

DISMISS and Opinion Filed January 21, 2022



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

No. 05-21-00762-CV

IN RE RAY ALLEN, Relator

**Original Proceeding from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. MDL-16-00001**

MEMORANDUM OPINION

Before Justices Schenck, Nowell, and Garcia
Opinion by Justice Schenck

In this original proceeding, relator Ray Allen—a non-party in the underlying case—seeks a writ of mandamus compelling the trial court to vacate its order granting real party in interest Chalak TP Waco, LLC’s motion to compel certain testimony from him. By letter filed December 13, 2021, real party Chalak TP Waco, LLC advised us that this original proceeding is moot because all claims asserted against it have been dismissed with prejudice in the underlying case. Accordingly, we directed relator to file, no later than December 28, 2021, either a motion to dismiss the original proceeding or a letter brief showing cause why the original proceeding should not be dismissed for want of jurisdiction. *See Nat’l Collegiate*

Athletic Ass'n v. Jones, 1 S.W.3d 83, 86 (Tex. 1999) (“Appellate courts are prohibited from deciding moot controversies.”).

Although we cautioned relator that failure to comply could result in dismissal of the appeal without further notice, relator has not complied. Accordingly, on the record before us, we dismiss the petition for writ of mandamus. We also lift the stay issued by this Court’s September 3, 2021 order.

/David J. Schenck/
DAVID J. SCHENCK
JUSTICE

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