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ATTORNEY GENERAL OF TEXAS

March 6, 2026

ACCEPTED
15-25-00140-CV
FIFTEENTH COURT OF APPEALS
AUSTIN, TEXAS
3/6/2026 10:10 AM
CHRISTOPHER A. PRINE
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FILED IN
15th COURT OF APPEALS
AUSTIN, TEXAS
3/6/2026 10:10:11 AM
CHRISTOPHER A. PRINE
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Via Electronic Filing

Mr. Christopher A. Prine
Clerk of the Court
Fifteenth Court of Appeals
P. O. Box 12852
Austin, TX 78711

Re: Court of Appeals Number: 15-25-00140-CV

Trial Court Case Number: 348-367652-2025

Response to Relators February 27, 2026 letter alleging jurisdictional defects

Style: *In Re Powered by People and Robert Francis O'Rourke*

To the Honorable Fifteenth Court of Appeals:

On February 27, 2026, Relators filed a letter addressed to the Court alleging a jurisdictional defect into the proceeding below in the 348th Judicial District Court of Tarrant County. The defect, Relators posit, is that the State's Second Amended Petition withdraws its claims for a temporary restraining order, and, by doing so, there is no longer any statutory jurisdiction for a standalone civil penalty proceeding. The State disagrees.

There is a long procedural history in this case. And that history includes the following: On August 8, 2025, the State filed its Original Petition, Application for TRO, and a Request for a Temporary and Permanent Injunction. On August 8, 2025, after a hearing, the District Court issued a TRO. The District Court, at the State's request, then issued a modified TRO on August 15th. After multiple rounds of motion practice, this Court, on September 12, 2025, ordered that the August 15th modified TRO be stayed and the August 25th TRO remain in place until "resolution of the petition or further order of this Court."

Put another way, the State sought emergency injunctive relief, and it was granted, modified, and stayed. During the relevant time period, the State received all the injunctive relief sought.

May 13, 2025

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Now, as the State sees it—for all the reasons already asserted—the request for injunctive relief is moot. Relators disagree. And this Court will decide which party is correct. But what is not moot is the State’s request for the award of civil penalties pursuant to section 17.47(c) of the Texas Business and Commerce Code, which have been brought “in addition to” the request for injunctive relief *already* sought and obtained. The State has sought civil penalties since the beginning of this case; that has never changed. It cannot be precluded from seeking those civil penalties because it no longer needs the injunctive relief it has already received.

What is more, this is an issue for the District Court. The issues before this Court have already been briefed by both parties, and this was not one of them. Now, one week before oral argument, Relators attempt a procedural “gotcha,” and want this Court to decide an issue not properly before it. *See Ajibade v. Edinburg Gen. Hosp.*, 22 S.W.3d 37 (Tex.App.—Corpus Christi 2000) (“The brief must state all issues or points presented for review.”); Tex. R. App. P. 38.1(f); *Shelby Distributions, Inc. v. Reta*, 441 S.W.3d 715 (Tex. App.—El Paso 2014) (“To present an issue for appeal, an appellant’s brief must contain, among other things, clear and concise argument for its contention with appropriate citations to authorities and the record.”); *Chaves v. State*, 630 S.W.3d 541 (Tex. App.—Houston. [1st Dist.] 2021) (“An appellant waives an issue on appeal if he does not adequately brief that issue by not providing supporting arguments, substantive analysis, and appropriate citations to authorities and to the record.”) The Court should decline Relators’ request and allow the District Court an opportunity to first take up the issue.

Sincerely,

/s/ Johnathan Stone

JOHNATHAN STONE

Chief for Consumer Protection Division

Texas Bar No. 24071779

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cc: Mimi Marziani, *via e-service*
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Filing Code Description: Letter
Filing Description: 20260306 States Response Ltr
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