



**NUMBER 13-11-00283-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE MID-CONTINENT CASUALTY COMPANY**

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**On Petition for Writ of Mandamus.**

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**MEMORANDUM OPINION**

**Before Justices Garza, Vela, and Perkes  
Memorandum Opinion Per Curiam<sup>1</sup>**

Relator, Mid-Continent Casualty Company, filed a petition for writ of mandamus and a motion for emergency relief on May 4, 2011. That same day, the Court granted the motion for emergency relief and stayed the trial court's order of April 27, 2011, requiring the production of discovery, pending further order of this Court, or until the case is finally decided. See TEX. R. APP. P. 52.10(b). The Court requested that the real

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<sup>1</sup> See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

parties in interest, Jose E. Garcia and Mary A. Garcia, by and through counsel, file a response to the petition for writ of mandamus. *See id.* R. 52.4, 52.8.

On May 27, 2011, the parties to this original proceeding notified the Court that they had reached a settlement regarding the underlying litigation. Accordingly, they jointly requested that we abate this original proceeding for thirty days to allow them to prepare the final settlement and dismissal paperwork. The Court granted the motion and abated this original proceeding. We directed the parties to file an appropriate motion with the Court requesting consideration of this cause, the dismissal of this cause, or an extension of time to finalize the settlement.

On June 29, 2011, relator filed an unopposed motion to dismiss this original proceeding on grounds that the parties have resolved and settled the underlying litigation. Relator requests that we dismiss the petition and order the parties to the proceeding to bear their own costs.

The Court, having examined and fully considered the unopposed motion to dismiss, is of the opinion that the motion should be granted in part and denied in part. Accordingly, the stay previously imposed by this Court is LIFTED. *See id.* R. 52.10(b) (“Unless vacated or modified, an order granting temporary relief is effective until the case is finally decided.”). Relator’s motion is DENIED insofar as we do not issue judgments in conjunction with original proceedings, and accordingly, as a general rule, do not assess costs in such cases. *See id.* R. 43.4. Relator’s motion is GRANTED insofar as we DISMISS this original proceeding without regard to the merits.

PER CURIAM

Delivered and filed the  
12th day of July, 2011.