

Opinion issued February 7, 2011.



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-11-00081-CV

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**IN RE DEL MONTE FRESH PRODUCE N.A., INC., Relator**

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**Original Proceeding on Petition for Writ of Mandamus**

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**MEMORANDUM OPINION<sup>1</sup>**

Relator Del Monte Fresh Produce N.A., Inc. (“Del Monte”) has filed a petition for writ of mandamus, seeking to have this Court compel the trial court to enforce a contractual waiver of the right to a jury trial. While Del Monte’s petition was pending, real party in interest James J. Flanagan Shipping Corporation

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<sup>1</sup> The underlying case is *James J. Flanagan Shipping Corp. v. Del Monte Fresh Produce N.A., Inc.*, No. 60,347 in the County Court at Law No. 3 of Galveston County, Texas, the Honorable Christopher M. Dupuy presiding.

filed a copy of its notice of waiver of a jury trial and agreement to strike the jury demand from its petition. Accordingly, Del Monte's petition for writ of mandamus is now moot.

We **dismiss** Del Monte's petition for writ of mandamus, and our order staying the trial of the underlying case is **vacated**. All outstanding motions are **dismissed** as moot.

**PER CURIAM**

Panel consists of Chief Justice Radack and Justices Bland and Brown.