

COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

IN RE:	§	
	§	No. 08-11-00085-CV
SUN FAB INDUSTRIAL CONTRACTING, INC.,	§	AN ORIGINAL PROCEEDING
	§	IN MANDAMUS
RELATOR.	§	

**MEMORANDUM OPINION ON PETITION FOR WRIT OF MANDAMUS**

Relator seeks a writ of mandamus to overturn an order denying its motion to compel arbitration pursuant to the Federal Arbitration Act (“FAA”). A writ of mandamus will issue only if the trial court clearly abused its discretion and if the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of America*, 148 S.W.3d 124, 135-36 (Tex. 2004). A party may bring an interlocutory appeal from an order denying a motion to compel arbitration under the FAA. *See* TEX.CIV.PRAC.&REM.CODE ANN. § 51.016 (West Supp. 2010); *In re Merrill Lynch & Co., Inc.*, 315 S.W.3d 888, 891 n.3 (Tex. 2010)(orig. proceeding); *Sidley Austin Brown & Wood, LLP v. J.A. Green Dev. Corp.*, 327 S.W.3d 859, 861 (Tex.App.--Dallas 2010, no pet.). Because Relator has an adequate remedy by appeal, the petition for a writ of mandamus is denied. *See In re H.D. Vest, Inc.*, \_\_\_ S.W.3d \_\_\_, \_\_\_, 2010 WL 4816067, at \*1 (Tex.App.--El Paso Nov. 29, 2010, orig. proceeding).<sup>1</sup>

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<sup>1</sup> An appeal, docketed as No. 08-10-00340-CV, is pending in this Court from the same order that is being challenged in this mandamus proceeding.

March 23, 2011

DAVID WELLINGTON CHEW, Chief Justice

Before Chew, C.J., McClure, and Rivera, JJ.