

DENIED; Opinion Filed December 19, 2018.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-18-00867-CV

**IN RE LAURIN AVERETT SMITH, INDIVIDUALLY AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF MATTHEW MARK SMITH, DECEASED,
AS NEXT FRIEND OF S.S., A MINOR, ERIN BRACEY, AS NEXT FRIEND OF T.B.S.,
A MINOR, DAVID MARK SMITH AND TRUDY LYNN SMITH, Relators**

**On Appeal from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-12828**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Fillmore, and Justice Stoddart
Opinion by Justice Stoddart

In this original proceeding, relators complain the trial court abused its discretion by denying their motions to compel discovery. 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). A trial court clearly abuses its discretion if it reaches a decision so arbitrary and unreasonable as to amount to a clear and prejudicial error of law or if it clearly fails to correctly analyze or apply the law. *In re Cerberus Capital Mgmt., L.P.*, 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding) (per curiam). Generally, an ordinary appeal is an adequate remedy when a trial court refuses to compel discovery. See *In re Allied Chem. Corp.*, 227 S.W.3d 652, 658 (Tex. 2007); *Able Supply Co. v. Moye*, 898 S.W.2d 766, 772 (Tex. 1995); see also *In re Sting Soccer Group, LP*, 05-17-00317-CV,

2017 WL 5897454, at *5 (Tex. App.—Dallas Nov. 30, 2017, no pet.). Mandamus relief may be granted when the denial of discovery goes to the heart of a party’s case or vitiates or severely compromises a party’s ability to present a viable claim or defense. *See Able Supply Co.*, 898 S.W.2d at 772; *In re Sting Soccer Group, LP*, 2017 WL 5897454, at *5.

Based on the record before us, we conclude 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).

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/Craig Stoddart/
CRAIG STODDART
JUSTICE