



**NUMBER 13-19-00391-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE YESENIA CANNON AND TELESFORO GARCIA**

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**On Petition for Writ of Mandamus.**

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**MEMORANDUM OPINION**

**Before Chief Justice Contreras and Justices Longoria and Hinojosa  
Memorandum Opinion by Justice Longoria<sup>1</sup>**

By petition for writ of mandamus, relators Yesenia Cannon and Telesforo Garcia seek to compel the trial court to vacate an order denying their motion to compel discovery. Specifically, relators contend the trial court erred by refusing to compel real party in interest, Fiesta Nissan, Inc., to respond to a request for production seeking “[e]ach invoice, redacted as needed to protect confidential attorney-client communications, which

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<sup>1</sup> See TEX. R. APP. P. 52.8(d) (“When denying relief, the court may hand down an opinion but is not required to do so. When granting relief, the court must hand down an opinion as in any other case.”); see *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

relates to legal services charges incurred by Fiesta Nissan, Inc. in connection with this case.”

Mandamus is an extraordinary remedy issued at the discretion of the court. *In re Garza*, 544 S.W.3d 836, 840 (Tex. 2018) (orig. proceeding) (per curiam). To obtain relief by writ of mandamus, a relator must establish that an underlying order is a clear abuse of discretion and that no adequate appellate remedy exists. *In re Nationwide Ins. Co. of Am.*, 494 S.W.3d 708, 712 (Tex. 2016) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding). The relator has the burden of establishing both prerequisites to mandamus relief, and this burden is a heavy one. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding).

Appeal is an inadequate remedy when the appellate court would not be able to cure the trial court’s discovery error. *In re Dana Corp.*, 138 S.W.3d 298, 301 (Tex. 2004) (per curiam) (orig. proceeding); *In re Platinum Energy Solutions, Inc.*, 420 S.W.3d 342, 349 (Tex. App.—Houston [14th Dist.] 2014, orig. proceeding). A party will not have an adequate remedy by appeal from a trial court’s discovery order if: (1) the appellate court would not be able to cure the trial court’s error; (2) the party’s ability to present a viable claim or defense is vitiated or severely compromised by the error; or (3) the trial court refuses discovery and the missing discovery cannot be made a part of the appellate record. *In re Ford Motor Co.*, 988 S.W.2d 714, 721 (Tex. 1998) (orig. proceeding); *Walker*, 827 S.W.2d at 843; *In re Eurecat US, Inc.*, 425 S.W.3d 577, 583 (Tex. App.—Houston [14th Dist.] 2014, orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus and the record provided, is of the opinion that relators have not met their burden to obtain relief. *See, e.g., In re Nat'l Lloyds Ins. Co.*, 532 S.W.3d 794, 805–06 (Tex. 2017) (orig. proceeding). Accordingly, we deny the petition for writ of mandamus.

NORA L. LONGORIA  
Justice

Delivered and filed the  
14th day of August, 2019.