

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-17-00389-CV**

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**In re Frontier NanoSystems, LLC and Louis Pierre de Rochemont**

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**ORIGINAL PROCEEDING FROM TRAVIS COUNTY**

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**MEMORANDUM OPINION**

Relators Frontier NanoSystems, LLC and Louis Pierre de Rochemont have filed a motion to dismiss this mandamus proceeding as moot. The dispute between relators and real party in interest Klaus Viljanmaa arises out of an employment agreement between Viljanmaa and his former employer Frontier. Relators' petition for writ of mandamus asked this Court to direct the district court to vacate its June 7, 2017 order granting a temporary restraining order (TRO) that prohibited relators from (1) repurchasing or otherwise altering Viljanmaa's alleged ownership interests in Frontier, and (2) "[e]ngaging in further breaches of the Employment Agreement." *See* Tex. Gov't Code § 22.221; *see also* Tex. R. App. P. 52.1. Along with their petition for writ of mandamus, relators filed an emergency motion for stay, seeking a stay of the TRO and of the district court's order granting Viljanmaa's emergency motion for expedited discovery. We granted relators' emergency motion for stay.

In their motion to dismiss, relators advise the Court that after we granted relators' emergency motion for stay of the TRO, Viljanmaa initiated arbitration proceedings against relators with the American Arbitration Association, pursuant to the arbitration clause in the employment

agreement. Relators assert that “[t]he arbitration proceeding concerns the exact same subject matter as in the proceedings below,” and they have attached Viljanmaa’s arbitration demand, which, like his petition, asserts that relators are moving to wrongfully seize his ownership interests in Frontier. Although the district court did not grant relators’ motion to dismiss the proceedings below, the district court stayed those proceedings until the pending arbitration is concluded. Given the arbitration demand covering the same subject matter as the district-court proceedings and the district court’s stay of those proceedings, there is no longer a controversy to be resolved by this Court related to the TRO. *See In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (“A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings . . .”). Although Viljanmaa opposed relators’ motion to dismiss, relators stated that he “refused to explain the reasons for [his] opposition.” Viljanmaa has not filed an opposition to the motion asserting any reason why we should not grant relators’ motion. *See* Tex. R. App. P. 10.1 (“The court may determine a motion before a response is filed.”). Therefore, we grant the motion and dismiss this mandamus proceeding as moot. In light of the district court’s stay of the proceedings below, we also lift our stay of the TRO (which has expired) and of the district court’s order granting Viljanmaa’s emergency motion for expedited discovery.

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Cindy Olson Bourland, Justice

Before Justices Puryear, Field, and Bourland

Filed: October 12, 2017