

DENIED; and Opinion Filed April 8, 2015



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

No. 05-15-00366-CV

IN RE HYDROSCIENCE INC, AND DWIGHT M. FRANCIS, Relators

**Original Proceeding from the 193rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-12-3690**

MEMORANDUM OPINION

Before Justices Bridges, Stoddart, and Schenck
Opinion by Justice Stoddart

This petition for writ of mandamus presents that question whether the trial court abused its discretion in refusing to quash the deposition of an attorney who is counsel for one of the parties in the case. The underlying suit is an attorney malpractice case brought derivatively by Hydroscience Inc., against an attorney who represented Hydroscience Technologies, Inc. in the settlement of a prior lawsuit. Hydroscience Technologies, Inc. seeks to depose relator Dwight M. Francis, the attorney who represented the parent of Hydroscience Inc. in the settlement of the prior suit and who currently serves as counsel for Hydroscience Inc.

The petition is premature. *Borden, Inc. v. Valdez*, 773 S.W.2d 718, 720 (Tex. App.—Corpus Christi 1989, no writ) (“The problem, however, is that no questions have been asked and we may only speculate as to the substance of what would be revealed should [the attorney] be deposed. This, we cannot do.”); *Hilliard v. Heard*, 666 S.W.2d 584, 585 (Tex. App.—Houston [1st Dist.] 1984, no writ) (“The possible future assertion of such claims does not require

preemptive rulings by the court. Whether or not such claims will be asserted is conjectural until they are made of record, and the mere prospect that such privilege or immunity will be urged on deposition does not justify prior restraint on the taking of a deposition.”). We **DENY** the petition.

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/ Craig Stoddart/
CRAIG STODDART
JUSTICE