

NO. 12-20-00129-CV
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
UPS GROUND FREIGHT, INC., § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

UPS Ground Freight, Inc., Relator, filed a petition for writ of mandamus seeking to compel the Respondent, the Honorable J. Clay Gossett, Judge of the 4th Judicial District Court of Rusk County, Texas to vacate his April 23, 2020 order compelling discovery. The Real Party in Interest is Jacintha Nicole McElduff, as independent administrator of the estate of Nathan Dean Clark. On September 23, 2020, this Court conditionally granted UPS's petition in part as to the omission of an order to redact personal identifying information from the scope of the second, third, and fourth decretal paragraphs of Respondent's order and we directed Respondent as follows:

We direct Respondent to issue a revised order for Relator to provide the names, addresses, and telephone numbers of all UPS Ground Freight, Inc. drivers who worked out of the same facility as Defendant Phillip Villarreal, limited to five years prior to the accident in question. We further direct Respondent to vacate decretal paragraphs two, three, and four of the April 23, 2020 order granting McElduff's second motion to compel. We further direct Respondent to issue an order for Relator to produce all positive drug tests for five years prior to the accident in question for all drivers who worked out of the same facility as Defendant Phillip Villarreal, all negative drug tests for one year prior to the accident in question for all drivers who worked out of the same facility as Defendant Phillip Villarreal, and records related to any controlled substance collection process for two years prior to the accident in question for all drivers who worked out of the same facility as Defendant Phillip Villarreal, and to redact those documents to prevent disclosure of any names or identifying information regarding the non-party drivers.

We denied the remainder of the petition regarding McElduff's request for test results.

By an order signed on September 30, Respondent complied with this Court's opinion and order, rendering this proceeding moot. Accordingly, we dismiss UPS's petition for writ of mandamus as *moot*.

Opinion delivered October 7, 2020.

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



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

OCTOBER 7, 2020

NO. 12-20-00129-CV

UPS GROUND FREIGHT, INC.,
Relator
V.

HON. J. CLAY GOSSETT,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by UPS Ground Freight, Inc.; who is the relator in appellate cause number 12-20-00129-CV and defendant in trial court cause number 2017-330, pending on the docket of the 4th Judicial District Court of Rusk County, Texas. Said petition for writ of mandamus having been filed herein on May 22, 2020, and the same having been duly considered, because it is the opinion of this Court that the writ should not issue, it is therefore CONSIDERED, ADJUDGED and ORDERED that the said petition for writ of mandamus be, and the same is, hereby **dismissed as moot**.

By per curiam opinion.
Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.