



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE:	§	No. 08-18-00135-CV
	§	
CEMEX CONSTRUCTION	§	AN ORIGINAL PROCEEDING
MATERIALS PACIFIC SOUTH,	§	
L.L.C.,	§	IN MANDAMUS
RELATOR.	§	
	§	

MEMORANDUM OPINION

Relator, CEMEX Construction Materials Pacific South, L.L.C., has filed a mandamus petition against the Honorable Linda Y. Chew, Judge of the 327th District Court of El Paso County, Texas. CEMEX is challenging Respondent's order requiring it to produce what it contends are privileged communications between CEMEX's corporate counsel and CEMEX employees. The Court stayed the discovery order pending resolution of this original proceeding. The petition for writ of mandamus is denied.

To be entitled to mandamus relief, a relator must generally meet two requirements. First, the relator must show that the trial court clearly abused its discretion. *In re Prudential Insurance Company of America*, 148 S.W.3d 124, 135 (Tex. 2004). A trial court abuses its discretion when it acts arbitrarily, capriciously, and without reference to guiding principles. *In re Green*, 527 S.W.3d 277, 278-79 (Tex.App.—El Paso 2016, orig. proceeding); *In re Mid-Century Insurance Company of Texas*, 426 S.W.3d 169, 178 (Tex.App.—Houston [1st Dist.] 2012, orig. proceeding).

Second, the relator must establish it does not have an adequate remedy by appeal. *In re Prudential*, 148 S.W.3d at 135-36. Mandamus relief is available when the trial court erroneously orders the disclosure of privileged information because appeal does not provide an adequate remedy. *See In re Christus Santa Rosa Health System*, 492 S.W.3d 276, 279 (Tex. 2016); *In re E.I. DuPont de Nemours & Company*, 136 S.W.3d 218, 223 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 843 (Tex. 1992).

After reviewing the mandamus petition and its attachments, the *in camera* documents, and the response submitted by the real parties in interest, we conclude that CEMEX has failed to show it is entitled to mandamus relief. Accordingly, we deny the petition for writ of mandamus.

January 25, 2019

YVONNE T. RODRIGUEZ, Justice

Before McClure, C.J., Rodriguez, and Palafox, JJ.