

322-744263-23

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

ITMOMO,	§	
<i>Morgan Michelle Myers</i>	§	
Petitioner,	§	
v.	§	
<i>Charles Dustin Myers,</i>	§	<u>Objection to Notice Setting A</u>
Respondent	§	<u>Court Proceeding and Docket</u>
<i>&amp; in the interest of</i>	§	<u>Control Order</u>
M.E.M. & C.R.M.,	§	
<i>Two minor children.</i>	§	

**MEMORANDUM OF LAW**

Petitioner, Morgan Michelle Myers, initiated this action on December 18, 2023. She allegedly retained the services of Cooper L. Carter on January 22, 2024. Today is August 18, 2025, and there exists no plausible explanation found within this record as to the series of unlawful, unethical, and unprecedented events that have transpired since this matter's inception.

Now, before any official reinstatement by the Regional Presiding Judge, and a pending rule 12 motion against the opposing counsel, a pending DWOP motion, a pending mandamus in the Texas Supreme Court, a pending disqualification motion against opposing counsel, an unopposed summary judgment, and a plea to the jurisdiction, all of which have gone unanswered by our friends on the other side, this court – once again – seeks to act *sua sponte* in an attempt to set this matter for final trial, thereby attempting to cement the unlawful deprivation suffered by the Respondent over the past two years. For the forthcoming reasons, the Respondent OBJECTS to the notice setting a court proceeding and docket control order, and in support thereof, shows the following:

## **I. INTRODUCTION**

1. The record demonstrates pervasive violations of due process, statutory requirements, and local rules, rendering the setting of a final trial improper and constitutionally infirm. Under Texas law and binding precedent, the cumulative procedural and jurisdictional defects in this matter mandate that the final trial setting be vacated until the Respondent's rights to notice, hearing, a fair process is fully restored and the best interests of the children become priority.

2. The Respondent's objection to the final trial setting is firmly grounded in both statutory and constitutional law. The deprivation of his residence and property rights without an evidentiary hearing, which occurred on January 16, 2024, the lack of findings of fact, or opportunity to be heard, combined with irregularities such as fraudulent orders falsely claiming consent, unauthorized practice of law, recusal tampering, and dormant prosecution, collectively amount to a systemic denial of due process and judicial integrity.

3. This court only seems to act upon receiving notice that the Respondent's appellate efforts were denied – which changes nothing regarding the substantive issues herein that continue to be ignored. A denial of a mandamus petition without any written opinion does not absolve this court of its responsibility to address these issues. Until these issues are adjudicated by this court – fairly and impartially – more mandamus petitions will follow, and more recusal proceedings will be initiated to receive a lawful explanation for the cumulative and compounding issues that continue to accumulate.

4. Until an explanation is handed down by a lawful authority or the Respondent is labeled as a vexatious litigant, he will continue to seek justice for his children, himself, and will continue to utilize the appropriate legal channels to seek answers for the cumulative actions described in more detail below.

## II. ANALYSIS OF THE ISSUES

### A. Deprivation of Residence and Property Without Hearing or Findings

5. The Respondent was ordered to vacate his home based solely on unsubstantiated allegations of family violence, without any evidentiary hearing, findings of fact, or opportunity to be heard on January 16, 2024. This directly contravenes Texas Family Code § 85.001, which requires both a hearing and an affirmative finding of family violence before a protective order may issue. Outside of this requirement, this Court exceeded its' statutory authority when ordering the Respondent to vacate. The absence of the statutory prerequisites renders the order void and a violation of due process (Tex. Fam. Code § 85.001; *In re A.D.A.*, 287 S.W.3d 382, 384 (Tex. App. 2009)).

6. A Texas district court cannot order a respondent to vacate his home based solely on unsubstantiated allegations of family violence without holding a hearing or making the required statutory findings; such an order exceeds the court's statutory authority under Texas Family Code § 85.001 and is void. Requiring the respondent to show cause or prove why relief should not be granted improperly shifts the burden of proof and further violates due process.

7. The Texas Family Code is unequivocal: a court may not issue a protective order, or any order excluding a person from their residence, without first conducting a hearing and making explicit findings that family violence has occurred. Section 85.001(a) requires a hearing and a finding of family violence as a condition precedent to any such order (Tex. Fam. Code § 85.001). Section 83.006 imposes even stricter requirements for temporary ex parte exclusion orders, mandating a sworn affidavit, in-person testimony, and specific findings of recent violence and ongoing danger (Tex. Fam. Code § 83.006).

8. Here, these requirements were ignored, and the court acted *ultra-vires* from the onset.

## **B. Right to De Novo Review and Failure to Provide Relief**

7. The associate judge's order signed on March 14, 2024, was subject to the Respondent's right to request a de novo hearing before the referring court under Texas Family Code § 201.015, had specific procedural requirements which were not met, and the record indicates that this hearing was the result of a timely filed emergency motion to vacate and request for de novo review, which ultimately denied without explanation. This failure to provide a written rationale further violated the Respondent's statutory and constitutional rights (Tex. Fam. Code § 201.015).

## **C. Fraudulent Agreed Orders and Ineffective Assistance**

8. This court signed a unilateral 'agreement' containing only one side's signature when the signature page itself expressly states "AGREED AND CONSENTED TO BY:". The *per curiam* denials from the Second Court of Appeals regarding these issues does not absolve this court of the responsibility to address them, especially prior to moving this matter towards a final setting *sua sponte*.

9. The associate judge compelled the Respondent to sign an "agreed order" that falsely recited universal consent, despite his express objection and lack of signature. This constitutes a fraudulent order and deprives the Respondent of the right to contest property and parental issues on the merits. Such conduct, especially when facilitated by the Respondent's own counsel acting against his interests, raises serious concerns of ineffective assistance and collusion, which are recognized grounds for relief.

10. Now, this court seeks to move this matter to final trial, requiring the parties "shall provide the Court a written proposed property division at the time of trial", when the current orders state that the property has already been divided in a "just in right manner." The Respondent's property has been destroyed by the Petitioner, leaving no property to divide.

### **C. Dormant Prosecution and Bad Faith**

10. The Mother, as movant, failed to diligently prosecute her claims, obtaining repeated continuances without substantive filings for over 18 months. Texas law and local rules support dismissal for want of prosecution in such circumstances, as the case was effectively dormant and the Respondent deprivation was prolonged without justification (*In re Garcia*, No. 02-20-00161-CV, 2020 WL 4812632, at \*1 (Tex. App. Aug. 20, 2020)). In fact, the only recent action taken by the opposing side was to suddenly prevent relief in the 233<sup>rd</sup> district court, which ultimately resulted in two additional mandamus petitions that received no participation or input.

### **D. Judicial and Staff Misconduct**

11. The record details multiple instances of judicial officers acting ultra vires—issuing orders while recusal or mandamus proceedings were pending, consolidating cases sua sponte in violation of local rules, and issuing orders without proper reinstatement. Court staff tampered with recusal motions by removing exhibits and altering submissions, which is not authorized under Rule 18a and undermines the integrity of the judicial process.

12. Such conduct not only violates procedural rules but also implicates due process and the right to a fair tribunal. The Texas Supreme Court has held that due process violations render judgments void and subject to collateral attack, regardless of procedural deadlines (*In re E.R.*, 385 S.W.3d 552, 555 (Tex. 2012)).

13. Regarding staff misconduct – this court has yet to explain why on October 8, 2024, a modified version of a joint motion to recuse was forwarded to the Regional Presiding Judge with missing exhibits and without the attached affidavit. The reasons given by the Court Coordinator – Lindsey Baker – contradict Tarrant County e-filing procedures, and directly contradicts the Frequently Asked Questions section of the court’s website.

14. The Court Coordinator's continued involvement in recusal proceedings showcases a deeper level of judicial bias and impartiality, as the Texas Rules of Civil Procedure have no designation of responsibility for a court coordinator regarding recusal – likely intended given the fact that coordinators are appointed by the district judge's whom they serve. By facilitating actions that are otherwise reserved for court clerks, the Court Coordinator continues to act outside of her role, and furthers the one-sided favoritism displayed by the Court, and raises a reasonable concern that the court is not acting impartially.

#### **E. Unauthorized Practice and Void Filings**

15. Opposing counsel has filed two motions in this case. One came on April 24, 2024, seeking to set this matter for a pre-trial conference, and a motion to consolidate – which was granted *sua sponte* by the District Judge of the 233<sup>rd</sup> District Court in violation of local rules and in the face of an objection.

16. The record also shows that opposing counsel lacks authority to act, with e-filing credentials tied to a prior employer and later filings made by another firm without substitution of counsel. Filings by unauthorized persons are void and further undermine the legitimacy of the proceedings (*In re Garcia*, No. 02-20-00161-CV, 2020 WL 4812632, at \*1 (Tex. App. Aug. 20, 2020)).

#### **F. Orders by Non-Reinstated Judges**

17. Orders issued by this Court without official reinstatement by the regional presiding judge are void ab initio, as a judge lacks authority to act while recusal is pending or before reinstatement. Such *ultra vires* acts are subject to mandamus or other extraordinary relief (*In re Garcia*, No. 02-20-00161-CV, 2020 WL 4812632, at \*1 (Tex. App. Aug. 20, 2020)).

18. Furthermore, this Court continues to avoid the issues, and chose to set this matter for final trial immediately after the Supreme Court denied four of five pending mandamus petitions, showing a clear effort to avoid the issues despite being fully aware of them.

### **III. Cumulative Denial of Due Process**

19. The cumulative effect of these irregularities—fraudulent orders, unauthorized practice, recusal tampering, dormant prosecution, ultra vires judicial acts, and denial of notice and hearing—amounts to a systemic denial of due process and judicial integrity. The Texas Supreme Court has recognized that such violations render judgments void and subject to collateral attack, and that constitutional demands of due process override statutory requirements (*In re E.R.*, 385 S.W.3d 552, 555 (Tex. 2012)).

20. The repeated denials by the appellate courts do not alter the facts of this matter and supporting law. The continued disregard is not the answer, and will only lead to more recusal proceedings and mandamus petitions until a lawful explanation is handed down by a fair and impartial judge, regardless of which level of the judiciary it comes from.

### **IV. Conclusion**

21. The setting of a final trial under these circumstances would perpetuate and compound the denial of the Respondent's constitutional and statutory rights. The record demonstrates a pattern of procedural and jurisdictional defects, including deprivation of residence and property without hearing or findings, lack of diligence by the movant, ineffective assistance of counsel, fraudulent orders, unauthorized practice, judicial and staff misconduct, and denial of notice and opportunity to be heard, and continued disregard for the best interests of the children.

22. Texas law, as reflected in the Family Code and binding precedent, requires that these defects be remedied before any final trial may proceed. The only appropriate course is to vacate

the final trial setting, restore the Respondent's rights to due process, and ensure that all future proceedings comply strictly with statutory and constitutional requirements. Failure to do so would result in irreparable harm and a breakdown of judicial integrity, warranting extraordinary relief through additional recusal proceedings and mandamus petitions.

23. For all these reasons, the Respondent OBJECTS to notice of trial setting, and reserves the right to seek additional relief through the appropriate legal channels, including but not limited to further recusal proceedings, mandamus proceedings, and claims brought in federal court for the willful deprivation of constitutionally protected rights and through actions taken *ultra vires* by multiple judges who have yet to provide any substantive explanation for the conduct alleged herein.

24. Therefore, the Court should VACATE this order, the current temporary orders signed on March 14, 2024, and address the substantive issues as a priority and in accordance with Texas Law at the first possibly opportunity.

25. The Respondent's objection to the final trial setting is well-founded in law, and the court is obligated to remedy the procedural and jurisdictional defects before proceeding. Failure to do so risks further mandamus proceedings, reversal on appeal, and potential federal claims for deprivation of rights.

26. The Respondent puts the court on notice that he will be seeking prospective declaratory and injunctive relief through an *ultra-vires* claim shall these issues not be addressed at the earliest opportunity. The only appropriate course is to vacate the trial setting, address the underlying due process violations, restore the Respondent's rights, ensure strict compliance with statutory and constitutional requirements in all future proceedings, and require the opposing party to show cause for the lack of participation in this matter.



Respectfully Submitted,

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

### **CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2025, this OBJECTION was served in accordance with Texas Rules of Civil Procedure 21a to all parties of record.

Respectfully Submitted,

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

### **Automated Certificate of eService**

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Envelope ID: 104597667

Filing Code Description: Request

Filing Description: Objection to Notice Setting A Court Proceeding and Docket Control Order

Status as of 8/21/2025 11:59 AM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
CHARLES MYERS		chuckdustin12@gmail.com	8/20/2025 9:15:54 AM	SENT
Cooper L.Carter		coopercarter@majadmin.com	8/20/2025 9:15:54 AM	SENT
HOLLY HAYES		csd-legal-914@texasattorneygeneral.gov	8/20/2025 9:15:54 AM	SENT
MORGAN MICHELLEMYERS		MORGANMW02@GMAIL.COM	8/20/2025 9:15:54 AM	SENT