

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-08-00636-CV

**IN RE Michael Joseph KEARNS**

Original Mandamus Proceeding<sup>1</sup>

PER CURIAM

Sitting: Sandee Bryan Marion, Justice  
Phylis J. Speedlin, Justice  
Steven C. Hilbig, Justice

Delivered and filed: August 27, 2008

PETITION FOR WRIT OF MANDAMUS DENIED

On August 20, 2008, relator filed a petition for writ of mandamus in which he asks this court to order the trial court to issue findings of fact and conclusions of law following the trial court's rendering of a summary judgment in favor of the real party in interest. Findings of fact are inappropriate to summary judgments and should be ignored. *See Eland Energy, Inc. v. Rowden Oil & Gas, Inc.*, 914 S.W.2d 179, 188 n.7 (Tex. App.—San Antonio 1995, writ denied); *see also Linwood v. NCNB Tex.*, 885 S.W.2d 102, 103 (Tex. 1994) (“findings of fact and conclusions of law have no place in a summary judgment proceeding”). Accordingly, because findings of fact and conclusions of law are not appropriate in a summary judgment proceeding, relator has not established that respondent abused her discretion by failing to file any requested findings or conclusions.

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<sup>1</sup> This proceeding arises out of Cause No. 2007-CI-13911, styled *Michael Joseph Kearns v. Sundok Lee Caraway*, filed in the 166th Judicial District Court, Bexar County, Texas.

Therefore, relator is not entitled to the relief sought, and the petition is DENIED. TEX. R. APP. P.

52.8(a).

Relator shall pay all costs incurred in this proceeding.

PER CURIAM