

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

In re L. Charles Moncla, Jr., J. Clarke Legler, II, William Restrepo,
Daniel T. Layton, Layton Corporation, Platinum Energy Holdings,
Inc., and Platinum Energy Solutions, Inc.

In re Moncla · No. 14-14-00297-CV · Decided August 11, 2014

SUMMARY

The Fourteenth Court of Appeals of Texas continued its abatement of an original mandamus proceeding because the parties were still working toward a settlement. The court directed the parties to report on the settlement status after thirty days and stated that the proceeding could be reinstated upon a dispositive motion or the court’s own motion.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth District
WRITING FOR THE COURT	Chief Justice Frost; Justice Boyce; Justice Jamison
JURISDICTION	Texas
DECIDED	August 11, 2014
DOCKET	14-14-00297-CV
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding seeking a writ of mandamus to compel the 234th District Court of Harris County to vacate an order overruling special exceptions, grant the special exceptions, strike pleadings, and dismiss the underlying case with prejudice.
PRECEDENTIAL VALUE	published
PARTIES	L. Charles Moncla, Jr., J. Clarke Legler, II, William Restrepo, Daniel T. Layton, Layton Corporation, Platinum Energy Holdings, Inc., Platinum Energy Solutions, Inc. v. Real parties in interest in the underlying proceeding

TOPICS

- writ of certiorari
- appellate procedure
- civil procedure
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the mandamus proceeding should remain abated while the parties continued settlement negotiations.

FACTUAL BACKGROUND

The mandamus proceeding challenged a March 31, 2014 order overruling relators' special exceptions in the underlying case. While the mandamus petition was pending, the parties agreed to settle the dispute subject to execution of a mutually acceptable settlement agreement, but continued to work toward finalizing that agreement.

PROCEDURAL HISTORY

Relators filed a mandamus petition on April 21, 2014. After the parties reported that they had agreed to settle the underlying dispute subject to execution of a settlement agreement, the court abated the proceeding for successive thirty-day periods. On August 4, 2014, relators reported that settlement efforts were continuing, so the court continued the abatement for another thirty days and provided for reinstatement upon a dispositive motion, an appropriate motion to reinstate, or the court's own motion.

DISPOSITION

other

OPINION**PER CURIAM.**

Order filed August 11, 2014. In The Fourteenth Court of Appeals _____ NO. 14-14-00297-CV _____ IN RE L. CHARLES MONCLA, JR., J. CLARKE LEGLER, II, WILLIAM RESTREPO, DANIEL T. LAYTON, LAYTON CORPORATION, PLATINUM ENERGY HOLDINGS, INC., AND PLATINUM ENERGY SOLUTIONS, INC., Relators ORIGINAL PROCEEDING WRIT OF MANDAMUS 234th District Court Harris County, Texas Trial Court Cause No. 2012-30972 CONTINUING ABATEMENT ORDER On April 21, 2014, relators, L. Charles Moncla, Jr., J. Clarke Legler, II, William Restrepo, Daniel T. Layton, Layton Corporation, Platinum Energy Holdings, Inc., and Platinum Energy Solutions, Inc., filed a petition for writ of mandamus in this court.

See Tex. Gov't Code Ann. ' 22.221. In the petition, relators asked that this court compel The Honorable Wesley Ward, Judge of the 234th District Court, Harris County, Texas, to (1) vacate his March 31, 2014 order overruling relators' special exceptions entered in trial court cause number 2012-30972, styled Starstream Capital, LLC, et al. v. L. Charles Moncla, Jr., et al.; (2) grant the

special exceptions; (3) strike real parties in interest's pleadings; and (4) dismiss the case with prejudice.

On June 2, 2014, relators informed this court that the parties have agreed to settle the underlying dispute, subject to the execution of a mutually acceptable settlement agreement. We abated the case for thirty days and directed the parties to advise the court of the status of the settlement.

On July 3, 2014, relators advised this court that the parties are still continuing to work towards a settlement agreement. We issued an order on July 10, 2014, continuing the abatement of the case for an additional period of thirty days, and directed relators and real parties in interest to advise the court of the status of the settlement.

On August 4, 2014, relators advised this court that the parties are still working toward settling the case. Therefore, the abatement of this case is continued for an additional thirty days, at which time the parties are directed to advise the court of the status of the settlement.

The original proceeding will be reinstated on this court's active docket when the parties file a motion to dismiss the original proceeding or other dispositive motion. The court also will consider an appropriate motion to reinstate the original proceeding, or the court may reinstate the original proceeding on its own motion. PER CURIAM Panel consists of Chief Justice Frost and Justices Boyce and Jamison.