

DENY and Opinion Filed July 14, 2022



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

No. 05-22-00657-CV

IN RE CITY OF DALLAS, Relator

**Original Proceeding from the 14th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-22-01696**

MEMORANDUM OPINION

Before Justices Schenck, Carlyle, and Goldstein
Opinion by Justice Schenck

Before the Court are relator's July 1, 2022 petition for writs of prohibition and injunction and motion for emergency stay. In its petition, relator requests that we issue a writ of prohibition against the trial court to prevent it from signing an order enforcing the order authorizing pre-suit depositions. Relator also requests that we issue a writ of injunction against real party in interest to prevent her from taking any further action to enforce the order authorizing pre-suit depositions pending final resolution of a related mandamus proceeding.

A writ of prohibition has three functions: (1) preventing interference with higher courts in deciding a pending appeal; (2) preventing an inferior court from entertaining suits that will re-litigate controversies already settled by the issuing

court; and (3) prohibiting a trial court’s action when it affirmatively appears the court lacks jurisdiction. *In re Bolton*, No. 05-10-01115-CV, 2010 WL 4011041, at *1 (Tex. App.—Dallas Oct. 14, 2010, orig. proceeding) (mem. op.) (citing *Humble Expl. Co., Inc. v. Walker*, 641 S.W.2d 941, 943 (Tex. App.—Dallas 1982, orig. proceeding)). We conclude that relator has presented no proper basis for this Court to issue a writ of prohibition here.

A court of appeals also does not have original jurisdiction to grant writs of injunction, “except to protect its jurisdiction over the subject matter of a pending appeal, or to prevent an unlawful interference with the enforcement of its judgments and decrees.” *In re Torres*, No. 05-18-00774-CV, 2018 WL 4784580, at *1 (Tex. App.—Dallas Oct. 4, 2018, orig. proceeding) (mem. op.) (quoting *Ott v. Bell*, 606 S.W.2d 955, 957 (Tex. App.—Waco 1980, no writ)). Because there is no pending appeal associated with this original proceeding, we conclude that relator has not shown that a writ of injunction is necessary.

Accordingly, we deny relator’s petition for writs of prohibition and injunction. *See* TEX. R. APP. P. 52.8(a). Having denied the petition, we also deny the motion for emergency stay as moot.

/David J. Schenck/

DAVID J. SCHENCK
JUSTICE

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