

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

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STATE OF TEXAS,	:	Index No. EF2025-2536
	:	
Petitioner,	:	
	:	
For a Judgment Pursuant to Article 78	:	
of the Civil Practice Law and Rules	:	
	:	
-against-	:	<u>VERIFIED PETITION</u>
	:	
TAYLOR BRUCK,	:	
Acting County Clerk,	:	
Ulster County	:	
	:	
Respondent.	:	
	:	

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Petitioner State of Texas, by and through its attorneys, Todd Alan Dickerson, Ernest C. Garcia, and Steven M. Ogle, for its verified petition pursuant to Article 78 of the Civil Practice Law and Rules ("CPLR"), respectfully alleges as follows:

INTRODUCTION

1. 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.

2. 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.

3. 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.*

PARTIES

4. Petitioner State of Texas is represented by the Office of the Attorney General of Texas. The State of Texas is a sovereign state within the United States and has the inherent authority to enforce its laws within its borders.

5. Respondent Taylor Bruck is the Acting County Clerk of Ulster County, New York, and as such is charged with the responsibility of filing papers for the Supreme Court of the State of New York, County of Ulster, under N.Y. CPLR § 2102. He is an officer within the meaning of Article 78 of the CPLR. His principal office is located at 244 Fair Street, Kingston, NY 12401.

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to CPLR § 506(b) and § 7804(b).

7. Venue in the County of Ulster is proper pursuant to CPLR § 506(b) because it is the county in which Respondent refused to perform the duty enjoined upon him by law.

STATUTORY AUTHORITY

8. 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).

STATEMENT OF FACTS

9. 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.

10. 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.

11. On the 27th day of March 2025, the Acting Ulster County Clerk, Taylor Bruck, sent a rejection notice to Petitioner. *See Exhibit A*

12. Petitioner sent a Demand to file its Notice of Motion for Summary Judgment in Lieu of Complaint to Respondent on July 11, 2025. *See Exhibit B.*

13. The Demand required Respondent to file Petitioner's Notice of Motion for Summary Judgment in Lieu of Complaint by July 16, 2025.

14. The Demand was rejected on July 14, 2025. *See Exhibit C.*

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

16. Attached hereto is a true and correct copy of the Affidavit of Ernest Garcia.

**FIRST CAUSE OF ACTION - PETITION FOR WRIT OF MANDAMUS
AGAINST RESPONDENT**

17. Petitioner repeats and realleges paragraphs 1 through 15 hereof, as if fully set forth herein.

18. 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).

19. 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.”

20. 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.

21. Acting County Clerk Taylor Bruck failed to perform a duty enjoined upon him by N.Y. CPLR § 2102 that involves no exercise of discretion.

22. Petitioner possesses a clear legal right to the performance of this duty under N.Y. CPLR art. 78.

23. 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.

PRAYER FOR RELIEF

WHEREFORE, the State of Texas respectfully requests that a judgment be entered herein as follows:

- A. On the first cause of action, compelling the respondent to file Petitioner’s Motion for Summary Judgment in Lieu of Complaint against Margaret Daley Carpenter, M.D.
- B. Awarding State of Texas counsel fees and expenses under CPLR Article 86.
- C. 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

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/s/ Todd Dickerson
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***Attorneys for Plaintiff,
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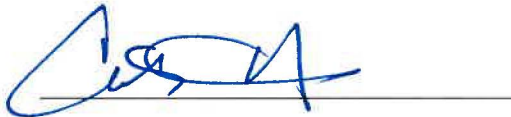
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VERIFICATION

I, Catherine Hughes, affirms the following to be true under the penalties of perjury, pursuant to Civil Practice Law and Rules (CPLR) 2106:

1. I am an employee of the Petitioner, State of Texas.
2. I have read the foregoing petition and its factual contents are true to my personal knowledge, except as to those matters alleged therein to be upon information and belief, and as to those matters, I believe them to be true.

I affirm this 25th day of July, 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Catherine Hughes