

Denied and Opinion Filed February 7, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00129-CV

**IN RE PRIMORIS SERVICES CORPORATION, JAMES CONSTRUCTION GROUP,
HNTB CORPORATION, AND UNITED RENTALS NORTH AMERICA, INC., Relators**

**Original Proceeding from the 191st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-04449**

MEMORANDUM OPINION

Before Justices Myers, Evans, and Whitehill
Opinion by Justice Whitehill

Before the Court is relators' petition for writ of mandamus in which they complain of the trial court's order denying their motion for leave to designate intervenor the Texas Department of Transportation (TxDOT) as a responsible third party. To be entitled to mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). Under the facts presented and based on the record before us (including, without limitation, that Relators have not shown that they timely moved to designate TxDOT as a potentially responsible third party or that they timely disclosed a liability theory against TxDOT), we conclude that relators have not shown they are entitled to the relief requested.

Accordingly, we deny relators' petition for writ of mandamus. *See* TEX. R. APP. P. 52.8(a)
(the court must deny the petition if the court determines relator is not entitled to the relief sought).

/Bill Whitehill/

BILL WHITEHILL
JUSTICE