



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: § No. 08-19-00142-CV
KENNETH H. ARCHIBALD AND § AN ORIGINAL PROCEEDING IN
ARCHIBALD & ASSOCIATES, INC. § MANDAMUS
RELATORS. §

§

MEMORANDUM OPINION

Relators, Kenneth H. Archibald and Archibald and Associates, Inc., filed a mandamus petition against the Honorable Linda Y. Chew, Judge of the 327th District Court of El Paso County, Texas. Relators request that the Court order Respondent to grant Relators' motion to strike the intervention of the Medical Protective Company (MedPro) in cause number 2015-DCV2669, styled *El Paso Orthopaedic Surgery Group, P.A. (EPOSG), and Brett Henderson, M.D. v. Kenneth H. Archibald and Archibald & Associates, Inc.* Alternatively, Relators ask that the Court order Respondent to grant their motion to sever MedPro's claims from the underlying case. The petition for writ of mandamus is denied.

Generally, mandamus relief is appropriate only to correct a clear abuse of discretion or to compel the performance of a ministerial duty, and where the relator has no adequate remedy by appeal. *In re Reece*, 341 S.W.3d 360, 364 (Tex. 2011)(orig. proceeding); *In re Prudential Insurance Company of America*, 148 S.W.3d 124, 135-36 (Tex. 2004)(orig. proceeding). The

burden is on relator to show it is entitled to mandamus relief. *See In re Ford Motor Company*, 165 S.W.3d 315, 317 (Tex. 2005)(orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992)(orig. proceeding). After reviewing the mandamus petition and record, we conclude that Relators have failed to show that they are entitled to mandamus relief. Accordingly, we deny the petition for writ of mandamus.

June 14, 2019

YVONNE T. RODRIGUEZ, Justice

Before McClure, C.J., Rodriguez, and Palafox, JJ.
Palafox, J., Not Participating