

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS AT HOUSTON

ORDER

Appellate case name: MP Gulf of Mexico, LLC v. Total E&P USA, Inc.

Appellate case number: 01-20-00519-CV

Trial court case number: 2020-29728

Trial court: 165th District Court of Harris County

Appellant, MP Gulf of Mexico, LLC, has filed an interlocutory appeal of two July 13, 2020 trial court orders, including a trial court order denying appellant's "Motion to Compel Arbitration," and a trial court order granting the "Motion to Stay AAA Arbitration" of appellee, Total E&P USA, Inc. Appellant has filed an opposed "Emergency Motion for Stay Pending Appeal," asking that we stay the trial court proceedings pending resolution of this appeal.¹

We **grant** appellant's motion to stay the trial court proceedings. All proceedings, except as provided in this order, in the trial court in Cause No. 2020-29728, *Total E&P USA*, *Inc. v. MP Gulf of Mexico*, *LLC* are **stayed** pending resolution of this appeal or further order of this Court.

In connection with its emergency motion to stay, appellant has also filed a "Motion to File Under Seal Unredacted Copy of Emergency Motion to Stay Pending Appeal." In this motion, appellant requests that this Court "maintain under seal the unredacted version" of its emergency motion to stay, stating that the agreements between the parties which form the basis of the appeal "contain sensitive commercial and technical business information."

Requests to seal documents are governed by Texas Rule of Civil Procedure 76a. See TEX. R. CIV. P. 76a. Rule 76a provides no authority for an appellate court to make the findings necessary to decide a motion to seal. See Envtl. Procedures, Inc. v. Guidry, 282 S.W.3d 602, 636 (Tex. App.—Houston [14th Dist.] 2009, pet. denied) ("On its face, Texas Rule of Civil Procedure 76a, entitled 'Sealing Court Records,' does not give appellate courts the authority to find the necessary facts and to determine motions to seal on appeal,

Appellant filed a redacted version of this motion.

and the parties have not cited any statute, rule, or case stating that appellate courts have this authority.").

Appellant's request to seal, or to maintain as sealed, certain "sensitive commercial and technical business information" must be directed to the trial court. If the trial court orders documents to be sealed in accordance with Rule 76a, then our Court may grant a motion to seal the documents specified as sealed by the trial court, or filings which rely on references to those documents. *See R.V.K. v. L.L.K.*, 103 S.W.3d 612, 614 (Tex. App.—San Antonio 2003, no pet.) (noting appellate court ordered clerk to seal parties' briefs that were replete with references to and copies of portions of record ordered sealed by trial court); *cf. Navasota Resources, L.P. v. First Source Tex., Inc.*, 206 S.W.3d 791, 794 (Tex. App.—Waco 2006, no pet.) (Gray, C.J. dissenting) (stating appellate court may seal record on agreed motion when trial court has ordered records sealed but dissenting from order sealing brief when record did not indicate that trial court sealed records under Rule 76a). Appellant does not identify any previously sealed records, and the appellate record does not indicate, that the trial court sealed any records under Rule 76a.

Further, because we have granted appellant's redacted motion to stay the trial court proceedings, we **dismiss as moot** appellant's "Motion to File Under Seal Unredacted Copy of Emergency Motion to Stay Pending Appeal."

We note that our order staying the trial court proceedings does not prevent the parties, in connection with this appeal, from taking any steps necessary to request that the trial court seal documents pursuant to the procedures called for in Rule 76a of the Texas Rules of Civil Procedure.

It is so ORDERED.

Judge's signature:	: /s/ Evelyn V. Keyes	
	Acting individually	☐ Acting for the Court
Date:July 21,	2020	