



NUMBER 13-22-00065-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE INCLINE CASUALTY COMPANY

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Hinojosa, Tijerina, and Silva
Memorandum Opinion by Justice Silva¹**

On February 15, 2022, relator Incline Casualty Company filed a petition for writ of mandamus through which it asserted that the trial court committed a clear abuse of discretion by denying relator’s contractual right to appraisal pursuant to one of its insurance policies. On February 16, 2022, this Court requested that the real party in interest, Nelda C. Flores, or any others whose interest would be directly affected by the

¹ 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. When granting relief, the court must hand down an opinion as in any other case.”); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

relief sought, file a response to the petition for writ of mandamus. See TEX. R. APP. P. 52.2, 52.4, 52.8. However, relator has now filed a “Motion to Withdraw” its petition for writ of mandamus on grounds that the parties have resolved the claims at issue in this original proceeding. According to relator’s motion, Flores “has agreed to proceed with the appraisal and has agreed to designate a competent and impartial appraiser”

The Court, having examined and fully considered relator’s motion to withdraw, is of the opinion that it should be granted. See *Heckman v. Williamson County*, 369 S.W.3d 137, 162 (Tex. 2012) (“A case becomes moot if, since the time of filing, there has ceased to exist a justiciable controversy between the parties—that is, if the issues presented are no longer ‘live,’ or if the parties lack a legally cognizable interest in the outcome.”); *In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (orig. proceeding) (“A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings, including the appeal.”); see also *In re Smith County*, 521 S.W.3d 447, 453–55 (Tex. App.—Tyler 2017, orig. proceeding). Accordingly, we grant relator’s motion to withdraw, and we dismiss this petition for writ of mandamus.

CLARISSA SILVA
Justice

Delivered and filed on the
28th day of February, 2022.