

Opinion issued May 26, 2011.



In The
Court of Appeals
For The
First District of Texas

NO. 01-11-00301-CV

**IN RE JAMES P. CHARNQUIST, LEGENDS AT VANCE JACKSON
APARTMENTS, L.P., AND LEGENDS AT VANCE JACKSON, G.P., LLC,
Relators**

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relators, James P. Charnquist, Legends at Vance Jackson Apartments, L.P., and Legends at Vance Jackson, G.P., LLC, filed a petition for writ of mandamus challenging the trial court's order (1) finding that the application for turnover and the appointment of a receiver is not barred by res judicata, (2) compelling the deposition of James P. Charnquist, and (3) overruling discovery objections. After

relators filed their petition for writ of mandamus, real party in interest, James P. Charnquist, non-suited the underlying case.¹

A non-suit typically moots the case or controversy from the moment of its filing or pronouncement in open court. *Univ. of Tex. Med. Branch at Galveston v. Estate of Blackmon ex rel. Shultz*, 195 S.W.3d 98, 100 (Tex. 2006) (per curiam). Because appellate courts are prohibited from deciding moot controversies, we **dismiss** relators' petition for writ of mandamus and vacate our order granting temporary relief. *See Brooks v. Northglen Ass'n*, 141 S.W.3d 158, 164 (Tex. 2004).

PER CURIAM

Panel consists of Justices Jennings, Bland, and Massengale.

¹ The underlying case is *James M. Clifton v. James P. Charnquist, Legends at Vance Jackson Apartments, L.P., Legends at Vance Jackson G.P., LLC*, No. 2010-77701 in the 55th District Court of Harris County, Texas, the Honorable Jeff Shadwick presiding.