

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In re David L. Sheller and Sheller Law Firm, PLLC

No. 01-26-00088-CV · No. 01-26-00088-CV · Decided February 3, 2026

SUMMARY

The First Court of Appeals of Texas denied David L. Sheller and Sheller Law Firm, PLLC’s petition for writ of mandamus challenging the trial court’s orders overruling special exceptions and denying an amended traditional motion for summary judgment. The court held that relators failed to establish entitlement to mandamus relief and dismissed any pending motion as moot.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Justice Guerra; Justice Caughey; Justice Dokupil
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	February 3, 2026
DOCKET	01-26-00088-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original proceeding on a petition for writ of mandamus challenging the trial court's order overruling special exceptions and order denying an amended traditional motion for summary judgment.
STANDARD OF REVIEW	Mandamus relief was denied because relators failed to establish that they were entitled to such relief.
PRECEDENTIAL VALUE	published
PARTIES	David L. Sheller, Sheller Law Firm, PLLC v. Bayko, Prebeg, Faucett & Abbott, PLLC, f/k/a Prebeg, Faucett & Abbott, PLLC

TOPICS

- writ of certiorari
- appellate procedure
- summary judgment
- pleadings
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure
- remedies
- commercial litigation

QUESTIONS PRESENTED

1. Whether relators established their entitlement to mandamus relief challenging the trial court's order overruling their special exceptions.
2. Whether relators established their entitlement to mandamus relief challenging the trial court's denial of their amended traditional motion for summary judgment.

HOLDINGS

1. Relators failed to establish that they were entitled to mandamus relief challenging the trial court's orders overruling their special exceptions and denying their amended traditional motion for summary judgment.
2. Any pending motion was dismissed as moot following denial of the mandamus petition.

KEY QUOTATIONS

“We conclude that relators have failed to establish they are entitled to mandamus relief, and therefore, the Court denies relators’ petition for writ of mandamus.”

FACTUAL BACKGROUND

Bayko, Prebeg, Faucett & Abbott, PLLC brought the underlying action against David L. Sheller, Sheller Law Firm, PLLC, and Carol Sousa in an individual and representative capacity. Relators challenged the underlying litigation by filing special exceptions and an amended traditional motion for summary judgment, both of which the trial court denied or overruled.

PROCEDURAL HISTORY

Relators petitioned the First Court of Appeals for a writ of mandamus after the 281st District Court of Harris County overruled their special exceptions and denied their amended traditional motion for summary judgment. They sought an order requiring dismissal with prejudice of the underlying lawsuit. The court denied mandamus relief and dismissed any pending motion as moot.

DISPOSITION

writ_denied

OPINION

PER CURIAM.

Opinion issued February 3, 2026. In The Court of Appeals For The First District of Texas NO. 01-26-00088-CV IN RE DAVID L. SELLER AND SELLER LAW FIRM, PLLC, Relators Original Proceeding on Petition for Writ of Mandamus MEMORANDUM OPINION Relators, David L. Sheller and Sheller Law Firm, PLLC, filed a petition for writ of mandamus challenging the trial court’s December 23, 2025 “Order Overruling [Relators’] Special Exceptions,” and “Order Denying [Relators’] Amended Traditional Motion for Summary Judgment.”¹ Relators requested that this 1 The underlying case is Bayko, Prebeg, Faucett & Abbott, PLLC, f/k/a Prebeg,

Faucett & Abbott, PLLC v. David L. Sheller, Sheller Law Firm, PLLC and Carol Sousa Individually and as the Representative of the Estate of Betty Jean Wilwerding, Court grant their petition for writ of mandamus and “order that [real party in interest,] Bayko, Prebeg, Faucett & Abbott, PLLC f/k/a Prebeg, Faucett & Abbott, PLLC, take nothing on all claims and causes of action asserted in the [underlying suit], [and] that their lawsuit be dismissed with prejudice.” We conclude that relators have failed to establish they are entitled to mandamus relief, and therefore, the Court denies relators’ petition for writ of mandamus.

We dismiss any pending motion as moot. PER CURIAM Panel consists of Justices Guerra, Caughey, and Dokupil. Cause No. 2023-68345, in the 281st District Court of Harris County, Texas, the Honorable Christine Weems presiding. 2