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SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLER

NO. 20-0268

In the Texas Supreme Court

In re Kuraray America, Inc.,
Relator.

Original Proceeding From Cause No. 2018-62973
In the 234th Judicial District Court of Harris County, Texas
Honorable Lauren Reeder, Presiding Judge

RELATOR'S BRIEF ON THE MERITS

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IDENTITIES OF PARTIES AND COUNSEL

Pursuant to Texas Rule of Appellate Procedure 55.2(a), Relator Kuraray America, Inc. provides the following list of all parties and the names and addresses of their counsel:

1. Relator is Kuraray America, Inc.

2. Trial and appellate counsel for Relator is Norton Rose Fulbright US LLP, Jeffrey S. Wolff, Katherine D. Mackillop, and Peter C. Tipps, 1301 McKinney, Suite 5100, Houston, Texas 77010-3095.

3. Respondent is the Honorable Lauren Reeder, Presiding Judge of the 234th Judicial District Court of Harris County, Texas.

4. Real Parties in Interest/Plaintiffs are the Plaintiffs in the MDL case *In re Kuraray America, Inc.*, Cause No. 2018-62973 in the 234th Judicial District Court of Harris County, Texas. *See* List of Plaintiffs for a listing of all Real Parties in Interest/Plaintiffs, Exhibit A at the end of this Brief.

5. Trial counsel for Real Parties in Interest. Liaison Counsel for Plaintiffs are:

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In addition, *see* List of Plaintiffs' Counsel, with the specific plaintiffs each represents, at Exhibit B at the end of this Brief. Addresses of all counsel are listed in the Certificate of Service.

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STATEMENT OF THE CASE

Trial Court. This case arises out of an accident at a plant in Pasadena, Texas, owned by Kuraray America, Inc. Plaintiffs claim injuries from the accident. A number of cases were filed in several district courts in Harris County and have been consolidated in a Multidistrict Litigation proceeding, styled *In re Kuraray America, Inc.*, Cause No. 2018-62973, in the 234th Judicial District Court of Harris County, Texas. Judge Lauren Reeder, the Respondent, is presiding judge of the 234th Court and is the current pretrial judge appointed by the MDL Panel.

After a series of motions and interim orders (March 26, June 28) concerning the production of cell phone data from cell phones of Kuraray employees, then-pretrial Judge Moore's final order on the subject, signed on September 20, 2019, directed Kuraray to produce cell phone usage data for three Kuraray employees for the four months before the accident and for two Kuraray employees for the month and a half before the accident. 2R1027/16, 2R1881, 3R2313-16 (App. 1, 2, 3).[1] This order was entered despite (1) uncontroverted evidence that the purported reason for the production, an allegation that the Kuraray employees were distracted by cell phone use at the time of the accident, was wrong, and (2) no Texas case has required

[1] These orders were issued by Judge Daryl Moore, the former pretrial judge. After he left the bench, the MDL Panel assigned the MDL proceeding to Judge Lauren Reeder of the 234th Judicial District Court of Harris County, Texas. SR1-3 (App. 7) (a Supplemental Sworn Record ("SR") was filed on April 22, 2021). Judge Reeder confirmed Judge Moore's rulings in orders dated March 31 and April 19, 2021. SR4-5 (App. 5, 6).

the production of cell phone data to show that "distraction" caused an accident for a period longer than a few hours before the accident.

Court of Appeals. On October 11, 2019, Kuraray filed a petition for writ of mandamus in the Fourteenth Court of Appeals, in *In re Kuraray America, Inc*., Cause No. 14-19-00797-CV. On October 17, the Court of Appeals requested a response be filed November 15, 2019. On March 12, 2020, the Fourteenth Court of Appeals (Justices Jewell, Bourliot and Zimmer) denied the requested relief in a two-paragraph Memorandum Opinion, stating no reasons for the denial. *In re Kuraray America, Inc.*, No. 14-19-00797-CV (Tex. App.—Houston [14th Dist.] March 12, 2020, orig. proceeding) (App. 4).

Supreme Court. On April 6, 2020, Kuraray filed a petition for writ of mandamus in this Court. On May 15, 2020, this Court ordered Real Parties in Interest to file a response by June 15, 2020. No response was filed.

Relator's mandamus petition initially challenged a discovery order issued by the Honorable Daryl Moore, Judge of the 333rd Judicial District Court of Harris County. 3R2313-36. Judge Moore left the bench in December 2020. On January 22, 2021, this Court entered an abatement order, asking that the parties "notify this Court of all events affecting the status of this case, including when the successor judge has ruled in accordance with Texas Rule of Appellate Procedure 7.2(b). The parties shall file a status report by April 22, 2021." On February 1, 2021, the MDL

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