

COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS AT EL PASO

In re Gateway Gathering and Marketing Company and Frank
Rosenberg

No. 08-24-00332-CV · No. No. 08-24-00332-CV · Decided January 12, 2026

SUMMARY

The Eighth District Court of Appeals dismissed a mandamus proceeding as moot after the parties reported that they had finalized a settlement resolving their dispute over a discovery order. The court lifted the stay of the trial court proceedings and dismissed the petition with prejudice to refileing.

CASE DETAILS

COURT	Court of Appeals for the Eighth District of Texas at El Paso
WRITING FOR THE COURT	Gina M. Palafox; Salas Mendoza, C.J.; Gina M. Palafox, J.; Soto, J.
JURISDICTION	Court of Appeals for the Eighth District of Texas, El Paso
DECIDED	January 12, 2026
DOCKET	No. 08-24-00332-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original proceeding in mandamus challenging an order compelling discovery responses and an order denying reconsideration.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Gateway Gathering and Marketing Company, Frank Rosenberg v. Rosehill Operating Company, LLC, Real Party in Interest, State of Texas

TOPICS

- mootness
- writ of certiorari
- appellate procedure
- discovery dispute
- civil procedure

PRACTICE AREAS

- Appellate procedure
- Civil procedure
- Commercial litigation
- Discovery

QUESTIONS PRESENTED

1. Whether the parties' finalized settlement rendered the mandamus proceeding moot.

2. Whether the court should lift the trial-court stay and dismiss the mandamus proceeding with prejudice.

HOLDINGS

1. The finalized settlement resolved the controversy over the discovery order, rendering the mandamus proceeding moot.
2. The court granted the parties' joint motion, lifted the stay in its entirety, and dismissed the petition for writ of mandamus with prejudice as moot.

KEY QUOTATIONS

“When a judgment “cannot have a practical effect on an existing controversy, the case is moot and any opinion issued on the merits in the appeal would constitute an impermissible advisory opinion.”” (at 2)

“Accordingly, because the parties resolved the dispute presented in this original proceeding, we grant their joint motion to dismiss, we lift the stay in its entirety, and we dismiss the petition for writ of mandamus as moot.” (at 2)

FACTUAL BACKGROUND

Gateway Gathering and Marketing Company and Frank Rosenberg challenged a trial-court order compelling discovery responses and an order denying reconsideration. During the mandamus proceeding, the parties finalized a settlement resolving the underlying dispute. They jointly requested dismissal of the mandamus proceeding and asked the appellate court to lift the stay so the trial court could address specified pending motions.

PROCEDURAL HISTORY

Relators filed a mandamus proceeding challenging discovery-related orders. The appellate court stayed the trial-court proceedings on September 17, 2024. After the parties finalized a settlement, they jointly moved to lift the stay for limited purposes and dismiss the mandamus proceeding with prejudice. The court granted the motion, lifted the stay, and dismissed the proceeding as moot.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

The stay was lifted in its entirety. The trial court may proceed, including ruling on the motion for leave to file a second amended petition and any joint motion to dismiss with prejudice.

CASES CITED

- In re Gray, 578 S.W.3d 212, 213 (Tex. App.—Tyler 2019, no pet.) (mem. op.) (orig. proceeding)
- Williams v. Lara, 52 S.W.3d 171, 184 (Tex. 2001)

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS No. 08-24-00332-CV In Re Gateway Gathering and Marketing Company and Frank Rosenberg AN ORIGINAL PROCEEDING IN MANDAMUS M E M O R A N D U M O P I N I O N Relators, Gateway Gathering and Marketing Company and Frank Rosenberg, filed this original proceeding to challenge an order compelling discovery responses, and an order denying reconsideration.

Rosehill Operating Company, LLC, is the Real Party in Interest. On September 17, 2024, we issued an order staying the proceedings in the trial court. The parties have now filed a joint motion based on finalization of a settlement agreement.

The motion requests that this Court: a. Lift the stay of the trial court proceeding for the limited purpose of allowing the trial court to rule on [Real Party in Interest's] motion for leave to file a second amended petition and on any joint motion to dismiss with prejudice that will be filed by the parties; and b. Dismiss this mandamus proceeding with prejudice to its refiling.

We conclude that the parties' joint motion demonstrates their controversy over a discovery order has been resolved by a finalized settlement of the underlying dispute. If a controversy no longer exists between the parties, the case becomes moot.

In re Gray, 578 S.W.3d 212, 213 (Tex. App.—Tyler 2019, no pet.) (mem. op.) (orig. proceeding); see also Williams v. Lara, 52 S.W.3d 171, 184 (Tex. 2001) (providing a controversy no longer exists and a case becomes moot when “the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome”). When a judgment “cannot have a practical effect on an existing controversy, the case is moot and any opinion issued on the merits in the appeal would constitute an impermissible advisory opinion.” In re Gray, 578 S.W.3d at 213.

An opinion is advisory when it neither constitutes specific relief to a litigant nor affects legal relations. See *id.* Accordingly, because the parties resolved the dispute presented in this original proceeding, we grant their joint motion to dismiss, we lift the stay in its entirety, and we dismiss the petition for writ of mandamus as moot. See *id.*; see also Tex. R. App.

P. 42.1(a). GINA M. PALAFOX, Justice January 12, 2026 Before Salas Mendoza, C.J., Palafox and Soto, JJ. 2