

IN THE SUPREME COURT OF TEXAS

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No. 96-0583
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IN RE X. L. INSURANCE COMPANY, LTD., AND A.C.E. INSURANCE COMPANY
(BERMUDA), LTD., RELATORS

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ON PETITION FOR WRIT OF MANDAMUS
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Per Curiam

We granted leave to file petition for writ of mandamus to consider whether an insurance company, which had not signed an arbitration agreement, could nevertheless be compelled to arbitrate its cross-claim against a co-insurer, which had an arbitration agreement with the common insured. The court of appeals denied mandamus relief, concluding that the insurance company was not bound by the arbitration agreement because its cross-claim for statutory contribution under the Texas Civil Practice and Remedies Code was an independent action. 918 S.W.2d 687.

After oral argument, we abated action on this case while the parties explored settlement possibilities. We are now advised that the insurance company has settled all underlying claims with the plaintiff insured and has further dismissed its cross-claim against the co-insurer who sought to compel arbitration. Accordingly, this original proceeding is dismissed as moot. We express no opinion regarding the correctness of the court of appeals' opinion.

Opinion delivered: February 4, 1999