



NUMBER 13-22-00376-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

**IN RE BERRY CONTRACTING, LP D/B/A BAY LTD. AND JUAN
HERNANDEZ**

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Tijerina
Memorandum Opinion by Chief Justice Contreras¹**

Relators Berry Contracting, LP d/b/a Bay Ltd. and Juan Hernandez filed a petition for writ of mandamus seeking to set aside a July 28, 2022 order concluding that relators “have failed to prove the affirmative defense of exclusive remedy” in a case concerning

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. 47.1 (“The court of appeals must hand down a written opinion that is as brief as practicable but that addresses every issue raised and necessary to final disposition of the appeal.”); *id.* R. 47.4 (explaining the differences between opinions and memorandum opinions).

workers' compensation. See TEX. LAB. CODE ANN. § 408.001(a). By previous order, this Court ordered the trial court proceedings to be stayed and requested that the real parties in interest, Gernal Mann and Jennifer Mann, file a response to the petition for writ of mandamus. See TEX. R. APP. P. 52.2, 52.4, 52.8, 52.10(b). Subsequently, this Court abated the petition for writ of mandamus because the parties had entered into settlement discussions. The parties have now filed a "Joint Motion to Dismiss Mandamus Proceeding and to Lift Stay." According to this motion, the parties have resolved the matters in the underlying case, thereby "rendering moot any further proceedings in this Court." The parties thus request that we lift the stay previously imposed in this case and dismiss the petition for writ of mandamus.

The Court, having examined and fully considered the joint motion, is of the opinion that it should be granted. See *In re Contract Freighters, Inc.*, 646 S.W.3d 810, 813 (Tex. 2022) (orig. proceeding) (per curiam); *Heckman v. Williamson County*, 369 S.W.3d 137, 162 (Tex. 2012); *In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (orig. proceeding). Accordingly, we grant the "Joint Motion to Dismiss Mandamus Proceeding and to Lift Stay." We reinstate this case. We lift the stay previously imposed in this original proceeding, and we dismiss this petition for writ of mandamus as moot. See TEX. R. APP. P. 52.8, 52.10(b).

DORI CONTRERAS
Chief Justice

Delivered and filed on the
27th day of October, 2022.