

Opinion issued August 30, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-21-00522-CV

**IN RE O-2 HOLDINGS, LLC, 4010 FACILITY HOLDINGS, LLC, 23330
EMERGENCY CENTER, LLC, BO2 INVESTMENTS, LLC, BEAUMONT
ELITE EMERGENCY CENTER, LLC, ELITE MEDICAL CENTER, LLC,
FACILITIES MANAGEMENT GROUP, LLC, LAS VEGAS FACILITY
HOLDINGS, LLC, ST. MICHAEL'S EMERGENCY CENTER, LLC, ST.
MICHAEL'S MEDICAL HOSPITAL, LLC, TEXAS GUN CLUB, LLC, AND
TGC PROPERTIES, LLC, Relators**

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relators, O-2 Holdings, LLC, 4010 Facility Holdings, LLC, 23330
Emergency Center, LLC, BO2 Investments, LLC, Beaumont Elite Emergency
Center, LLC, Elite Medical Center, LLC, Facilities Management Group, LLC, Las
Vegas Facility Holdings, LLC, St. Michael's Emergency Center, LLC, St. Michael's

Medical Hospital, LLC, Texas Gun Club, LLC, and TGC Properties, LLC (collectively, “relators”), have filed a petition for a writ of mandamus arguing that the trial court abused its discretion by granting real party in interest Mary Margaret Orsak’s Motion for Appointment of Master in Chancery.

Relators’ petition for writ of mandamus is dismissed as moot.¹

Relators are non-parties to the underlying divorce and custody suit between real parties in interest, Brian Christopher Orsak and Mary Margaret Orsak. In that divorce case, Mary sought discovery from Brian regarding several corporate entities, including relators, for purposes of characterizing separate and community property and valuating the interests in such property.

Brian responded to these discovery requests by asserting that he did not have any documents responsive to Mary’s requests in his possession, custody, or control. Mary then sought the requested documents directly from the entities, including relators, serving them with subpoenas and depositions on written questions. Mary ultimately entered into an agreement with the entities pertaining to the scope of discovery, including the production of responsive documents.

Dissatisfied with the entities’ discovery responses, Mary filed motions to compel against the entities and Brian. She also filed a “Motion to Appoint Master

¹ The underlying case is *In the Matter of the Marriage of Mary Margaret Orsak and Brian Christopher Orsak*, Cause No. 19-FD-2884, in the 306th District Court of Galveston County, Texas, the Honorable Anne B. Darling presiding.

in Chancery/Discovery Master,” requesting appointment of a discovery master on the grounds that the “divorce action involve[ed] a large and complex marital estate,” and that Mary and Brian “own an interest in a number of complex business entities.” Mary further asserted that Brian and the entities had “been uncooperative with discovery requests,” leading to the filing of these motions with the trial court to resolve the various discovery disputes. Reasoning that “it would take significant time on the [trial court’s] docket to resolve the outstanding discovery disputes and any future discovery disputes with respect to the documents and information needed with respect to the business entities,” Mary requested that the trial court “refer all discovery disputes involving documents or information regarding any business entity in which either party owns an interest to a Master in Chancery/Discovery Master.”

Brian objected to Mary’s master-appointment as “baseless,” arguing that Mary had not established good cause, or the existence of exceptional circumstances as required by Texas Rule of Civil Procedure 171. On August 19, 2021, the trial court held a hearing on Mary’s motion. Over Brian’s objection, the trial court considered the motion without evidence presentation or witness testimony, relying on the arguments of counsel.

On August 20, 2021, the trial court entered an “Order of Reference on Appointment of Master in Chancery” (the “appointment order”). In the appointment

order, the trial court concluded “that good cause ha[d] been shown for the appointment of a master in chancery, as the matters and issues in this case are exceptional and complicated.” The trial court also found that the “appointment of [a] Master in Chancery will aid the performance of this court’s duty to timely rule on discovery issues related to the value and character of the community and separate estates, which have been delayed as a result of [the trial court’s] docket, the ongoing [Covid-19] pandemic, and the recent fire in the Galveston County Courthouse.” The trial court appointed “retired Senior District Judge the Honorable David Farr” as master in chancery and outlined the scope of his authority to act.

Brian filed a mandamus petition challenging the appointment order. Shortly thereafter, relators filed their mandamus petition, which largely asserts the same arguments asserted in Brian’s mandamus petition, specifically stating that they “join in and adopt by reference” much of Brian’s petition for writ of mandamus. In their petition, relators specifically requested that the Court grant their petition and direct the trial court to vacate its order appointing the master in chancery. This relief mirrors the relief requested in Brian’s mandamus petition.

Having concluded that the trial court abused its discretion by appointing the Master in Chancery, we conditionally granted Brian’s petition for writ of mandamus, and directed the trial court to vacate its August 20, 2021 order appointing the Master in Chancery. *See In re Brian Christopher Orsak*, --- S.W.3d ---, 2022 WL 3649365,

at *9 (Tex. App.—Houston [1st Dist.] Aug. 25, 2022, orig. proceeding). Because we have granted the relief requested by relators in connection with Brian’s petition for writ of mandamus, relators’ petition for writ of mandamus has been rendered moot.

Accordingly, we dismiss relators’ petition for writ of mandamus as moot. Any pending motions are dismissed as moot.

PER CURIAM

Panel consists of Justices Landau, Guerra, and Farris.