

**Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed
September 8, 2011.**



In The

Fourteenth Court of Appeals

NO. 14-11-00681-CV

IN RE LEXINGTON INSURANCE COMPANY, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
133rd District Court
Harris County, Texas
Trial Court Cause No. 2009-22372**

MEMORANDUM OPINION

On August 11, 2011, relator, Lexington Insurance Company, filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code § 22.221. Relator asked this court to order the Honorable Jaclanel McFarland, presiding Judge of the 133rd District Court of Harris County, Texas, to set aside her order signed June 13, 2011, granting the real parties in interests' motion to compel production of discovery. Relator also filed an emergency motion asking that we stay the trial court's order. *See* Tex. R. App. P. 52.10(a).

In its petition, relator asserts that it filed a motion for reconsideration of the June 13, 2011, order compelling discovery, asserting that (1) compliance would impose an undue

burden, (2) materials sought were irrelevant, and (3) materials were confidential and protected by multiple privileges. At the time the petition was filed, no ruling on the motion to reconsider had issued.

On August 12, 2011, this court granted relator's motion to stay discovery pending consideration of its petition. This court also ordered the proceeding abated until respondent ruled on relator's motion to reconsider. On August 25, 2011, the real parties in interest, JAW The Lake, L.L.C., JAW Timberwalk, L.L.C., JAW Scarsdale Park, L.L.C., JAW Boardwalk of Baytown, L.L.C., and JAW Chateau Creole, L.L.C., filed an advisory with this court, which included a copy of the trial court's order signed August 16, 2011, granting relator's motion to reconsider in part and vacating the June 13, 2011, order that is the subject of relator's petition for writ of mandamus.

Accordingly, because the order that is the subject of this proceeding has been vacated, the original proceeding has been rendered moot. We order the proceeding reinstated and the petition for writ of mandamus dismissed. This court's stay order issued August 12, 2011, is vacated.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Seymore and Boyce.