

DISMISS; and Opinion Filed December 6, 2018.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-18-00970-CV

IN RE SUSAN HARRIMAN, Relator

**Original Proceeding from the 162nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-11994**

MEMORANDUM OPINION

Before Justices Bridges, Brown, and Boatright
Opinion by Justice Brown

Before the Court are relator's petition for writ of mandamus and relator's "Motion to Vacate Trial Court Orders, Implement Settlement Agreement and Dismiss." In this original proceeding, relator complains of the trial court's orders related to production of a purportedly privileged e-mail; i.e., the Attorney Theos Email. The parties have now settled the underlying dispute, and the trial court has signed an "Order of Non-Suit with Prejudice" and dismissed all claims at issue in this original proceeding. In her motion, Relator requests that this Court take the following actions: (1) vacate the trial court's oral and written orders related to the Attorney Theos Email, (2) order the real parties in interest and their counsel to return all hard copies and destroy all electronic copies of the Attorney Theos Email, (3) permanently seal volume 3 of the sworn mandamus record, and (4) order the parties to bear their own costs. Real parties in interest Julio Palmaz, M.D. and Steven Solomon filed a response to the motion. They oppose the relief requested

by relator and maintain that the non-suit and dismissal order rendered this proceeding moot and, therefore, must be dismissed.

When a trial court dismisses an action pursuant to a notice of non-suit, a temporary order rendered during the pendency of the cause automatically dissolves by operation of law without further order of the trial court and renders appellate proceedings related to the order moot. *Gen. Land Office v. OXY U.S.A., Inc.*, 789 S.W.2d 569, 571 (Tex. 1990) (when trial court dismisses lawsuit, temporary injunction is automatically dissolved); *Goodman v. Hill*, No. 05-13-01313-CV, 2014 WL 1576969, at *1 (Tex. App.—Dallas Apr. 21, 2014, no pet.) (“The trial court’s dismissal of the underlying action automatically dissolved the temporary injunction, rendering the issues in this appeal moot.”).

Here, the trial court’s dismissal automatically dissolved the orders of which relator complains. This controversy is, therefore, moot and must be dismissed. *See Gen. Land. Office*, 789 S.W.2d at 572. Accordingly, we deny relator’s request for orders vacating the trial court’s orders and for orders requiring return or destruction of paper and electronic copies of the Attorney Theos Email. We deny as moot relator’s request for the permanent sealing of Volume 3 of the mandamus record because this Court’s November 5, 2018 order sealing the original and all copies of Volume 3 of the mandamus record remains in effect. Finally, in light of the trial court’s non-suit and dismissal order, we dismiss this original proceeding as moot without reaching the merits of the petition for writ of mandamus.

/Ada Brown/

ADA BROWN
JUSTICE