

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS

IN RE: JUAN CARLOS BERMUDEZ,

\$ No. 08-15-00200-CV

\$ ORIGINAL PROCEEDING

Relator.

\$ ON PETITION FOR WRIT OF

\$ MANDAMUS

DISSENTING OPINION

I respectfully dissent from the opinion and judgment denying the motion to stay and refusing to grant mandamus relief. The mandamus petition and record present a serious question whether the trial court abused its discretion by refusing to withdraw the deemed admissions which will operate to preclude Relator's claim for reimbursement. Requests for admissions are intended to be used to eliminate matters about which there is no real controversy and were never intended to be used as a demand upon a plaintiff or defendant to admit that he had no cause of action or ground of defense. *Soto v. General Foam & Plastics Corporation*, 458 S.W.3d 78, 83 (Tex.App.--El Paso 2014, no pet.). Absent bad faith or callous disregard for the rules, due process bars merits-preclusive sanctions. *Id.* I would grant the motion to stay and hear the mandamus petition on the merits.

YVONNE T. RODRIGUEZ, Justice

July 9, 2015

Before McClure, C.J., Rodriguez, and Hughes, JJ.