

Opinion issued August 23, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-21-00200-CV

**IN RE KENNETH B. CHAIKEN AND CHAIKEN & CHAIKEN, P.C.,
Relators**

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relators, Kenneth B. Chaiken and Chaiken & Chaiken, P.C., have filed a petition for writ of mandamus, challenging two sanctions orders.¹ Because the two

¹ The underlying case is *The Cweren Law Firm, PLLC v. 2016 Baytown Ward Rd LLC d/b/a Watermark at Baytown Apartments, 2015 Houston Redford, LLC d/b/a The Redford Apartments, 2013 Houston Maxey, LLC d/b/a Rollingwood Apartments, 2013 Houston Fleming, LLC d/b/a Timber Ridge Apartments, 2013 Travis Oak Creek, LP d/b/a Lucero Apartment Homes, 2013 Travis Oak Creek GP, LLC, Columbia Housing SLP Corporation, Lucero, LLC, 2015 Houston Gulfon, LLC d/b/a La Estancia Apartments, 2014 Galveston Jones Drive, LLC*

sanctions orders were signed by the former trial court judge, this Court abated this original proceeding on September 28, 2021 to allow the successor trial court judge to reconsider the sanctions orders. *See* TEX. R. APP. P. 7.2(b). On October 20, 2021, the underlying case was transferred to County Civil Court at Law No. 2 of Harris County, Texas. On July 21, 2022, the successor trial court judge granted motions to reconsider the sanctions orders and “vacated [both orders] in all respects.” Relators have now filed an unopposed motion to dismiss this original proceeding as moot.

This Court cannot decide a case that has become moot. *See Heckman v. Williamson Cty.*, 369 S.W.3d 137, 162 (Tex. 2012); *see also In re Salverson*, No. 01-12-00384-CV, 2013 WL 557264, at *1 (Tex. App.—Houston [1st Dist.] Feb. 14, 2013, orig. proceeding) (mem. op.). “If a proceeding becomes moot, the [C]ourt must dismiss the proceeding” *In re Salverson*, 2013 WL 557264, at *1. Here, the successor trial court judge vacated the orders from which relators sought mandamus relief. Because the successor trial court judgment vacated the complained-of orders, the “orders are no long in effect,” and we must dismiss the mandamus proceeding as moot. *See In re Becker*, No. 01-10-00917-CV, 2011 WL 1588520, at *1 (Tex. App.—Houston [1st Dist.] Apr. 21, 2011, orig. proceeding)

d/b/a Island Bay Apartments, Eureka Multifamily Group GP, Inc., Eureka Multifamily Group, LP, Rene Campos, Jimmy Arnold, and Chris Roberson, Cause No. 1156293, pending in the County Civil Court at Law No. 2 of Harris County, Texas, the Honorable Jim F. Kovach presiding.

(mem. op.) (dismissing petition for writ of mandamus as moot where successor trial court judge vacated orders about which relator complained in his mandamus petition); *see also In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (“A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings”); *In re Siemens Gamesa Renewable Energy Wing US, LLC*, No. 01-17-00927-CV, 2018 WL 1597476, at *1 (Tex. App.—Houston [1st Dist.] orig. proceeding) (mem. op.).

Accordingly, we reinstate this original proceeding on the Court’s active docket, grant relators’ motion to dismiss, and dismiss the petition for writ of mandamus as moot. We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Kelly, Countiss, and Rivas-Molloy.