No. 25A723

In The
SUPREME COURT OF THE UNITED STATES

IN RE DARRYL HEFFNER,
Trust Beneficiary,
Plaintiff – Petitioner – Petitioner –
Petitioner.

ON PETITION FOR A WRIT OF MANDAMUS TO THE
SUPREME COURT OF TEXAS

APPLICATION FOR STAY
OF CONTINUING TRIAL COURT ACTIVITY
WITH APPENDIX

TO THE HONORABLE JUSTICE ASSIGNED TO USCA5 (TEXAS):

COMES NOW Petitioner, DARRYL HEFFNER, Beneficiary, who applies for a Stay of all continuing trial activity regarding this case (there are ~~three~~ two) in the 235th DISTRICT COURT, COOKE COUNTY, TEXAS, the Honorable LEE GABRIEL Presiding, sitting by assignment, as follows:

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Application for Stay

Beneficiary requests that this Court order a Stay of all continuing trial activity regarding this case pending resolution of this Mandamus petition.

Case list – 235th Dist. Ct.

CV21-00248 (Disqualification) ; CV24-00216 (Fraud) (on appeal); ~~CV25-00004~~.

Requests for Stay below

235th – Denied.

2d.CoA – Denied.

S.Ct.Tex. – Stay Dismissed as moot. (All three supplement motions re: Stay granted.)

Related. Beyond the "post-judgement" requests for Discovery, Ex.124, F-12, Ex.125, F-25, BEACHLEY and HENRY have requested Contempt. In addition to this self-confirmation of non-mootness, the assigned judge didn't rush to set that for a hearing (Dec. 9). One view among the possibilities is that of a de facto recognition of the value of at least this much time to allow S.Ct.Tex., now this Court, to consider the Mandamus merits (and this Stay).

Discussion

Note. All references to "F-(xxx)" are to [2d.CoA] 02-25-00469-CV Mand. Pet. App. F. and [S.Ct.Tex.] 25-0817 Mand. Pet. App. F., which are the same.

Crux.

All *parties* are requesting new trial. So far, all *state courts* are saying, "No."

Beneficiary expects this is an issue of first impression, ordinarily beyond where Mandamus goes ; but, there is no other remedy in this post-judgment context.

Two cases. In the newer case, Beneficiary asserts his Bill of Review (for the larger audience – direct challenge, in equity, to a judgment ; essentially, a request for a new trial of the judgment case). Into the teeth of Bill of Review, all "Judgement" [sic], Ex.93, F-6, benefactors moved to consolidate the "Judgement" case with the newer case, effectively requesting the same new trial.

Yes. All "Judgement" benefactors moved unanimously to consolidate for trial their "Judgement" case (the Disqualification case, CV21-00248) with the pending case (the Fraud case, CV24-00216). Ex.172, F-417. The "Judgement's" author, F-6, -11, spearheaded the consolidation effort. Ex.171, F-415 (bottom).

"New trial" is the general context. "Non-finality" is the controlling concept.

Contention – While their unanimous motion requesting legally impossible "hybrid" consolidation didn't produce consolidation, it did judicially concede non-finality of their "Judgement." In short, by unilaterally self-treating, self-characterizing their "Judgement" case as "pending" for purposes of consolidation, Real Parties are both equitably *and* judicially estopped from asserting "finality."

There being no finality in their "Judgement," they lack standing to pursue post-*judgment* relief of any kind, including Discovery, leaving the trial court without

jurisdiction to enter the orders challenged by this Mandamus.

Federal questions.

Protection from unwarranted Discovery.

Procedural Due Process. Mandamus is the sole remedy, here. In addition to the post-judgment context, generally, Real Parties, unanimously, have judicially conceded non-finality, rendering (appeal and) Bill of Review unavailable. Plus, if Real Parties ever had property rights via the "Judgement," STATE, via its judiciary, is trying to control Real Parties' property rights (prohibiting commerce / consent / waiver) to Beneficiary's direct detriment.

Structural Due Process. Trial court lacks subject matter jurisdiction to entertain post-judgment relief, because Real Parties lack standing, because Real Parties judicially conceded non-finality by self-characterizing their "Judgement" case (Disqualification) as "pending" for purposes of consolidation with the Fraud case. Ex.171, F-415, Ex.172, F-417.

Parties.

Sharon Heffner – wife, mother, deceased.

DARRYL HEFFNER, husband, father, Beneficiary.

TIMOTHY (controlling wife LAUREN), JONATHAN, and MATTHEW HEFFNER, sons, 11th-hour would-be benefactors, and named successor Trustees.

Additional named "Judgement" benefactors : PAUL WRIGHT (and his firms); BEACHLEY (and his firm); and HENRY (and his firm).

Additional facts and perspective.

THE TALE OF TWO CASES: DISQUALIFICATION AND FRAUD.

These are definitely the worst of times. They've taken it all, compelling the father to sue not only his sons and daughter-in-law but also their attorneys *and* the judges to protect his inheritance, three property interests (his retirement nest egg), from his one and only wife of 40 (39+) years, deceived in her last week and hours of her life by daughter-in-law, as aided by scrivener.

1. Land (homestead). Instead of transferring the trust *res* to his (their) beneficiary, TIMOTHY, successor Trustee, fully supported by his brothers, named as successor Trustees, transferred the trust *res* to themselves.

2. Originally cash flow, now land. MATTHEW repudiated his mortgage by which he was purchasing the Denton property, the immediately prior homestead.

3. Cash flow. Ever since moving out (end of Dec. 2020), TIMOTHY (and LAUREN) has (have) maintained control over the barn-dominium they rented for 26 months, paying nothing for rent for five years, now.

REGARDING BILL OF REVIEW AS A REMEDY.

Bill of Review (as with appeal, generally) depends directly on "finality." "[B]ill of Review presumes the existence of a judgment which has become final ... ." *E.g., City of Houston v. Hill*, 792 S.W.2c 176, 178 (Tex. App.—Houston [1st Dist.] 1990, writ dsms'd per agreement) (citing *Schwartz v. Jefferson*, 520 S.W.2d 881, 889 (Tex. 1975)). No finality?–no (appeal or) Bill of Review.

Since the state appellate judiciary are surely not even remotely suggesting that Real Parties *haven't* judicially conceded "not final," the appellate judiciary are, by their consistency in denying Mandamus, appearing to suggest that Beneficiary has to get that judicial concession confirmed in the trial court via Bill of Review, i.e., in the Fraud case, CV24-00216. On the one hand, that might appear practical, uniform, and self-consistent. *But*, on the other, given these facts, substantive and procedural, the appellate courts, in addition to elevating form over substance, would be (are) pressing Beneficiary into a facially untenable position – Bill of Review relief (which remedy (1) doesn't exist, if it ever existed, given that Real Parties have self-rebutted the presumption of "finality;" or , (2) if actually addressed, would have to be denied for non-finality, compelling this Mandamus, anyway) isn't even remotely possible to obtain in time for it to matter.

Why not? Two time factors –

(A) The "post-judgment" trial court has set Dec. 9 as the hearing date for Real Parties' Motion for Contempt (CV21-00248).

Related. The mere existence of that motion confirms the non-mootness of these Mandamus issues. *See also* Beneficiary's three motions to supplement his Motion for Stay in S.Ct.Tex. (25-0817) ; in which conceptual regard, see also the latest, Oct. 30, 31, in CV21-00248. And

(B) the "assigned" "judge" to the Fraud case (ROBISON) rushed to Disqualify himself first thing out of the chute, which Issues are presently on direct appeal in

2d.CoA in 02-25-00472-CV (Briefing extension granted).

Related, *see* Beneficiary's Obj. to Assigned Judge, CV25-00004 (~~case three~~).

Extraordinarily brief nutshell of (B). Beneficiary's Fraud case, compelled in its timing by the emergency created by Real Parties' "Eviction" Gambit (FD24-0019 (JP Pct 2) ; CV24[-]02415 (County Court)), sounds exclusively in equity ; plus Beneficiary's claim against HAVERKAMP is fraud, an intentional tort.

Despite "equity" + "intentional tort," HAVERKAMP "appeared" solely via the AG's Office. The AG has signature authority to represent *STATE* (not officers, employees, and agents, but STATE), (only) where STATE's fisc is at risk. TEX. CIV. PRAC. & REM. CODE § 104.002 (which statute / language / policy the AG very conspicuously avoids addressing). Beneficiary didn't include or Serve STATE – STATE's fisc isn't at risk (equity + intentional tort). Therefore, Beneficiary challenged the AG's signature authority via Tex.R.Civ.P.12 ("R.12"). Where the "representative" has no authority, all pleadings are struck. *In re Salazar*, 315 S.W.3d 279 (Tex. App.— Fort Worth [i.e., 2d.CoA] 2010, considerable history). Bottom line, HAVERKAMP has yet to appear in the Fraud case.

Not a problem for ROBISON, who, despite de facto Notice of these very issues challenging *his* signature authority via Beneficiary's Mandamus efforts (02-25-00242-CV (2d.CoA) ; 25-0481, 25-0485 (S.Ct.Tex.)), which preceded the R.12 (and etc.) hearing, not only participated in the R.12 proceeding but also then denied that motion (a facially self-serving ruling) into the teeth of the long-standing statutory

policies. § 104.002. In short, ROBISON granted relief to HAVERKAMP, Ex.170, F-413, on affirmative defense(s) HAVERKAMP has yet (to appear and) to plead. *James v. Underwood*, 438 S.W.3d 704, 715 (Tex. App.—Houston [1st Dist.] 2014, no pet.) (to activate / preserve their affirmative defense(s), Probate judges had to file *something*). That leaves ROBISON as her "advocate" (asserting pleadings that nowhere exist and then granting relief on those phantom pleadings ; i.e., *sua sponte* awarding affirmative defense relief HAVERKAMP never requested), rendering ROBISON a "Party+Decision-maker" first thing out of the chute.

Timing reality – "the float." Since ROBISON has no signature authority, no ruling of his, e.g., "immunity," has any effect. But, because ROBISON has, to date, refused to remove himself from the Fraud case, it'll take appellate rulings to remove him, which are somewhere between six and 18 months away. By pursuing post-*judgment* relief, what Real Parties are trying to finagle to their advantage, fully knowing the appeal was coming, is this "float" (six to 18 months).

Thus, even if it's now possible to elevate form over substance (compelling Bill of Review where Mandamus is the sole remedy), and even if Beneficiary were to obtain formal Bill of Review relief (which isn't possible due, at least in part, to non-finality), it'd take a ruling by a newly assigned judge, which is sometime in the future by both the duration of the appeal (six to 18 months) plus the time to get another judge assigned, and then getting the hearing set and then completed, before that form of remedy could provide relief that's needed before Dec. 9.

REGARDING THE NEW TRIAL SOUGHT BY ALL PARTIES.

[All litigation to date] "Gambit 1" – The fraud that got all this started.

LAUREN HEFFNER (TIMOTHY's controlling wife) to Sharon, family drama fit-pitching style, approx. one week into Sharon's shocking (mind-numbing) prognosis (early May, 2020) of "two weeks to two months" due to metastatic lung cancer originating from her ovarian cancer, from which original condition she had been declared "cancer free" in Oct. 2019 : "Medicare / Medicaid is gonna 'Take it all!' unless this Trust is changed (immediately)!"

A few days prior, LAUREN had asked Sharon for Sharon's Estate Plan documents. Sharon provided her originals expecting LAUREN then to deliver them to TIMOTHY, the first-named Executor, Ex.47, and first-named successor Trustee, Ex.1, F-221 (III.A.). Delivery to TIMOTHY happened, *see* Ex.20, F-251, but, en route, finding no distribution to herself or to TIMOTHY, LAUREN, intending unilaterally to change Sharon's (and Beneficiary's) agreed to, and long-standing, Estate Plan at the 11th hour, initiated "Gambit 1" by contacting scrivener (TIFFANY WRIGHT, Sharon's Estate Planning attorney). *Knowing* Sharon's condition, LAUREN (and scrivener) intentionally kept Beneficiary out of the loop, working at all times behind his back, as well. F-39 to -40, F-40 to -41, F-83 ; F-161 to -163.

From wherever or whomever LAUREN got her "information," [1] what LAUREN

[1] Per Ex.20, F-251, TIMOTHY identifies the "source" as scrivener. F-253. But, Beneficiary holds open this practicality. Since all conversations (in those "five

told Sharon was a very bold and cruel lie. The Medicaid "collections" effort in Texas (MERP TEXAS) doesn't activate, at all, where there's a surviving spouse, 42 U.S.C.A. § 1396p, thus, TEX. ADMIN. CODE Rs. § 373.205(a)(1), § 373.207(a)(1), and § 373.307(b)(2)(A), and then, if at all, looks solely and exclusively to Probate assets, § 373.105(6), § 373.207(a)(1), which trust *res* never is.

Did Sharon even submit an application for benefits? MATTHEW showed Beneficiary a phone-picture of an application, but was it submitted? Even if we presume "Yes," looking, then, at TIMOTHY's Probate "Inventory," Ex.107, F-370, facially fraudulent for non-inclusion of an Account Receivable ($129,200) regarding MATTHEW's mortgage, not only is there no reported amount expected due to either Medicare or Medicaid, and not only is there no asserted claim by Medicare or Medicaid, but also there's no mention of any "last illness" expenses, at all. On top of that, nether Medicare nor Medicaid even appeared regarding that matter. (PR-17995).

The in-home autographing ceremony orchestrated and emceed by LAUREN, on May 19 (2020), occurred approx. 60 hours before Sharon passed (from metastatic lung cancer). Ex.2, F-227. *See also* Mand. Pet. A-229 n.1 (02-24-00551-CV) (correcting this original time reference error of 39 to 60). She couldn't walk. F-85, F-86. She couldn't remember how to spell her name. F-83. She could barely write.

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days") with scrivener likely took place during the day, i.e., while TIMOTHY was at work, TIMOTHY may be in the *exact* same position as Sharon, namely getting "information," i.e., what scrivener *purportedly* said, solely from LAUREN. The "source" matters but is marginally relevant for this Mandamus, because the Trust was never changed – Sharon stopped "Gambit 1" that next morning. Ex.27 (Ex.28).

Id. Her autographs are plainly not her normal signatures, varying even on the exact same page. Ex.24, F-256, -258. She was on prescribed (oxygen and) morphine (pain relief). F-43, -86, -98, -125, -128, -129, -141. Not only was her prognosis two weeks to two months, i.e., not only had Sharon been experiencing reduced oxygenation for several months, but also we're talking a mere 60 hours prior to passing ; hence, her physiological processes had already started shutting down. E.g., < https://organizeforliving.com/what-are-the-stages-of-your-body-shutting-down/ > ("The Active Phase: Approaching the End" – "This phase can last from a few days to a couple of weeks." Breathing and circulation are the first two systems listed.). As Sharon self-assessed, Ex.27, F-269, Ex.28, F-271, and as Real Parties have commercially confessed and conceded, Ex.65, F-286, Ex.80, F-290, -297, both times under "advice of counsel," Sharon lacked transactional capacity. She was still experiencing unmitigated shock of the prognosis, and, on top of that, had no ability or wherewithal to evaluate the lies told to her by LAUREN, a problem very materially enhanced by scrivener's not communicating directly with Sharon, but only through LAUREN, about LAUREN's proposed 11th-hour changes. F-40, -83, -163.

[Disqualification] Expungement (by fraud).

- At the time.

By lying about the filing date for Ex.25, F-260, and Ex.26, F-264. *see* Ex.101 (first highlighted section), F-343, Real Parties judicially confessed failure of

delivery, establishing the most judicially efficient analysis confirming the null and void nature of at least the two "for value," "Gambit 1" deeds (Ex.25, F-260, and Ex.26, F-264). *See also* Ex.27, F-269, Ex.28, F-271.

As chief among the several factors, by HAVERKAMP's taking charge and marshaling in Real Parties' lie ("May 19, 2020") about the filing date (Ex.25, F-263, Ex.26, F-268 – Jun. 16, 2021), via colloquy, which colloquy format also facilitated HAVERKAMP's marshaling in Real Parties' "bleached" documents (Ex.104, F-356, Ex.105, F-359) as substitutes for the filestamped versions (Ex.25, F-260, Ex.26, F-264, Ex.103, F-350) for proving up a filing date, which marshaled-in lie was followed in mere minutes by HAVERKAMP's conspicuous refusal to take *Real Parties'* requested Judicial Notice, Ex.101 (second highlighted section), F-346, of the actual documents, found in both the Deed Records and the trial Record, thus of the actual filing date, HAVERKAMP confirmed her participation as a direct member of the fraud conspiracy, i.e., as a "Party+Decision-maker," first thing out of the chute. (Expungement was the very first hearing.)

TIMOTHY never had any ownership interest in either the Gainesville retirement homestead nor the Denton property, meaning he lacked standing to request expungement regarding either property. TIMOTHY has judicially confessed his lack of ownership regarding the Gainesville homestead in several ways, most particularly including Real Parties' "Partition" Gambit, Ex.166, F-211.

Regarding MATTHEW's non-ownership of the Denton property, see, *infra*,

BEACHLEY's "counter-claim."

- Between cases (fraudulent "residential" mortgage + "Eviction" Gambit).

Expungement paved the path directly to the $250,000 ($245,000 + escrow) "residential" mortgage, Ex.119, F-394, by which TIMOTHY and MATTHEW pledged *Beneficiary's* retirement homestead (very intentionally planned to be and to remain as his debt-free homestead) as *their* collateral, without Beneficiary's knowledge, consent, or signature.

Rather promptly after Beneficiary first exposed their fraudulent "residential" mortgage (during the trial de novo of their "Eviction" Gambit), someone accused Beneficiary of "theft of mail," F-43. This was their next act advancing their "You're going to jail!" theme, [2d.CoA] 02-25-00469-CV Mand. Pet. p.37, [S.Ct.Tex.] 25-0817 Mand. Pet. p.22, against Beneficiary inaugurated by PAUL WRIGHT's *very* first communique, Ex.19, F-248 (Probate case).

The total and complete mystery as to how *anyone*, even someone asserting title fraudulently, could *possibly* obtain a "residential" mortgage while not actually being "resident" on the pledged property is answered by Ex.140, F-401. TIMOTHY, who moved with his family into the house on the Denton property by the end of Dec. 2020 (the end of the agreed rental period of the barn-dominium), has refused to update his residential address information for purposes of his Texas Driver's License. For TIMOTHY's actual residential address, starting Jan. 1, 2021, see, e.g., address for Service in all of the Probate (PR-17995), Disqualification (CV21-

00248), and Fraud (CV24-00216) cases (*see also* Service on LAUREN HEFFNER) – 3345 Evers Parkway, Denton, Texas. TIMOTHY is an illegal hold-over tenant who relentlessly (*still*) not only refuses to pay rent but also falsely asserts "ownership" via documents (Ex.24, F-256, Ex.25, F-260, Ex.26, F-264), he, himself, has both commercially (Ex.65, F-286, Ex.80, F-290, -297) and judicially (Ex.92, F-318, Ex.101, F-335, Ex.103, F-350, Ex.104, F-356, Ex.105, F-359, Ex.106, F-363, Ex.107, F-370, Ex.166, F-211) conceded and confessed as null and void.

To understand the fraud upon fraud that produced that "residential" mortgage is also to understand the fraud-advancing "thinking" motivating Real Parties' facially lawless "Eviction" Gambit. Ex.141-Ex.150, plus FD24-0019 (JP Pct. 2 (JOHNSON)), *plus* CV24[-]02415 (County Court). Via their facially process-abusive "Eviction" Gambit, Real Parties intended one or both of two objectives –

(1) An order compelling Beneficiary to pay rent would have compelled Beneficiary into a role of guarantor on their mortgage (which Beneficiary still expects was taken out to pay attorneys' fees). Real Parties actually obtained such order originally, but JOHNSON repented of this one once Beneficiary initiated the appeal (trial de novo) process, plainly documenting all the *ex parte* communications between HENRY and JOHNSON. The "rent" for Beneficiary to remain in and on his retirement homestead was originally ordered to be $2,500 / month, which very conveniently happens to be the monthly mortgage payment ($2,442), Ex.119, F-394.

(2) An order evicting Beneficiary from his retirement homestead would

exonerate Real Parties from ever having to explain to any lender(s) not only that they assert title falsely but also that neither borrower is actually "resident" on the pledged property. JOHNSON actually "ordered" "eviction," which the County Court overruled by awarding "immediate possession" to Beneficiary, Ex.150, F-412, based, in part, on Real Parties' judicial confessions.

- Per the newer case (the Fraud case).

Via Real Parties' "Partition" Gambit, Ex.166, F-211, they judicially confess non-ownership, *ab initio*, of the trust *res*, Ex.64, F-281, which is the Gainesville retirement homestead.

Moreover, having asserted, "IT'S ALL OURS! IT'S ALL OURS! IT'S ALL OURS!" from the instant of submitting Ex.25, F-260, and Ex.26, F-264, for filing in the Deed Records, then also, among all the means activated, via expungement, then via their "residential" mortgage, and then via their "Eviction" Gambit, they're both equitably and judicially estopped from contending that the trust *res* has ever been divisible. It's always been an "all or nothing" ownership issue – either all to Beneficiary via Ex.1, F-218, -220 (II.C.1.) (Sharon's intent), or all to the would-be 11th-hour benefactors via Ex.24, F-256, Ex.25, F-260, Ex.26, F-264 (daughter-in-law's and 11th-hour benefactors' intent). Having failed to evict Beneficiary from his land, which is also his homestead, Real Parties, in their desperation to benefit by any means from their fraud, will now "accept" *part* ; hence, their quest for partition (Ex.166, F-211) of the trust *res*, which property not only is indivisible but

also regarding which not one would-be 11th-hour benefactor has ever had one shred of a claim, as confirmed by their having repeatedly confessed, under "advice of counsel," both commercially and judicially, their "Gambit 1" documents, the basis for their "claim" (Ex.24, F-256, Ex.25, F-260, Ex.26, F-264), as null and void.

The Trust, Ex.1, F-218, wasn't, and has never been, changed.

[Disqualification] BEACHLEY's "counter claim" (by fraud). Ex.90.

BEACHLEY filed his "counter-claim" in the original (Disqualification) case, despite having *refused*, even to this very day, to produce MATTHEW's checks, whether responsive to Beneficiary's informal (fiduciary carries the burden) Discovery Requests (*see* Ex.123, F-396 to -400), or the procedural duty regarding "Initial Disclosures" in both the first *and* second cases. MATTHEW repudiated his mortgage by which MATTHEW was purchasing the Denton property, which is the original homestead property owned in Trust, Ex.1, F-218, -220. Sharon's Last Will, Ex.47, transfers the Probate Estate to the Trustee, who is to distribute per the Trust's plan, Ex.1, F-218, -220, per which plan Beneficiary is the sole and exclusive beneficiary regarding all land interests. Thus, Beneficiary is the sole and exclusive vendor's lien holder (community property – mortgage initiated during marriage) on the Denton property ; hence, his claim for judicial foreclosure (Fraud case).

It was Sharon's (and Beneficiary's) intent that MATTHEW's mortgage provide a source of retirement cash flow. What MATTHEW's non-disclosed (yet) checks, deposited into one or more community property accounts, Ex.14, F-235. Ex.15,

F.238, Ex.16, F-241, Ex.17, F-244, prove is that MATTHEW was paying "Sharon, Mom," not "Sharon, Trustee," cementing the reality of community property, thus Beneficiary's sole and exclusive ownership of the vendor's lien.

Long and short, BEACHLEY's "counter-claim" has always been the by-product of facial bad faith *and* groundlessness with the intent of advancing the fraud against Beneficiary just exactly as far as possible to advance it.

[Disqualification] Beneficiary non-suited. Ex.91, F-315.

[Disqualification] PAUL WRIGHT, HENRY sought sanctions (by fraud). Ex.92.

For a summary of this line of fraud, see F-vii. What PAUL WRIGHT and HENRY did was exclude Ex.25 from their "evidence." Ex.24, F-256, Ex.25, F-260, and Ex.26, F-264 were designed to be seriatim, dependent transactions. There is no Ex.26, F-264, transfer without there first being the Ex.25, F-260, transfer, and there was never any Ex.25, F-260, transfer, a decision derived in its most efficient manner by recognizing that judicial confession (no Ex.25 transfer) by means of the repeated exclusion of Ex.25, F-260, one example of such exclusion being Ex.92.

See also F-161 to -164.

[Disqualification] BEACHLEY's "Judgement" (advancing the fraud). Ex.93.

BEACHLEY authored the "Judgement." F-6, -11.

Related. Facially, his "Judgement" contains no property description of either parcel at issue ; hence, it's never been "final." Moreover, it's a nullity, because

HAVERKAMP was an illegal "Party+Decision-maker" *ab initio*.

[Fraud] BEACHLEY led the charge up "consolidation" hill. Ex.171.

Prelim. BEACHLEY championed the legally impossible position of "immunity" from equity for attorneys-in-privity. *See* BEACHELY's "Response." F-189.

Prelim. ROBISON *granted* "immunity" from equity to all attorneys-in-privity. Ex.170, F-413. Note the filestamp (2024 Nov 13 PM 10:13).

The point here. Riding that wave, BEACHLEY then initiated the discussion on consolidation. Ex.171, F-415, is the email exchange advancing legally impossible "hybrid" consolidation immediately on the heels of obtaining legally impossible "immunity" from equity. Note the date and time in BEACHLEY's initiating email header (Sent: Wednesday, November 13, 2024 2:42 PM), F-415 (bottom). The fact that "hybrid" consolidation is (also) legally impossible hardly negates the judicial confession of "non-finality" by their unilateral, self-assertion of "pending."

[Fraud] Virtually identical pleadings as before.

Additionally, Real Parties have pled the same claims in the Fraud case as in the Disqualification case, even adding a new claim via their "Partition" Gambit, Ex.166, F-211. This is as 100% consistent with non-finality (nothing was resolved) as it is inconsistent with both claim and issue preclusion (everything was resolved). *See* Ex.176, F-426, for the present status of selected claims by Real Parties.

Argument.

If Real Parties ever had property rights from that "Judgement," Real Parties' property rights are not STATE's property rights to control. They'd be Real Parties' property rights. Thus, where Real Parties judicially treat and characterize their "Judgement" case as "pending" for purposes of consolidation, Ex.172, F-417, a unanimous effort spearheaded by the "Judgement's" author (F-11), Ex.171, F-415 (bottom), who describes the matter as "two parallel tracks on what is essentially one (gargantuan) lawsuit," F-416, then Real Parties are both equitably and judicially estopped from contending "finality" regarding their "Judgement."

The result requested via Mandamus follows directly. There being no "finality," Real Parties lack standing to pursue post-*judgment* anything.

There being no standing in Real Parties to pursue post-judgment anything, the trial court lacks subject matter jurisdiction to entertain Real Parties' post-judgment (Discovery) motions, much less to grant Real Parties their requested relief.

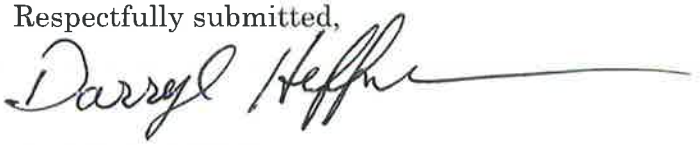
By result of their perpetual and unmitigated bad faith and lack of clean hands from Day One, Real Parties aren't entitled to equity, anyway. Their requests for post-*judgment* relief, especially Discovery, sound entirely in equity.

Plus, the Disqualification case should be closed. Given Real Parties' "counter-offer" of more fraud upon more fraud upon more fraud, Beneficiary has withdrawn that initial option for dispute resolution. Ex.91, F-315.

Request for Relief

In order that this Court have time to address this Mandamus, Beneficiary requests that this Court order Stayed all trial level activity regarding this (Disqualification) case pending resolution of this Mandamus.

Respectfully submitted,



/s/ Darryl Heffner
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Unsworn Declaration Under Penalty of Perjury

STATE OF TEXAS §
ss. KNOW ALL MEN BY THESE PRESENTS
COUNTY OF COOKE §

My name is DARRYL HEFFNER. I was born in 1957, and my address is shown in the signature block.

I am at least 21 years of age, and I am competent to make this Affidavit (Declaration). I have personal knowledge of the facts asserted in this Affidavit / Declaration, and I declare (or certify, verify, or state) under penalty of perjury under the laws of the State of Texas and under the laws of the United States (28 U.S.C.A. § 1746) that the facts so asserted are true and correct.

The facts stated in this Application and in this Affidavit / Declaration are true and correct.

Further, Affiant (Declarant) sayeth not.

Executed near CITY OF GAINESVILLE, in COUNTY OF COOKE, EASTERN

DISTRICT OF TEXAS, STATE OF TEXAS, on this the 24th day of November, 2025

/s/ Darryl Heffner
DARRYL HEFFNER, Affiant (Declarant)

Certificate of Compliance

By my signature below, I certify that the word count for this Application for Stay, including body (with intro and ~~strikeouts~~), headings, and footnote(s), is 4,216. Each hyphenated word, e.g., 11th-hour, F-(xxx), CV21-00248, is counted as one word.

/s/ Darryl Heffner
DARRYL HEFFNER

Certificate of Electronic Service

Under penalty of perjury per 28 U.S.C.A. § 1746, by my signature below, I declare (certify, verify, state) that on this the 24th day of November, 2025, using the eService feature associated with No. 25-0817 (S.Ct.Tex.), I have Served this Application for Stay, with its Appendix Index and Appendix, on Respondent(s) and Interested Parties via electronic means as follows:

Original Respondent

Hon. JUSTICE E. LEE GABRIEL,
sitting by assignment

c/o 235th Dist. Ct.
101 South Dixon Street, Rm. 207
Gainesville, TX 76240
eleegabriel@gmail.com

Present Respondent

SUPREME COURT OF TEXAS
c/o Hon. BLAKE A. HAWTHORNE,
Clerk
P.O. Box 12248
Austin, TX 78711
blake.hawthorne@txcourts.gov

Interested Parties ("Judgement" benefactors)

PAUL F. WRIGHT
"Board Certified Expert"
THE WRIGHT FIRM, LLP
WRIGHT LEGAL PLLC (*see* Ex.108, Ex.109 (Abstracts of Judgment))
By:PAUL F. WRIGHT
~~THE WRIGHT FIRM, LLP~~
~~Campbell Center II~~
8150 N. Central Expwy, Suite 775
WRIGHT LEGAL PLLC
8350 N. Central Expwy, Suite 420
Dallas, TX 75206
~~paul @ thewrightlawyers .com~~
paul@wrightlegaltexas.com

CHARLES BEACHLEY, III
"Board Certified Expert"
BEACHLEY SMITH PLLC
MATTHEW HEFFNER
By:CHARLES BEACHLEY
BEACHLEYSMITHLAW, PLLC
405 State Highway 121 BYP, Suite A-250
Lewisville, Texas 75067
beachley@beachleypllc.com

CHRISTOPHER HENRY
MINOR & JESTER, P.C. (*see* F-415)
JONATHAN HEFFNER, now also
TIMOTIIY (TIM) IIEFFNER
By:CHRISTOPHER B. HENRY
MINOR & JESTER, P.C.
502 West Oak Street, Suite 200
P.O. Box 280
Denton, TX 76202
chenry@minorandjester.com

Darryl Hoffman

Appendix Index

FILE COPY

RE: Case No. 25-0817
COA #: 02-25-00469-CV
STYLE: IN RE HEFFNER

DATE: 10/17/2025
TC#: CV21-00248

Today the Supreme Court of Texas denied the petition for writ of mandamus in the above-referenced case. All Motions to Supplement Record are granted. The Motion for Stay is dismissed as moot.

DARRYL HEFFNER
* DELIVERED VIA E-MAIL *

In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth

No. 02-25-00469-CV

IN RE DARRYL HEFFNER, Relator

Original Proceeding
235th District Court of Cooke County, Texas
Trial Court No. CV21-00248

Before Bassel, J.; Sudderth, C.J.; and Birdwell, J.
Per Curiam Memorandum Opinion

MEMORANDUM OPINION

The court has considered relator's petition for writ of mandamus and motion for stay and is of the opinion that relief should be denied. Accordingly, relator's petition for writ of mandamus and motion for stay are denied.

Per Curiam

Delivered: September 10, 2025

FILED IN DISTRICT COURT
COOKE COUNTY, TEXAS

2025 AUG 29 PM 4:29

DIST CLERK MARISA GILBERT

BY: DBoggs DEPUTY

	CV21-00248	
DARRYL HEFFNER	§	IN THE DISTRICT COURT
	§	
V.	§	235TH JUDICIAL DISTRICT
	§	
TIMOTHY HEFFNER,	§	COOKE COUNTY, TEXAS
MATTHEW HEFFNER, and	§	
JONATHAN HEFFNER	§	

ORDER DENYING PLAINTIFF'S MOTION FOR STAY OR EXTENSION

This day came before the Court for consideration Plaintiff DARRYL HEFFNER'S Motion for Stay or for Extension of Time.

The motion is hereby DENIED.

Signed this the 29 day of August, 2025.

JUDGE PRESIDING

FILED IN DISTRICT COURT
COOKE COUNTY, TEXAS

2025 OCT 14 PM 4:51

DIST CLERK-MARCI A GILBERT
BY: Cody Shires DEPUTY

CAUSE NO. CV21-00248

DARRYL HEFFNER, PLAINTIFF	§	**IN THE DISTRICT COURT**
	§	
VS.	§	**235th JUDICIAL DISTRICT**
	§	
TIMOTHY HEFFNER, MATTHEW HEFFNER, AND JONATHAN HEFFNER, DEFENDANTS	§	**OF COOKE COUNTY, TEXAS**

ORDER TO SHOW CAUSE
ON MOTION FOR CONTEMPT

The Court, having considered the Motion for Contempt filed by Movant, Matthew Heffner seeking to have Darryl Heffner held and punished for Contempt of Court in this matter, finds the motion legally sufficient.

IT IS THEREFORE ORDERED:

1. the Clerk of this Court issue notice to Darryl Heffner requiring said Darryl Heffner to appear before this Court on December 9, 2025 at 2:30 p.m., to then and there show cause, if any, why Darryl Heffner did not comply with the Court's Orders as alleged in Defendant's Motion for Enforcement by Contempt which the Court considered on August 15, 2025

SIGNED on October 14, 2025

JUDGE PRESIDING

APPROVED AS TO FORM

Beachley Smith Law, PLLC
405 State Highway 121 byp, Ste. A250
Lewisville, TX 75067

Charles E Beachley III
Attorney for Matthew Heffner

Bar no: 01945300
Office Phone: (972) 538-0358
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Minor & Jester, PC

/s/ Christopher B. Henry
By Charles E. Beachley III under written permission

Christopher B. Henry
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