

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-18-00745-CV

In re Golden Corral Corp., ZG GC Austin L.L.C., and Big Red Dog Inc. d/b/a Big Red Dog Engineering and Consulting

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relators Golden Corral Corp. and ZG GC Austin L.L.C. have filed a petition for writ of mandamus, and relator Big Red Dog Inc. d/b/a Big Red Dog Engineering and Consulting has filed a joinder in the petition. *See* Tex. R. App. P. 52.1; *see also* Tex. R. App. P. 9.7. Relators seek to have this Court direct the trial court to (1) set aside and vacate its order denying relators' joint motion for leave to designate responsible third parties and Golden Corral and ZG's supplemental motion for leave to designate responsible third parties and (2) grant the motion. *See* Tex. Civ. Prac. & Rem. Code § 33.004. Relators also filed a motion for emergency temporary relief. *See* Tex. R. App. P. 52.10(a). Having reviewed the petition, the responses, and the record provided, we deny the petition for writ of mandamus. *See* Tex. R. App. P. 52.8(a); *see also, e.g., In re Dawson*, 550 S.W.3d 625, 629 (Tex. 2018) (orig. proceeding) (granting mandamus relief from trial court's order granting motion to designate because defendant's discovery responses before limitations ran were insufficient to notify plaintiff that defendant might designate independent contractor as responsible third party and did not satisfy Texas Civil

Practice and Remedies Code Section 33.004(d)'s statutory requirement "to timely disclose that the person may be designated as a responsible third party under the Texas Rules of Civil Procedure"); *In re Bustamante*, 510 S.W.3d 732, 737 (Tex. App.—San Antonio 2016, orig. proceeding) (interpreting Texas Civil Practice and Remedies Code Section 33.004(d) "to require a defendant to disclose a potential responsible third party before the expiration of the statute of limitations, if that is possible" but finding timely disclosure not possible when statute of limitations ran one day after suit filed). We dismiss as moot the motion for emergency temporary relief.

Scott K. Field, Justice

Before Chief Justice Rose, Justices Field and Toth

Filed: December 4, 2018