

Opinion issued June 2, 2022



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

NO. 01-22-00186-CV

IN RE LAUREL WENDT, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Laurel Wendt, filed a petition for writ of mandamus asserting that the trial court abused its discretion by: (1) permitting Mike Orsak, counsel for real party in interest, E.A.J.L. Wendt Farms (“E.A.J.L.”), “to continue as trial attorney when E.A.J.L. had no claims against it in the cause [and] had asserted affirmative relief against any party,” (2) permitting evidence to be presented “regarding the reasonable and necessary attorney’s fees applicable to settled and released claims as approved by the [trial court] when it approved the [Mediated Settlement Agreement (the

“MSA”)],” and (3) orally ordering that relator not be permitted to access the partnership records of E.A.J.L. during trial “as provided by the ‘common law’ and the specific terms of the MSA.”¹

In connection with her petition for writ of mandamus, relator also filed an emergency “Motion for Temporary Relief to Stay Trial Setting,” requesting that the Court stay the trial, which was occurring at the time relator filed her mandamus petition, pending consideration of the petition. In the motion to stay, relator stated that “[a]bsent a stay of the trial . . . the mandamus [would] become moot if the trial” was completed. On March 14, 2022, we issued an order denying relator’s emergency motion to stay the trial.

It now appears that the trial court has signed a final judgment in the underlying proceeding, rendering this mandamus proceeding moot. *See In re Esparza*, No. 14-16-00748-CV, 2016 WL 5947445, at *1 (Tex. App.—Houston [14th Dist.] Oct. 13, 2016, orig. proceeding) (“Except in unusual circumstances, not applicable here, mandamus relief is not available after a final judgment has been issued because relator then has an adequate remedy by direct appeal.”). On May 12, 2022, the Clerk of this Court notified relator that the Court might dismiss this mandamus petition as moot unless relator filed a response, with citation to law and the record,

¹ The underlying case is *Evalyn Wendt Moore, Amilee Wendt, and Jackie Wendt Martin v. Laurel Wendt*, No. 18-DCV-254438, in the 268th District Court of Fort Bend County, Texas, the Honorable O’Neil Williams presiding.

demonstrating that the mandamus proceeding was not moot within seven days of the date of the notice. Relator has not adequately responded to the Clerk's notice.

Accordingly, we dismiss the petition for writ of mandamus as moot. We dismiss all pending motions as moot.

PER CURIAM

Panel consists of Justices Landau, Guerra, and Farris.