

**Petition for Writ of Mandamus Denied and Memorandum Opinion filed July 29, 2010.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-10-00660-CV**

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**IN RE ATLAS GULF-COAST, INC. d/b/a  
ATLAS FOUNDATION REPAIR COMPANY, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS**

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**MEMORANDUM OPINION**

On July 15, 2010, relator, Atlas Gulf-Coast, Inc., filed a petition for writ of mandamus in which it sought review of the trial court's order denying its and motion to compel arbitration in the underlying action, styled *Robert Stanford and Dorothy Stanford v. Atlas Gulf-Coast, Inc., d/b/a Atlas Foundation Repair Company*, pending in cause number 33574, in the 21st District Court of Washington County. *See* Tex. Gov't Code Ann §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. Relator has also filed an interlocutory appeal of the same order, which is pending under this court's case number 14-10-00493-CV.

Orders denying arbitration under the Texas act are subject to interlocutory appeal. *See* Tex. Civ. Prac. & Rem. Code Ann. § 171.098(a) (Vernon 2005). Effective September 1, 2009, the Texas Legislature permitted interlocutory review of a trial court’s order denying arbitration under the Federal Arbitration Act. Act of May 31, 2009, 81st Leg., R.S., ch. 820, §§ 1, 3, 2009 Tex. Gen. Laws 820 (amending Tex. Civ. Prac. & Rem. Code § 51.016). “The change in law made by this Act does not apply to the appeal of an interlocutory order in an action pending on the effective date of this Act if the appeal of the order is initiated before the effective date of this Act.” *Id.* § 2(b).

Because the interlocutory appeal of the order in the underlying case was filed June 2, 2010, well after the effective date of the statute’s amendment, we have jurisdiction over the interlocutory appeal if either the federal or Texas act applies. Accordingly, relator has an adequate remedy through its interlocutory appeal.

Therefore, we deny relator’s petition for writ of mandamus. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004) (holding that mandamus will issue to correct a clear abuse of discretion when there is no adequate remedy by appeal).

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Yates and Boyce.