

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF KENNETH DEPUTY § No. 425, 2008
FOR A WRIT OF MANDAMUS §

Submitted: September 23, 2008
Decided: November 24, 2008

Before **STEELE**, Chief Justice, **HOLLAND**, and **JACOBS**, Justices.

ORDER

This 24th day of November 2008, upon consideration of Kenneth Deputy's petition for a writ of mandamus and the State's answer and motion to dismiss, it appears to the Court that:

(1) On August 25, 2008, Kenneth Deputy filed a petition seeking to invoke the original jurisdiction of this Court pursuant to Supreme Court Rule 43 to issue an extraordinary writ of mandamus to the Superior Court. Deputy requests that the Superior Court be directed to rule on his motion to compel discovery by the defendants in a civil action he has pending in that court. The State of Delaware has filed an answer and a motion to dismiss the petition for a writ of mandamus.

(2) The record reflects that the Superior Court ruled on Deputy's motion to compel on October 7 and held that the defendants were not required to respond to Deputy's discovery requests until they were properly served. If

proper service was made, then the defendants were ordered to respond within 45 days. The Superior Court docket reflects that Deputy is attempting to follow the Superior Court's instructions to serve the defendants properly. Under the circumstances, Deputy's petition for a writ of mandamus is moot.

NOW, THEREFORE, IT IS ORDERED that the petition for an extraordinary writ is DISMISSED as moot.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice