

Opinion issued April 7, 2011



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

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NO. 01-11-00101-CV

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**IN RE PARK NATIONAL CAPITAL FUNDING, LLC, Relator**

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

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**MEMORANDUM OPINION**

On February 10, 2011, relator, Park National Capital Funding, LLC., filed a petition for writ of mandamus in this Court. *See* TEX. GOV'T CODE ANN. § 22.221; *see also* TEX. R. APP. P. 52. In the petition, relator asks this Court to compel the Honorable Jeff Shadwick, presiding judge of the 55th District Court of Harris County to vacate the order signed January 24, 2011, which vacated an order by

Judge Shadwick's predecessor granting a new trial. The same day, Judge Shadwick signed a final judgment, which has been appealed to this Court.

Mandamus relief is available when the trial court abuses its discretion and there is no adequate remedy at law, such as by appeal. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004); *In re Dana Corp.*, 138 S.W.3d 298, 301 (Tex. 2004) (orig. proceeding) (citing *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992) (orig. proceeding)). Because the trial court entered a final judgment on January 24, 2011, relator has an adequate remedy at law. A writ of mandamus is not a substitute for an appeal. *See Walker*, 827 S.W.2d at 840–41; *In re Security Nat'l Ins.*, No. 14-11-00013-CV, 2011 WL 332712, at \*1 (Tex. App.—Houston February 3, 2011, orig. proceeding).

Because the order relator complains of is subject to review by direct appeal, we have no authority to issue writ of mandamus. Accordingly, we deny the petition for writ of mandamus.

#### **PER CURIAM**

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