

No. 13-24-00042-CV

In the Thirteenth Court of Appeals FILED IN
Corpus Christi, Texas 13th COURT OF APPEALS
CORPUS CHRISTI/EDINBURG, TEXAS

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**In re SPACE EXPLORATION TECHNOLOGIES CORP. and
LAUREN KRUEGER,**
Relators.

Original Proceeding from the 444th District Court
Cameron County, Texas, Trial Court Cause No. 2020-DCL-03939,
Honorable David A. Sanchez, Presiding

RELATORS' RESPONSE TO SECOND MOTIONS FOR EXTENSION

To the Honorable Justices of this Court:

This Court requested that Real Parties in Interest respond to the Petition for Writ of Mandamus in ten days. Relators did not oppose a thirty-day extension. Today, the day that their response is due, Real Parties in Interest Jose Ruiz and Humberto Garcia (collectively, "Plaintiffs") and Hector Garcia both filed motions seeking second extensions. In conferring on this motion, Plaintiffs explained that they seek an extension so that this Court can rule on their pending Motion to Abate.

Relators oppose the extension. Plaintiffs' response to the mandamus petition will confirm that their Motion to Abate should be denied. The resources of the parties and of this Court will be conserved by requiring Real Parties to take a position on Relators' entitlement to the writ of mandamus and allowing Relators to file a combined reply in support of the petition and response to Plaintiffs' motion.

In their Motion to Abate, Plaintiffs concede that the order granting a new trial is invalid. They agree that the order “fails to refer to record support for its conclusion” and fails “to specify the arguments it found were incurable.” Mot. Abate at 1.

Because of this concession, Plaintiffs have no good-faith basis to oppose the Petition for Writ of Mandamus. Where a new trial order is invalid, this Court and the Texas Supreme Court uniformly (conditionally) grant the writ and direct that the new trial order be vacated. *See, e.g., In re Rudolph Auto.*, 674 S.W.3d 289, 313–14 (Tex. 2023); *In re State Farm Mut. Auto. Ins. Co.*, No. 13-22-00589-CV, 2023 WL 418699, at *5 (Tex. App.—Corpus Christi—Edinburg Jan. 26, 2023, orig. proceeding) (mem. op.); *In re Torres*, No. 13-20-00019-CV, 2020 WL 1615667, at *5 (Tex. App.—Corpus Christi—Edinburg Apr. 2, 2020, orig. proceeding) (mem. op.); *In re Ramos*, No. 13-19-00039-CV, 2019 WL 1930111, at *3 (Tex. App.—Corpus Christi—Edinburg May 1, 2019, orig. proceeding) (mem. op.).¹

This authority and counsel’s duty of candor to this tribunal means that Plaintiffs’ only possible response to Relators’ petition is to admit that the writ should issue and the new trial order be vacated.

¹ *See also, e.g., In re Spotted Lakes, LLC*, No. 04-23-00815-CV, 2024 WL 463348, at *4 (Tex. App.—San Antonio Feb. 7, 2024, orig. proceeding); *In re Simms*, No. 14-19-00541-CV, 2019 WL 3822171, at *2 (Tex. App.—Houston [14th Dist.] Aug. 15, 2019, orig. proceeding) (per curiam).

Plaintiffs' Motion to Abate and Second Motion for Extension are simply an attempt to avoid acknowledging Relators' entitlement to the writ, which Plaintiffs have no good-faith basis to deny. Plaintiffs' response to Relators' petition will confirm that Relators are entitled to relief in their mandamus petition and thus that granting the writ (rather than abatement) is the proper remedy.

Real Parties' responses should have already been prepared—the deadline is today—and in any event, a response acknowledging Relators' entitlement to relief should require virtually no time to prepare.

CONCLUSION AND PRAYER

In light of the concessions in their Motion to Abate, Plaintiffs have no good-faith basis to oppose Relators' Petition for Writ of Mandamus. Plaintiffs should not be permitted to avoid taking a position on Relators' entitlement to the writ.

Because Plaintiffs' response to the petition will demonstrate that their Motion to Abate should be denied, the time and resources of this Court and the parties are best served by Real Parties responding to the petition before Relators respond to Plaintiffs' motion. For these reasons, this Court should deny Real Parties' Second Motions for Extension.

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CERTIFICATE OF SERVICE

I certify that, on February 21, 2024, a true and correct copy of this motion was forwarded to all counsel of record by the Electronic Service Provider.

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