

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-08-472 CV

**IN RE GUIDEONE LLOYDS INSURANCE COMPANY,
CHRIS JOHN, AND PAUL ANDERSON**

Original Proceeding

MEMORANDUM OPINION

Guideone Lloyds Insurance Company, Chris John, and Paul Anderson filed a petition for writ of mandamus and a motion to stay all proceedings in the trial court. The relators contend the trial court abused its discretion by ordering a case originally filed in the 172nd District Court of Jefferson County transferred to the 58th District Court of Jefferson County because no local rules for Jefferson County expressly provide for transfer of civil cases. *See* JEFFERSON CTY. (TEX.) LOC. CIV. R.--DISTRICT COURTS. We deny the petition and motion for stay.

The relators argue that transfers of civil cases may occur only when the local rules in effect for the county of filing specifically authorize a transfer. They contend that Section 74.093(b)(1) restricts the transfer of cases to those transfers authorized by local rule. *See* TEX. GOV'T CODE ANN. § 74.093(b)(1) (Vernon 2005) (“The rules must provide for . . . assignment, docketing, transfer, and hearing of all cases, subject to jurisdictional limitations of the district courts. . . .”). The cases upon which the relators rely do not supply precedent for their particular construction of Section 74.093. One case cited in their brief concerned a transfer of a case that fell outside the jurisdictional limits of the receiving court. *See Alpert v. Gerstner*, 232 S.W.3d 117, 123 (Tex. App.–Houston [1st Dist.] 2006, pet. denied). Another concerned a transfer order signed while a motion to recuse the judge was pending before a different judge. *In re Rio Grande Valley Gas Co.*, 987 S.W.2d 167, 175-76 (Tex. App.–Corpus Christi 1999, orig. proceeding).

“Trial courts have broad discretion to exchange benches or transfer cases’ independent of their Chapter 74 powers of assignment.” *In re Houston Lighting & Power Co.*, 976 S.W.2d 671, 673 (Tex. 1998) (quoting *European Crossroads’ Shopping Ctr., Ltd. v. Criswell*, 910 S.W.2d 45, 51 (Tex. App.–Dallas 1995, writ denied)). The Government Code gives district court judges the discretion to transfer civil cases to another district court in the same county. *See* TEX. GOV'T CODE ANN. § 24.303(a) (Vernon 2004) (“In any county in which there are two or more district courts, the judges of those courts may, in their

discretion, . . . on their own motion, transfer any civil or criminal case or proceeding on their dockets to the docket of one of those other district courts.”); *see also* TEX. R. CIV. P. 330. In addition, the judge of one district court may sit as another district court of the same county. *See* TEX. GOV’T CODE ANN. § 24.303(a) (“The judges of those courts may, in their discretion, exchange benches or districts from time to time.”).

To obtain mandamus relief, a relator must show both that the trial court clearly abused its discretion and that the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). These relators fail to establish on this record that the trial court abused its discretion or that appeal would not be an adequate remedy. Accordingly, we deny the petition for writ of mandamus and motion for temporary relief.

PETITION DENIED.

PER CURIAM

Opinion Delivered November 5, 2008
Before Gaultney, Kreger, and Horton, JJ.