

No. \_\_\_\_\_

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FILED IN  
IN THE COURT OF APPEALS 1st COURT OF APPEALS  
HOUSTON, TEXAS  
FOR THE FIRST DISTRICT OF TEXAS  
8/20/2025 7:44:02 PM

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DEBORAH M. YOUNG  
Clerk of the Court

CYBERLUX CORPORATION AND MARK D. SCHMIDT,  
*Relators/Appellants*

v.

ATLANTIC WAVE HOLDINGS, LLC, AND SECURE COMMUNITY, LLC,  
*Respondents/Appellees*

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On Appeal from the 129th Judicial District Court of Harris County, Texas,  
Trial Court Cause No. 2024-48085

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RELATORS' PETITION FOR WRIT OF MANDAMUS AND,  
ALTERNATIVELY, APPELLANTS' OPENING BRIEF ON THE MERITS;  
ORAL ARGUMENT REQUESTED, TEX. R. APP. P. 39.7.

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## When is an Appeal not an Appeal? When it's a Mandamus!

### Description

There's a particular mania that erupts in penny-stock circles every time a judge's gavel nudges so much as an inch. This summer, Cyberlux Corporation basked in that manic high when a Texas appellate court hit pause on their receivership. The chatrooms caught fire, retail optimists declared victory, and the internet's most breathless stock-watchers christened the moment as a turning point—ignoring, as usual, everything inconvenient about actual law and reality.

What most miss, and what absolutely must be spelled out for the wider crowd, is that **Cyberlux did not file an appeal**—not in the sense that word conjures for anyone who's ever watched a courtroom drama. They filed for a writ of mandamus. Let's linger on that, because understanding the difference is the whole trick.

An appeal is what happens when you challenge a decision by showing how the lower court got the facts or law wrong—you get to reargue the merits, build a case, sometimes even present new evidence. Mandamus, on the other hand, is more like pulling the fire alarm in the courthouse and hoping the building clears out. It's an extraordinary remedy—a relic from the age of powdered wigs—reserved for the rarest cases, when a judge below has so clearly, so outrageously overstepped that the higher court must intervene immediately. The bar is sky-high, and it isn't about who was right or wrong in the facts. It's about process. Abuse of discretion. No other remedy available. It's the legal version of the Hail Mary pass, and the courts only catch it when the outcome would otherwise be a gross injustice.

In Texas, mandamus petitions are a dime a dozen and almost always doomed. Courts grant temporary stays—like the one Cyberlux got—mostly as a formality. It's judicial politeness, not a harbinger of reversal. Picture a lifeguard blowing a whistle before telling you to get out of the shallow end. That's not a rescue. That's a procedural breather.

But in penny-stock world, where facts move slower than hope, a stay is instantly marketed as a full-blown comeback. The chatrooms go wild, meme-makers go to work, and every short seller becomes the villain in a story that never bothers with a second act. The irony is, while the stay was being celebrated, the real game had already moved elsewhere. Huntington Ingalls, Cyberlux's actual

business partner, dumped the disputed money with a federal judge in Virginia— an interpleader. And in American law, that’s checkmate. Federal court trumps state court every single time. The moment that cash hit the federal registry, the parade in Texas lost its drumline.

If you’re reading this for the legal nuance: mandamus isn’t a do-over or a second chance. It’s a tool you use when the ship has sailed, the harbor’s closed, and you’re standing on the pier with nothing but a flare gun. The trial court in Texas had already decided that a receiver was needed. Cyberlux’s attorneys didn’t contest the facts, didn’t offer new evidence, didn’t appeal on substance—they just argued that the judge had overreached. And they got a stay while the appeals court took a look, as is standard. The odds are worse than slim. Most mandamus petitions are denied quietly, with barely a line of explanation.

If you want to see just how little a stay really changes, look at what Cyberlux did next: they used the pause to load up on fresh loans, encumbering everything left—including, in one case, three defunct Nevada shells. (You can read all the wild detail in the previous coverage.) For the casual onlooker, it may have looked like momentum. For anyone with even a passing knowledge of bankruptcy, it looked like the last act of asset extraction, not the first step of recovery.

The beauty and the tragedy of the retail investor crowd is their ability to turn procedural detours into prophecy. A stay buys days, maybe weeks, and that’s all. Meanwhile, the federal court in Virginia is about to make the only decision that matters: who gets paid, and who gets left telling tales in the chatroom. The Texas legal drama, the endless chatter about appeals and wins and vindication, is just background noise.

If you want to root for something, root for transparency. Root for education, not spin. And the next time someone in your feed shouts about a win because a judge pressed pause, ask them to look up the word mandamus—and see how many times it leads to anything but a polite denial.

The Cyberlux stay isn’t a plot twist. It’s a procedural comma—one last breath before the ending everyone already knows. In the grown-up courts, the only winners are the ones with first dibs. Everyone else is just waiting for the music to stop.

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**Category**

1. Cyberlux

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