

## FOURTH COURT OF APPEALS OF TEXAS

### In re Kingdom Cargo, LLC and Almaguer Livian Izaguirre

No. 04-19-00674-CV · No. 04-19-00674-CV · Decided November 13, 2019

#### SUMMARY

The Fourth Court of Appeals of Texas dismissed a petition for writ of mandamus as moot. The real party in interest withdrew her objections and motion to strike the relators' expert, providing the relief requested and eliminating the dispute.

#### CASE DETAILS

|                       |                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Fourth Court of Appeals of Texas                                                                                                   |
| WRITING FOR THE COURT | Per Curiam; Sandee Bryan Marion, Chief Justice; Luz Elena D. Chapa, Justice; Beth Watkins, Justice                                 |
| JURISDICTION          | Texas                                                                                                                              |
| DECIDED               | November 13, 2019                                                                                                                  |
| DOCKET                | 04-19-00674-CV                                                                                                                     |
| DISPOSITION           | dismissed                                                                                                                          |
| PROCEDURAL POSTURE    | Original mandamus proceeding challenging the trial court's order striking the relators' expert's counter-affidavits and testimony. |
| PRECEDENTIAL VALUE    | Published memorandum opinion; precedential status not expressly stated in the provided text.                                       |
| PARTIES               | Kingdom Cargo, LLC, Almaguer Livian Izaguirre                                                                                      |

#### TOPICS

mootness appellate procedure remedies civil procedure

#### PRACTICE AREAS

civil procedure appellate procedure remedies

#### QUESTIONS PRESENTED

1. Whether the mandamus petition should be dismissed as moot after the real party in interest withdrew the objections and motion to strike that formed the basis of the petition.

## HOLDINGS

1. The petition for writ of mandamus was moot because the real party in interest withdrew her objections and motion to strike, giving relators the relief they requested.

## KEY QUOTATIONS

*“After reviewing the transcript of the hearing at which the real party in interest withdrew her objections, we conclude relators obtained the relief requested.” (at 2)*

*“Therefore, we dismiss relators’ petition for writ of mandamus as moot.” (at 2)*

## FACTUAL BACKGROUND

The relators challenged the trial court's decision to strike their expert's counter-affidavits and testimony. While the mandamus proceeding was pending, the real party in interest stated on the record that she agreed to withdraw her objections and motion to strike the expert. The withdrawal eliminated the dispute presented in the mandamus petition.

## PROCEDURAL HISTORY

Relators filed a petition for writ of mandamus seeking to vacate the trial court's order granting the real party in interest's motion to strike and to obtain an order denying that motion. The appellate court stayed the trial setting and requested responses. At a later hearing, the real party in interest withdrew her objections and motion to strike, and the appellate court concluded that relators had obtained the relief they sought.

## DISPOSITION

dismissed

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