

NO. 12-08-00440-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE:

§

LAVERNA SELLS

§

ORIGINAL PROCEEDING

§

*MEMORANDUM OPINION
PER CURIAM*

In this original proceeding, Relator Laverna Sells seeks a writ of mandamus requiring the trial court to vacate its orders denying Relator's motion for continuance and protective order, granting the motion of Real Party in Interest Earl Drott to compel Relator's deposition, and denying Relator's motion to reconsider. Relator further asks that the trial court be directed to proceed no further in this case.

On December 18, 2008, the trial court signed a final judgment in the underlying lawsuit. Relator filed a motion for new trial and, on March 26, 2009, filed a notice of appeal from the December 18, 2008 judgment. Consequently, on April 16, 2009, this court notified Relator that this original proceeding appears to be moot and ordered Relator to show cause, on or before April 27, 2009, why this original proceeding should not be dismissed. The deadline for Relator's response has passed, and Relator has not responded to this court's order.

Based upon the record before us, we hold that the final judgment rendered in the underlying lawsuit has rendered this proceeding moot. Accordingly, we *dismiss* this original proceeding.

Opinion delivered May 6, 2009.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)