

Opinion issued September 24, 2013.



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

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NO. 01-13-00725-CV

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**IN RE BELL HOT SHOT, INC. AND MELVIN WAYNE BALL, Relators**

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

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**MEMORANDUM OPINION**

Relators, Bell Hot Shot, Inc. and Melvin Wayne Ball, filed a petition for writ of mandamus, contending that respondent, the Honorable Kyle Carter, abused his discretion in failing to rule on relators' supplemental motion to compel an independent psychological examination of real party in interest, Tim York, within

a reasonable time.<sup>1</sup> Relators have filed a motion to dismiss their petition stating that respondent has ruled on the supplemental motion and they no longer wish to prosecute their petition. Although relators' motion does not include a certificate of conference, it contains a certificate of service stating that the motion was served on respondent and real parties in interest and has been on file with the Court for more than ten days. Neither real parties in interest nor respondent have expressed opposition to the motion. *See* TEX. R. APP. P. 10.1(a)(5), 10.3(a)(2).

We grant relators' motion to dismiss and dismiss the petition for writ of mandamus.

**PER CURIAM**

Panel consists of Justices Jennings, Sharp, and Brown.

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<sup>1</sup> The petition identifies the underlying case as *Tim York v. Bell Hot Shot Company d/b/a BHDS, Inc. and Melvin Wayne Ball*, Cause No. 2010-39439, in the 125th District Court of Harris County, Texas, the Honorable Kyle Carter, presiding. Real parties in interest in this original proceeding are Tim York and Catina York.