

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

-----X

STATE OF TEXAS, : Index No. EF2025-2536

Petitioner, :

For a Judgment Pursuant to Article 78 :
of the Civil Practice Law and Rules :

-against- : **PETITIONER’S**
: **MEMORANDUM OF LAW**
: **IN SUPPORT OF PETITION**
: **PURSUANT TO ARTICLE**

TAYLOR BRUCK, : **78 OF THE CPLR**
Acting County Clerk, :
Ulster County :

Respondent. :

-----X

Table of Contents

PRELIMINARY STATEMENT..... 3

LEGAL STANDARD 4

FACTUAL BACKGROUND 5

ARGUMENT 6

CONCLUSION..... 9

CERTIFICATION OF WORD COUNT11

Petitioner State of Texas, by and through its attorneys, Todd Alan Dickerson, Ernest C. Garcia, and Steven M. Ogle, submit this memorandum of law in support of their Petition for relief pursuant to Article 78 of the New York Civil Practice Law and Rules (“CPLR”) and NY CPLR § 2102(c). Petitioners seek a judgment compelling Respondents to accept for filing the motion for summary judgment in lieu of complaint against Dr. Margaret Daley Carpenter as required by CPLR § 2102(c).

PRELIMINARY STATEMENT

This Article 78 proceeding seeks for the Acting County Clerk to accept for filing the motion for summary judgment in lieu of complaint against Margaret Daley Carpenter by the 471st Judicial District of Collin County, Texas.

The underlying cause of action arose from Defendant Carpenter’s violation of the Texas Medical Practice Act, Tex. Occ. Code, Title 3 Health Professions, Subtitle B Physicians and 22 Tex. Admin. Code § 174.8 for practicing medicine without a license and registration in the State of Texas and for having also violated Tex. Health & Safety Code § 170A.002. On the 13th day of February, 2025, upon the Defendant’s default in appearance, a Final Judgment was rendered in the 471st Judicial District Court of Collin County, Texas, in favor of the Plaintiff and against the Defendant for the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00), as well as Twelve Thousand, Four Hundred and 00/100 Dollars (\$12,400) in reasonable attorney’s fees and Eight Hundred Nineteen and 59/100 Dollars (\$819.59) in filing fees and costs for a total of One Hundred Thirteen Thousand, Two Hundred Nineteen and 59/100 Dollars (\$113,219.59), together with post judgment interest at the rate of 7.5% until paid.

On the 17th day of March 2025, Petitioner State of Texas submitted its Notice of Motion for Summary Judgment in Lieu of Complaint to the Ulster County Clerk's Office, requesting that Court to domesticate the judgment of the State of Texas to a judgment of the State of New York and to enforce it and authorize collection upon it. On the 27th day of March 2025, Acting Ulster County Clerk, Taylor Bruck, sent Petitioner State of Texas, a statement of rejection to its request for filing. *See* Exhibit A.

LEGAL STANDARD

Mandamus to compel lies where a governmental officer or body has failed to perform a duty enjoined upon it by law, the performance of that duty is mandatory and ministerial rather than discretionary, and there is a legal right to the relief sought. *Matter of Hoffman v. New York State Ind. Redistricting Commn.*, 41 N.Y.3d 341, 359 (N.Y. 2023). Mandamus proceedings are controlled by N.Y. CPLR art. 78, and such proceedings are only appropriate where a determination cannot be “adequately reviewed by appeal to a court” N.Y. CPLR § 7801 (“Nature of Proceeding”). “Unless a shorter time is provided in the law authorizing the proceeding, a proceeding against a body or officer must be commenced within four months ... after the respondent’s refusal, upon the demand of the petitioner or the person whom he represents, to perform its duty.” N.Y. CPLR § 217. A notice of petition “shall be served on any adverse party at least twenty days before the time at which the petition is noticed to be heard.” N.Y. CPLR § 7804(c). A mandamus proceeding may be maintained against the Ulster County clerk as he is not only an “officer,” but also an “officer exercising judicial or quasi-judicial function.” N.Y. CPLR § 7802(a), (b). As such, “[a] clerk shall not refuse to accept for filing any paper presented for that purpose except where specifically directed to do so by statute or rules promulgated by the chief administrator of the courts, or order of the court.” N.Y. CPLR § 2102(c).

Section 837-X provides that "[n]o state or local government employee or entity or other person acting on behalf of state or local government shall cooperate with or provide information to any out-of-state individual or out-of-state agency or department regarding any legally protected health activity in this state, or otherwise expend or use time, moneys, facilities, property, equipment, personnel or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for any legally protected health activity occurring in this state." N.Y. Exec. Law § 837-x (McKinney)

FACTUAL BACKGROUND

On the 13th day of February, 2025, upon Defendant Carpenter's default in appearance, a Final Judgment was rendered in the 471st Judicial District Court of Collin County, Texas, in favor of the Plaintiff and against the Defendant for the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00), as well as Twelve Thousand, Four Hundred and 00/100 Dollars (\$12,400) in reasonable attorney's fees and Eight Hundred Nineteen and 59/100 Dollars (\$819.59) in filing fees and costs for a total of One Hundred Thirteen Thousand, Two Hundred Nineteen and 59/100 Dollars (\$113,219.59), together with post judgment interest at the rate of 7.5% until paid.

On the 17th day of March 2025, Plaintiff State of Texas submitted its Notice of Motion for Summary Judgment in Lieu of Complaint to the Ulster County Clerk's Office, requesting the Court to domesticate the judgment by the 471st Judicial District Court of Collin County, Texas as a judgment of the State of New York and to enforce it and authorize collection upon it.

On the 27th day of March 2025, the Acting Ulster County Clerk, Taylor Bruck, sent a rejection notice to Petitioner. *See* Petition Exhibit A. Petitioner sent a Demand to file its Notice of Motion for Summary Judgment in Lieu of Complaint to Respondent on July 11, 2025. *See* Petition

Exhibit B. The Demand required Respondent to file Petitioner's Notice of Motion for Summary Judgment in Lieu of Complaint by July 16, 2025. The Demand was rejected on July 14, 2025. *See* Petition Exhibit C.

As of the date of filing this Verified Petition, Respondent has not performed his duty required by N.Y. CPLR § 2102.

ARGUMENT

1. The United States Constitution requires the Ulster County Clerk to recognize Texas's judgment under the Full Faith and Credit Clause.

As applied here, the State of New York, acting through the Ulster County Clerk, should not be permitted to escape the constitutional obligation under the Full Faith and Credit Clause of the U.S. Constitution, Art. IV, § 1 to register a valid civil judgment of a sister state, by simply (statutorily) removing jurisdiction from otherwise competent courts in the State of New York. Where as in the instant case, in hostility the New York Ulster County Clerk as the Clerk of the Ulster County Supreme Court is permitted to close its courthouse doors to a valid Texas state court civil Final Judgment and Order Granting Permanent Injunction because of State of New York public policy, codified through New York State Executive Law 837-x (N.Y. Exec. Law § 837-x), such act should be forbidden based upon the national policy of the Full Faith and Credit Clause of the U.S. Constitution. *Hughes v. Fetter*, 341 U.S. 609, 611 (1951). *See also, Franchise Tax Board v. Hyatt*, 578 U.S. 171, 173, 176, 179 (2016) (the Constitution forbids a special rule of state law that evinces a policy of hostility to the public Acts / statutes of a sister state). The State of New York's statutory enactments of 2022 were not only hostile to the earlier enacted Texas statutes but were aimed specifically to frustrate or counteract the laws of a sister-state by not allowing a sister-state to register a civil judgment in the State of New York.

The United States Constitution at Art. IV, § 1 provides:

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other state. And the Congress may be general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Regarding state court judgments, the full faith and credit obligation of our U.S. Constitution is exacting, as a final judgment in one State, rendered by a court with adjudicatory authority over the subject matter and persons, qualifies for recognition and gains nationwide force. *Baker, ex rel. Thomas v. General Motors*, 522 U.S. 222, 233 (1998). The State of New York cannot assert that its public policy provides an exception to the full faith and credit due to a Texas state court judgment. *Id.* at 233, 239 (stating that U.S. Supreme Court decisions do not support any roving public policy exception).

In addition, the February 13, 2025, Texas state district court civil Final Judgment and Order Granting Permanent Injunction was not penal in the “strict, primary, and international sense,” referenced in *Huntington v. Attrill*, 146 U.S. at 681, 684, 686. As a preliminary matter, the Texas order of injunction for Carpenter to cease practicing telemedicine upon female Texas residents without being licensed and registered in Texas was not a penal judgment. In addition, or the alternative, the underlying Texas state court judgment did not involve criminal prosecution or punishment, but rather was based upon a civil action and statutory liability resulting in Carpenter’s obligation to pay money and was not penal. *See, Milwaukee County v. M.E. White Co.*, 296 U.S. 268, 271 (1935) (regardless of the nature of the right which gave rise to it, a money judgment for a civil cause of action is an obligation to pay money like a debt). “The very purpose of the full faith and credit clause was to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation throughout which a remedy upon a just obligation might be demanded as of right, irrespective of the state of its origin.” *Id.* at 276-

77. In numerous cases, the U.S. Supreme Court has held that credit must be given to the judgment of another state, although the forum state would not be required to entertain the suit upon which the judgment was founded. *Id.* at 277. Furthermore, there are no recognized exceptions to the applicability of the full faith and credit clause in the case of a state court money judgment rendered in a civil action. *Baker v. GM*, 522 U.S. at 234, citing *Magnolia Petroleum Co. v. Hunt*, 320 U.S. 430, 438 (1943). Civil “litigation once pursued to judgment shall be as conclusive of the rights of the parties in every other court as in that where the judgment was rendered, so that a cause of action merged in a judgment in one state is likewise merged in every other.” *Magnolia* at 439. “When a state court refuses credit to the judgment of a sister state because of its opinion of the nature of the cause of action or the judgment in which it is merged, an asserted federal right is denied.” *Id.* at 443.

This Court should therefore find New York State Executive Law 837-x (N.Y. Exec. Law § 837-x), as applied here by Ulster County Clerk Taylor Bruck, to be unconstitutional, and thereby to be a violation of the Clerk’s non-discretionary duty. This supports mandamus relief as further described below.

2. Mandamus relief pursuant to New York Civil Practice Law and Rules § 7803 is proper in this case.

A writ of mandamus is available where a government “body or officer failed to perform a duty enjoined upon it by law.” CPLR § 7803(1). New York Civil Practice Law and Rules § 2102(c) requires that “[a] clerk shall not refuse to accept for filing any paper presented for that purpose except where specifically directed to do so by statute or rules promulgated by the chief administrator of the courts, or order of the court.” Acting County Clerk Taylor Bruck cited New York Executive Law § 837-X as the basis for refusing to accept Petitioner’s filing; however, this

statute does not specifically direct such refusal and is therefore an impermissible basis for rejecting Petitioner's filing. Acting County Clerk Taylor Bruck failed to perform a duty enjoined upon him by N.Y. CPLR § 2102 that involves no exercise of discretion. Petitioner possesses a clear legal right to the performance of this duty under N.Y. CPLR art. 78.

By reason of the foregoing, Respondent should be compelled to file Petitioner's Motion for Summary Judgment in Lieu of Complaint against Margaret Daley Carpenter, M.D.

CONCLUSION

Respondent is constitutionally and statutorily required to accept Petitioner's motion for summary judgment in lieu of complaint against Dr. Margaret Daley Carpenter. Petitioners respectfully request that the Court grant their Petition compelling the respondent to file Petitioner's Motion for Summary Judgment in Lieu of Complaint against Margaret Daley Carpenter, M.D., awarding State of Texas counsel fees and expenses under CPLR Article 86, and granting such other and further relief as the Court deems just and proper.

Dated: July 25, 2025
Austin, Texas

Respectfully submitted,

KEN PAXTON
Attorney General

BRENT WEBSTER
First Assistant Attorney General

RALPH MOLINA
Deputy First Assistant Attorney General

AUSTIN KINGHORN
Deputy Attorney General for Civil Litigation

/s/ Todd Dickerson

Todd Alan Dickerson
New York Bar No. 5215272
Assistant Attorney General
Ernest C. Garcia
Texas Bar No. 07632400
Assistant Attorney General
Application to appear pro hac vice pending
Steven M. Ogle
Texas Bar No. 24044477
Assistant Attorney General
Application to appear pro hac vice pending
Office of the Attorney General of Texas
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 475-4082
Facsimile: (512) 320-0167
todd.dickerson@oag.texas.gov
ernest.garcia@oag.texas.gov
steven.ogle@oag.texas.gov

***Attorneys for Plaintiff,
The State of Texas***

To:
TAYLOR BRUCK
Ulster County Clerk's Office
244 Fair St.
Kingston, NY 12401
(845) 340-3040
tbru@co.ulster.ny.us

CERTIFICATION OF WORD COUNT

I hereby certify that the word count of this memorandum of law complies with the word limits of 22 New York Codes, Rules and Regulations § 202.8-b(a). According to the word-processing system used to prepare this memorandum of law, the total word count for all printed text exclusive of the material omitted under 22 N.Y.C.R.R. § 202.8-b(b) is 2,439 words.

Dated: July 25, 2025

/s/ Todd Dickerson

Todd Alan Dickerson