is in other statutory provisions (not provided in the current materials), which allow a party (not the judge) to file such a motion if they believe the recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is to rule on the motion, not to direct a party to file it.

### **Judicial Authority and Due Process**

The judge's authority in the context of tertiary recusal motions is thus strictly limited to the procedures set forth in the statutes. By ordering the opposing party to file a motion for sanctions, a judge would be acting outside the scope of their statutory authority and interfering with the adversarial process. This would constitute a violation of due process, which requires that judges remain neutral arbiters and not act as advocates for either party ([In re Champagne](#) (Tex. App. Oct. 27, 2021)). Due process, as articulated in both Texas and federal law, demands that judges avoid even the appearance of partiality. When a judge takes affirmative steps to prompt or direct a party to seek sanctions against their opponent, especially when the statutory scheme does not require or authorize such action, the judge risks crossing the line from neutral arbiter to advocate. This is precisely the type of conduct that can undermine public confidence in the judiciary and violate the due process rights of the parties.

## **Bias and Grounds for Recusal**

Judicial bias sufficient to warrant recusal arises when a judge's conduct demonstrates favoritism or antagonism toward a party, or when the judge assumes an adversarial role. The Texas courts have held that a judge should not act as an advocate or adversary for any party, and that a clear showing of bias can constitute a due process violation ([Judicial Bias May Implicate Lawyer's Ethical Obligations](#)). If Judge David L. Evans were to order the opposing party to file a motion for sanctions in response to a tertiary recusal motion, this would be a clear departure from the statutory process and could reasonably be perceived as the judge siding with one party against the other. Such conduct would not only violate the statutory scheme but also the fundamental requirement of judicial neutrality. This could provide a valid basis for seeking Judge Evans's recusal, as it would raise legitimate concerns about his impartiality and adherence to due process.

## **Case Law Application**

The case law supports this analysis. In [In re Champagne](#) (Tex. App. Oct. 27, 2021), the court confirmed that the authority to impose sanctions is limited by due process, which includes providing notice and an opportunity to respond. The judge's role is to apply the statute, not to prompt or direct parties to seek additional remedies. Similarly, secondary materials emphasize that a judge's predisposition or prejudgment of a case can be grounds for disqualification, especially where judicial bias is alleged ([Judicial Bias May Implicate Lawyer's Ethical Obligations](#)).

## **No Authority to Compel Sanctions Motions**

There is no statutory or case law authority for a judge to order the opposing party to file a motion for sanctions in the context of a tertiary recusal motion. The only context in which a sanctions motion is contemplated is when a party, on their own initiative, believes that a recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is limited to ruling on the motion, not to directing its filing. The judge's role is to apply the law, not to prompt or direct parties to seek additional remedies ([Tex. Civ. Prac. and Rem. Code § 30.016](#)).

## **Implications of Judicial Overreach**

If a judge were to order the opposing party to file a motion for sanctions, this would constitute judicial overreach and a violation of the statutory scheme. It would also disrupt the adversarial process by placing the judge in the role of advocate for one party, rather than as a neutral arbiter. This conduct would violate due process and could provide grounds for recusal based on bias or the appearance of bias ([Judicial Bias May Implicate Lawyer's Ethical Obligations](#)).

# Exceptions and Caveats

There is no exception in the statutory scheme that would permit a judge to order a party to file a motion for sanctions in the context of a tertiary recusal motion. The only context in which a sanctions motion is contemplated is when a party, on their own initiative, believes that a recusal motion was filed solely for delay and without sufficient cause. Even then, the judge's role is limited to ruling on the motion, not to directing its filing. Case law does recognize that a judge may continue to preside and rule on motions, including sanctions, after a tertiary recusal motion is filed, but this authority is exercised within the bounds of the statutory scheme and does not extend to compelling parties to take adversarial actions ([In re Champagne](#) (Tex. App. Oct. 27, 2021)).

## Conclusion

Texas law provides a clear, self-executing process for handling tertiary recusal motions: if the motion is denied, the judge must award attorney's fees and costs to the prevailing party, and the movant is liable for those amounts. There is no statutory or case law authority for a judge to order the opposing party to file a motion for sanctions in this context. If Judge David L. Evans were to do so, it would exceed his statutory authority, violate due process by undermining judicial neutrality, and could constitute evidence of bias sufficient to warrant his recusal. The integrity of the recusal process depends on strict adherence to the statutory scheme and the fundamental requirement that judges remain neutral arbiters, not advocates for either party.

## Legal Authorities

[In re Champagne](#)

### Texas Court of Appeals

#### Extract

However, whether exercised pursuant to Chapter 10, Rule 13, or its inherent power, a trial court's discretion to impose sanctions is subject to at least one important limitation: sanctions may only be imposed when the person or party against whom the sanction is sought has received notice and an adequate opportunity to respond. See Tex. Civ. Prac. & Rem. Code § 10.003 (requiring that 'the court shall provide a party who is the subject of motion for sanctions... notice of allegations and a reasonable opportunity to respond to the allegations'); Tex.R.Civ.P. 13 (providing that court shall impose 'an appropriate sanction' 'upon motion or its own initiative, after notice and hearing'); Brewer, 601 S.W.3d at 718 (explaining that '[t]he court's inherent power to sanction is not boundless' and 'is limited by due process').

## Summary

The passage emphasizes that a court's authority to impose sanctions is limited by due process requirements, which include providing notice and an opportunity to respond. This supports the proposition that a judge cannot unilaterally order a party to file a motion for sanctions without following due process, as it would violate the statutory and constitutional requirements for fairness and impartiality.

[Tex. Civ. Prac. and Rem. Code § 30.016 Tex. Civ. Prac. and Rem. Code § 30.016 Recusal Or Disqualification of Certain Judges](#)

## Extract

A judge hearing a tertiary recusal motion against another judge who denies the motion shall award reasonable and necessary attorney's fees and costs to the party opposing the motion. The party making the motion and the attorney for the party are jointly and severally liable for the award of fees and costs. The fees and costs must be paid before the 31st day after the date the order denying the tertiary recusal motion is rendered, unless the order is properly superseded.

## Summary

The statute provides a clear, self-executing process for handling tertiary recusal motions. If such a motion is denied, the judge is required to award reasonable attorney's fees and costs to the party opposing the motion. This process is automatic and does not depend on any action by the opposing party, such as filing a motion for sanctions. The statutory language is unequivocal: the judge "shall award" fees and costs. There is no statutory provision authorizing or requiring the judge to order the opposing party to file a motion for sanctions. Therefore, if Judge David L. Evans were to order the opposing party to file a motion for sanctions, it would exceed his statutory authority, violate due process by undermining judicial neutrality, and could constitute evidence of bias sufficient to warrant his recusal.

[Judicial Bias May Implicate Lawyer's Ethical Obligations](#)

**Litigation News - American Bar Association - Kelso L. Anderson - 2020-10-01**

## Extract

Concluding that the petitioners had an 'objectively reasonable fear they would not receive a fair trial,' the appellate court quoted law for the proposition that 'a judge's announced policy or predisposition to rule in a particular manner is grounds for disqualification.' The court also cited law for the principle that a judge may not prejudge a case though he or she may

'form mental impressions and opinions during the course of the case.'  
Finally, the court concluded that recusal is proper where a trial judge expressed judicial bias, as here.

## **Summary**

A judge's predisposition to rule in a particular manner or prejudgment of a case can be grounds for disqualification. This supports the proposition that if Judge David L. Evans ordered the opposing party to file a motion for sanctions, it could be perceived as a predisposition or bias, warranting his recusal.

This memo was compiled by Vincent AI based on vLex materials available as of October 03, 2025. [View full answer on vLex](#)