

Denied and Opinion Filed July 13, 2021



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-21-00337-CV

**IN RE JAMES MEEHAN, BODMD MEDICAL GROUP (OK), P.C. AND
CATALYST UTICA, P.C., Relators**

**Original proceeding from the 380th Judicial District Court
Collin County, Texas
Trial Court Cause No. 380-06699-2018**

MEMORANDUM OPINION

Before Justices Myers, Partida-Kipness, and Carlyle
Opinion by Justice Myers

James Meehan, BODMD Medical Group (OK), P.C., and Catalyst UTICA, P.C. bring this original proceeding asking that we order the trial court to rule on five discovery motions that have been pending from six months to over a year.

The evidence presented to the appellate court must be in an appendix containing “a certified or sworn copy of any order complained of, or any other document showing the matter complained of” or in a record consisting of “a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in any underlying proceeding.” TEX. R. APP. P. 52.3(k)(1)(A), 52.7(a)(1).

The documents in relators’ appendix and record are mostly neither certified nor sworn and therefore do not comply with the rules. The issues relators raise in their petition for writ of mandamus are a cause of concern for this Court, but we cannot grant the petition unless the evidence properly before the Court demonstrates that the trial court abused its discretion. *See In re Hughes*, 607 S.W.3d 136, 137–38 (Tex. App.—Houston [14th Dist.] 2020, orig. proceeding) (court of appeals cannot “cut through the ‘red tape’” and reach the merits when the record is defective); *In re Butler*, 270 S.W.3d 757, 759 (Tex. App.—Dallas 2008, orig. proceeding) (denying petition for writ of mandamus because the record was not authenticated). “Because the record in a mandamus proceeding is assembled by the parties, this Court strictly enforces the authentication requirements of rule 52 to ensure the integrity of the mandamus record.” *In re McKinney*, 05-14-01513-CV, 2014 WL 7399301, at *1 (Tex. App.—Dallas Dec. 15, 2014, no pet., orig. proceeding) (mem. op.).

Accordingly, we deny the petition for writ of mandamus without prejudice to relators filing a petition that complies with the rules of appellate procedure.

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/Lana Myers//
LANA MYERS
JUSTICE