



IN THE  
TENTH COURT OF APPEALS

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No. 10-09-00371-CV

IN RE TOYOTA MOTOR CORPORATION AND  
TOYOTA MOTOR SALES, U.S.A., INC.

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Original Proceeding

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MEMORANDUM OPINION

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Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. seek by mandamus to vacate the trial court's order of October 27, 2009 wherein it ordered Toyota to "preserve any and all documents, records, data, electronically stored information, and evidence relevant to Pennie Fay Green's case, her Motion For Sanctions, and her Motion For Contempt."

Toyota argues in its Petition for Writ of Mandamus that the trial court abused its discretion in issuing the October 27, 2009 order, which it claims is an order in furtherance of sanctions, because the court's plenary jurisdiction had long since expired. In Green's response to the Petition, she primarily argues that the trial court may proceed to investigate and punish by contempt a violation of a discovery order in a

proceeding over which the trial court lost jurisdiction because its plenary power has expired. But in Green's motions filed in the trial court proceeding, it is clear that she seeks discovery sanctions payable to her for the perceived violation of the discovery order in addition to simply informing the court of the possibility of contemptuous conduct on the part of Toyota.

It is not possible to tell, at this juncture, if the order rendered by the trial court is for the trial court to proceed with its investigation of whether Toyota's alleged failure to comply with a discovery order justifies a determination of, and punishment for, contempt or whether the trial court is proceeding to consider Green's request for sanctions payable to Green. Accordingly, we deny the Petition for Writ of Mandamus without prejudice. By denial of the petition based on the record before us, we express no opinion on the trial court's jurisdiction to render a sanction order against Toyota payable to Green.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Reyna, and  
Justice Davis  
Petition denied  
Opinion delivered and filed January 20, 2010  
[OT06]