

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-20-00138-CV

**IN RE HUNTSMAN CORPORATION, HUNTSMAN INTERNATIONAL
LLC AND HUNTSMAN (HOLDINGS) NETHERLANDS B.V.**

**Original Proceeding (Transferred from No. 05-19-01284-CV)
134th District Court of Dallas County, Texas
Trial Cause No. DC-19-02030**

MEMORANDUM OPINION

Huntsman Corporation, Huntsman International LLC and Huntsman (Holdings) Netherlands B.V., Relators, filed a petition for a writ of mandamus to compel the trial court to vacate its order denying Relators' joinder in a Rule 91a motion to dismiss and grant Relators' motion to dismiss the causes of action alleged against Relators in the Consolidated Petition for Violation of the Securities Act of 1933 filed by Macomb County Employees' Retirement System and Firemen's Retirement System of St. Louis individually and on behalf of a class of similarly

situated persons.¹ Relators argue the trial court abused its discretion by misapplying the standards under Texas Rule of Civil Procedure 91a because the claims are barred by federal substantive law and they argue they lack an adequate remedy by appeal given the considerable drain of resources on parties and the judicial system that routinely occurs in federal securities class actions.

We determine the adequacy of an appellate remedy by balancing the benefits of mandamus review against the detriments. *In re Essex Ins. Co.*, 450 S.W.3d 524, 528 (Tex. 2014) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004) (orig. proceeding). Mandamus relief may be appropriate to spare the parties and the public the time and money spent on fatally flawed proceedings following the denial of a Rule 91a motion to dismiss. *See In re Essex Ins. Co.*, 450 S.W.3d at 528. In this instance, however, the trial court in Montgomery County, Texas, has not yet had an opportunity to consider the Rule 91a motion and currently all trial court proceedings are stayed pending the resolution of the accelerated appeal from the denial of Relators' motion to dismiss under the Texas

¹ This mandamus proceeding originated in the Fifth Court of Appeals but was transferred to this Court by the Supreme Court of Texas following a transfer of venue of the trial court case to Montgomery County, Texas. All trial court proceedings have been stayed pending resolution of Relators' accelerated appeal from the denial of a motion to dismiss under the Texas Citizens Participation Act. *See* Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a)(12), (b). We are awaiting briefs in Appeal Number 09-20-00139-CV.

Citizens Participation Act. *See* Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a)(12), (b).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that the benefits of mandamus review are outweighed by the detriments. *See In re Prudential Ins. Co. of Am.*, 148 S.W.2d at 136. Accordingly, we deny the petition for writ of mandamus without prejudice to the substantive issues raised therein. *See* Tex. R. App. P. 52.8(a).

PETITION DENIED.

PER CURIAM

Submitted on May 15, 2020
Opinion Delivered July 9, 2020

Before McKeithen, C.J., Horton and Johnson, JJ.