

United States Court of Appeals For the First Circuit

No. 24-1722

IN RE: OCEAN STATE, LLC; NEW HARBOR CAPITAL FUND LP; NEW HARBOR
CAPITAL FUND II LP; NEW HARBOR CAPITAL MANAGEMENT LP; BLUEPRINT TEST
PREPARATION, LLC; FYZICAL ACQUISITION HOLDINGS, LLC,

Petitioners.

Before

Barron, Chief Judge,
Gelpí and Aframe, Circuit Judges.

JUDGMENT

Entered: November 20, 2024

Petitioners Ocean State, LLC, et al., have filed a Petition for a Writ of Mandamus by which they challenge the district court's order compelling them to produce certain materials in discovery. Petitioners argue that the materials in question are protected from disclosure by the attorney-client privilege, and that they have not waived that privilege by their filings in the case or their discovery responses.

We have carefully reviewed the submissions of the parties, and pertinent portions of the record below. We find that Petitioners have not satisfied their acknowledged "burden of showing that [their] right to issuance of the writ is clear and indisputable." In re Bulger, 710 F.3d 42, 45 (1st Cir. 2013) (quoting Cheney v. U.S. Dist. Court for Dist. of Columbia, 542 U.S. 367, 381 (2004)). Nor have petitioners "demonstrate[d] that, on balance, the equities favor issuance of the writ." Id. See also In re JPMorgan Chase Bank, N.A., 799 F.3d 36, 38 (1st Cir. 2015) (explaining, inter alia, that "[a] petitioner seeking mandamus must show [] that there is a clear entitlement to the relief requested" and that the error claimed must be "palpable") (internal quotations omitted).

Accordingly, the petition is DENIED.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Mitchell R. Edwards

Patricia K. Rocha

Daniel J. Procaccini

Ryan Moorman

Leonid Feller

David H. Golubock

Bevin Brennan

Patrick Weeks

Patrick N. Sampson

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