

Opinion issued April 25, 2024



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-23-00831-CV

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**IN RE ELIZABETH THOMAS, Relator**

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**Original Proceeding on Petition for Writ of Mandamus**

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**MEMORANDUM OPINION**

On November 8, 2023, relator, Elizabeth Thomas, proceeding pro se, filed a petition for a writ of mandamus arguing that this Court should compel the trial court to vacate its August 10, 2023 order that granted the objection of real party in interest, PCF Properties in TX, LLC, and vacated a supersedeas bond posted by relator because the “[t]rial [c]ourt abuse[d] its discretion . . . by entering an order while a

motion to recuse [was] still pending.”<sup>1</sup> Relator also filed a motion for temporary relief, requesting that the Court stay a hearing scheduled for November 14, 2023 and a motion to show authority, requesting that real party in interest’s counsel “[p]roduce evidence of its client[’s] . . . legal existence and its authority . . . to defend [real party in interest] in these proceedings.” Relator subsequently filed an amended petition for a writ of mandamus, arguing that the trial court’s August 10, 2023 order is “ ‘void’ not only because it was signed in violation of Rule 18a, but [also] . . . because the . . . case was removed to U.S. Bankruptcy Court of Delaware[,] depriving [the] trial court of both subject matter and personal jurisdiction over the parties.”

On January 18, 2024, this original proceeding was stayed pursuant to a suggestion of bankruptcy filed by relator in the United States Bankruptcy Court for the Southern District of Texas (the “bankruptcy court”). *See* 11 U.S.C. § 362(a); TEX. R. APP. P. 8.1, 8.2. On April 2, 2024, the Clerk of the Court requested that the parties submit, within fourteen days of the date of the notice, a status report informing the Court of the status of the bankruptcy case. In response, relator filed a motion to reinstate this original proceeding, stating that the bankruptcy court had dismissed the bankruptcy case. Relator attached to her motion an Order of Dismissal

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<sup>1</sup> The underlying case is *James Allen, Robert L. Thomas, and Allan Hays v. PCF Properties in Texas, LLC v. Elizabeth Thomas, James M. Andersen, and JPMorgan Chase Bank, N.A.*, Cause No. 2020-35780, in the 80th District Court of Harris County, Texas, the Honorable Jeralynn Manor presiding.

signed by the bankruptcy court on March 16, 2024. Although relator’s motion did not include a certificate of conference stating whether real party in interest was opposed to the relief requested in the motion, more than ten days have passed, and real party in interest has not filed a response to relator’s motion.<sup>2</sup> *See* TEX. R. APP. P. 10.1(a)(5), 10.3(a). Further, real party in interest has not filed a response to the Clerk’s April 2, 2024 notice requesting a status report.

Accordingly, we grant relator’s motion, reinstate this original proceeding on the Court’s active docket, and deny the petitions. *See* TEX. R. APP. P. 8.3(a), 52.8(a). All other pending motions are dismissed as moot.

**PER CURIAM**

Panel consists of Justices Kelly, Countiss, and Rivas-Molloy.

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<sup>2</sup> On January 22, 2024, real party in interest filed a “Notice of Termination of the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3)(A),” stating that effective January 18, 2024, the automatic stay under 11 U.S.C. § 362(a) was terminated as to relator. We note that relator’s motion includes a certificate of service indicating that she served her motion to reinstate on real party in interest through attorney Alizadia Spires. Nothing in the record reflects that Spires represents real party in interest. *See generally* TEX. R. APP. P. 6 (“Representation by Counsel”). Attorney John V. Burger is lead counsel for real party in interest. *See* TEX. R. APP. P. 6.1, 9.5(a) (“Service on a party represented by counsel must be made on that party’s lead counsel.”).