

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00033-CV

In re Scag Power Equipment, Inc. & Metalcraft of Mayville, Inc.

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

ORDER AND MEMORANDUM OPINION

PER CURIAM

Relators have filed a petition for writ of mandamus challenging the trial court's order granting a mistrial. *See* Tex. R. App. P. 52.1. After signing the order granting the mistrial, the respondent judge, the Honorable Gisela D. Triana, ceased to hold office as the presiding judge of the 200th District Court of Travis County. Under Rule 7.2 of the Texas Rules of Appellate Procedure, when a public officer ceases to hold office, “[i]f the case is an original proceeding under Rule 52, the court must abate the proceeding to allow the successor to reconsider the original party’s decision.” *Id.* R. 7.2(b); *see also In re Gonzales*, 391 S.W.3d 251, 252 (Tex. App.—Austin 2012, orig. proceeding) (explaining underlying policy rationale behind Rule 7.2(b), which is to afford successor judge an opportunity to rule on relator’s complaint before appellate court considers mandamus petition).

Accordingly, we abate this mandamus petition for thirty days and instruct the successor judge to prepare and send to this Court his ruling on the motion for mistrial no later

than March 1, 2019.¹ *See* Tex. R. App. P. 52.10(b) (noting appellate court may grant any just temporary relief pending appellate court's action on mandamus petition).

It is so ordered on January 30, 2019.

Before Justices Goodwin, Kelly, and Smith

Abated and Remanded

Filed: January 30, 2019

¹ Relators have informed the Court that the case was transferred to the 353rd District Court before a successor judge was appointed to the 200th District Court.