

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-13-00224-CV

Stephen J. Seavall, Appellant

v.

The Cadle Company, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 126TH JUDICIAL DISTRICT
NO. D-1-GN-13-000273, HONORABLE SCOTT H. JENKINS, JUDGE PRESIDING**

M E M O R A N D U M O P I N I O N

Appellant Stephen J. Seavall filed this appeal, complaining of the trial court's order granting the motion for discovery filed by appellee the Cadle Company, which was based on a commission signed by a New Mexico trial court. About a week before he filed his notice of appeal, Seavall filed a petition for writ of mandamus related to the same order. After receiving a response from Cadle, we conditionally granted Seavall the relief he requested. *See In re Seavall*, No. 03-13-00-205-CV, 2013 Tex. App. LEXIS 7020, *8 (Tex. App.—Austin June 11, 2013, orig. proceeding) (mem. op.). Cadle then filed a petition for writ of mandamus in the Texas Supreme Court, seeking the reversal of our opinion. *See In re the Cadle Company*, No. 13-0507 (pet. filed July 5, 2013).

Seavall has now filed a motion asking us to abate this appeal until the supreme court makes a decision in Cadle's mandamus proceeding and until the trial court complies with the directives we set out in our mandamus opinion. However, the appeal is related to the same order as

the mandamus proceeding and seeks precisely the same relief that we have already granted in the mandamus proceeding. If the supreme court issues an opinion reversing our determinations, we will be bound by that decision in both the mandamus proceeding and this appeal. If the supreme court does not reverse our determination, the conditional grant of mandamus relief will stand and, should the trial court not comply with our directions, Seavall may seek the issuance of a formal writ in that proceeding. Therefore, all issues presented by this appeal are moot.

We therefore deny Seavall's motion to abate and dismiss the appeal for want of jurisdiction. Tex. R. App. P. 42.3(a).

David Puryear, Justice

Before Justices Puryear, Pemberton and Rose

Dismissed for Want of Jurisdiction

Filed: July 25, 2013