

Supreme Court of Texas

No. 25-0749

In re The Toro Company,
Relator

On Petition for Writ of Mandamus

PER CURIAM

The Toro Company seeks mandamus relief from a trial-court order denying a Rule 91a motion to dismiss a wrongful-death lawsuit involving a fatal collision between a passenger vehicle and a tractor-trailer. *See* TEX. R. CIV. P. 91a.1. The lawsuit alleges that Werner Enterprises Inc. owned the tractor and employed the driver, but the trailer belonged to Toro. Werner's driver was reportedly transporting the empty trailer between Toro locations in Texas and New Mexico when the accident occurred. The plaintiffs sued Toro for negligently selecting Werner as its motor carrier. Toro's answer was accompanied by a motion to dismiss arguing that, as a matter of law, a shipper owes no duty of care in the selection and hiring of a federally licensed motor carrier.

After Toro filed its mandamus petition, we issued an opinion in *In re Home Depot Inc.*, ___ S.W.3d ___ (Tex. May 15, 2026) [25-0317],

which presented legal arguments substantially similar to those asserted in Toro's dismissal motion and mandamus petition. Both the litigants and the trial court should have the opportunity to revisit the Rule 91a dismissal motion in light of *Home Depot*. See, e.g., *In re Cent. Or. Truck Co.*, 644 S.W.3d 668, 671 (Tex. 2022); *In re Parks*, 631 S.W.3d 700, 700 (Tex. 2021). We therefore deny Toro's petition for writ of mandamus without prejudice to afford that opportunity.

OPINION DELIVERED: June 12, 2026