

Emergency Motion to Stay Dismissed as Moot; Petition for Writ of Mandamus Denied; and Memorandum Opinion filed May 12, 2021.



In The

Fourteenth Court of Appeals

NO. 14-21-00194-CV

**IN RE LUCKYGUNNER, LLC; RED STAG FULFILLMENT, LLC;
MOLLENHOUR GROSS, LLC; JORDAN MOLLENHOUR; AND
DUSTIN GROSS, Relators**

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
County Court No. 3
Galveston County, Texas
Trial Court Cause No. CV-0081158**

MEMORANDUM OPINION

On Tuesday, April 13, 2021, relators LuckyGunner, LLC; Red Stag Fulfillment, LLC; Mollenhour Gross, LLC; Jordan Mollenhour; and Dustin Gross filed a petition for writ of mandamus and an emergency motion to stay in this Court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In the petition, relators asks this Court to compel the Honorable Jack Ewing, presiding

judge of the County Court No. 3 of Galveston County, to immediately dismiss all claims brought against them in the underlying suit. The petitions in the underlying action assert a number of claims against relators arising out of the May 2018 shooting at Santa Fe High School. Plaintiffs/real parties in interest allege generally that relators are liable because they were negligent and/or violated applicable law in connection with the sale of ammunition to the alleged shooter, who was not permitted by law to possess the ammunition. Relators seek mandamus relief from the trial court's order denying their rule 91a motions to dismiss on the basis of immunity under the Protection of Lawful Commerce in Arms Act ("PLCAA"). *See* 15 U.S.C. §§ 7901-7903. In the emergency motion to stay, relators ask this court to stay all proceedings in the trial court until a final decision is rendered in this mandamus proceeding.

Relators have not met their burden to demonstrate a clear abuse of discretion by the trial court. Accordingly, we deny the petition for a writ of mandamus and dismiss as moot the emergency motion to stay.

PER CURIAM

Panel consists of Justices Jewell, Bourliot, and Hassan.