

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**In re DT Lifestyle, L.L.C.; Cimarron Hills Development L.L.C.;
Cimarron 2009, L.L.C.; Cimarron Hills 2009, L.P.; Cimarron TX
2009, L.P.; Gary Elbogen; Daniel S. Smith; Matt Guley; and Chris
Hill**

No. 03-16-00356-CV (Tex. App.—Austin July 15, 2016) · No. No. 03-16-00356-CV · Decided July 15, 2016

SUMMARY

The Texas Court of Appeals, Third District, considered a petition for writ of mandamus challenging an order compelling discovery. The court dismissed as moot the challenge to requests 26 and 27 because the trial court amended its order, and denied mandamus relief as to the remaining discovery matters.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Scott K. Field, Justice; Puryear, Justice; Goodwin, Justice
JURISDICTION	Texas
DECIDED	July 15, 2016
DOCKET	No. 03-16-00356-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original proceeding seeking a writ of mandamus challenging a trial court order compelling discovery.
STANDARD OF REVIEW	Mandamus relief requires the relator to show that the trial court abused its discretion and that there is no adequate remedy by appeal; the court concluded on the presented record that the trial court did not abuse its discretion.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status is not stated in the opinion text.
PARTIES	DT Lifestyle, L.L.C., Cimarron Hills Development L.L.C., Cimarron 2009, L.L.C., Cimarron Hills 2009, L.P., Cimarron TX 2009, L.P., Gary Elbogen, Daniel S. Smith, Matt Guley, Chris Hill v. Real parties in interest who were the plaintiffs below

TOPICS

discovery dispute

mootness

appellate procedure

civil procedure

standard of review

PRACTICE AREAS

Civil procedure

Appellate procedure

Discovery

QUESTIONS PRESENTED

1. Whether the trial court's discovery-compulsion order warranted mandamus relief.
2. Whether the challenge to the portions of the order concerning requests for production 26 and 27 became moot after the trial court amended its order.

HOLDINGS

1. The challenge to requests for production 26 and 27 was moot because the trial court amended its order to omit relief concerning those requests.
2. Mandamus relief was not warranted because, on the record presented, the trial court did not abuse its discretion.

FACTUAL BACKGROUND

The trial court entered an order compelling discovery in response to the plaintiffs' motion. The order addressed the plaintiffs' fourth requests for production, including requests 26, 27, and 32. After the mandamus proceeding was filed, the trial court amended the order to eliminate relief concerning requests 26 and 27 and to modify the provision concerning request 32.

PROCEDURAL HISTORY

The Williamson County trial court granted the plaintiffs' motion to compel discovery on May 17, 2016. After relators filed the mandamus proceeding, the trial court amended its order on June 8, 2016, removing relief concerning requests for production numbers 26 and 27 and modifying the order concerning request number 32. The court of appeals dismissed the challenge to requests 26 and 27 as moot and denied mandamus relief as to the remainder.

DISPOSITION

writ_denied

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-16-00356-CV In re DT Lifestyle, L.L.C.; Cimarron Hills Development L.L.C.; Cimarron 2009, L.L.C.; Cimarron Hills 2009, L.P.; Cimarron TX 2009, L.P.; Gary Elbogen; Daniel S. Smith; Matt Guley; and Chris Hill

ORIGINAL PROCEEDING FROM WILLIAMSON COUNTY MEMORANDUM OPINION

Relators seek mandamus relief from a May 17, 2016 order in which the trial court granted a motion to compel discovery filed by the real parties in interest, who are the plaintiffs below.

On June 8, 2016, after relators filed this original proceeding, the trial court amended its discovery order to omit relief with regard to plaintiffs' requests nos. 26 and 27 of their fourth requests for production. The trial court also modified its order with respect to request No. 32.

Because the trial court amended its order to omit relief on plaintiffs' requests 26 and 27, relators' petition with respect to those requests is dismissed as moot. Based on the record presented to us with respect to the remainder of the trial court's order, we cannot conclude that the trial court abused its discretion.

Accordingly, the petition for writ of mandamus is denied. See Tex. R. App. P. 52.8(a).

Scott K. Field, Justice Before Justices
Puryear, Goodwin, and Field Filed: July 15, 2016 2