

Petition for Writ of Mandamus Denied and Memorandum Opinion filed July 29, 2022.



In The

Fourteenth Court of Appeals

NO. 14-22-00552-CV

**IN RE RICHARD BEDNAR, DIAMOND ENERGY SERVICES, LP, DESMD
X, LLC, AND WSB INVESTMENTS, LLC, Relators**

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
151st District Court
Harris County, Texas
Trial Court Cause No. 2021-75488**

MEMORANDUM OPINION

On July 27, 2022, relators Richard Bednar, Diamond Energy Services, LP, Desmd X, LLC, and WSB Investments, LLC filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In the petition, relators ask this court to compel the Honorable Mike Engelhart, presiding judge of the 151st District Court of Harris County, to set aside his February

4, 2022 order granting real parties in interest's motion to compel production and responses to post-judgment discovery.

Relators have not shown that they are entitled mandamus relief. Accordingly, we deny relators' petition for writ of mandamus. We also deny relator's motion to stay.

PER CURIAM

Panel consists of Chief Justice Tracy Christopher and Justices Ken Wise and Charles Spain. (Spain, J., dissenting. Persisting in my view that our duty as judges is to reach a decision on the merits based on a proper record and that due process and due course of law require that this court give notice when the original proceeding record does not comply with the Texas Rules of Appellate Procedure, I would give relator ten days' notice of involuntary dismissal for failure to comply with Texas Rule of Appellate Procedure 52.7(a) requiring a properly authenticated transcript of any relevant testimony from any underlying proceeding, including any exhibits offered in evidence, or a statement that no testimony was adduced in connection with the matter complained. Tex. R. App. P. 52.7(a); *see also In re Kholaiif*, 624 S.W.3d 228, 231 (order), *mand. disp'd*, 615 S.W.3d 369 (Tex. App.—Houston [14th Dist.] 2020, orig. proceeding); *see also* Tex. Civ. Prac. & Rem. Code Ann. § 132.001(authorizing unsworn declarations). I dissent from the court's failure to provide notice and an opportunity to cure. I would not rule on the motion for temporary relief at this time. I express no opinion on the merits of the petition for writ of mandamus).