

DENY; and Opinion Filed December 4, 2018.



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

No. 05-18-01319-CV

IN RE REX PERFORMANCE PRODUCTS, LLC., Relator

**Original Proceeding from the 134th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-17-05538**

MEMORANDUM OPINION

Before Justices Lang-Miers, Fillmore, and Stoddart
Opinion by Justice Fillmore

In this original proceeding, relator complains that the trial court denied relator's renewed motion to enlarge the discovery period. 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 writ of mandamus will issue only if the trial court reaches a decision so arbitrary and unreasonable as to amount to a clear and prejudicial error of law and the relator has no adequate remedy by appeal.” *In re Shipman*, 540 S.W.3d 562, 565–66 (Tex. 2018) (orig. proceeding) (quoting *In re State Farm Lloyds*, 520 S.W.3d 595, 604 (Tex. 2017) (orig. proceeding)). Appellate courts may not substitute their judgment for the trial court's determination of factual matters committed to the trial court's discretion. *Id.* “But with regard to questions of law and mixed questions of law and fact, a trial court has no discretion in determining what the law is or applying

the law to the facts, even when the law is unsettled.” *In re State Farm Lloyds*, 520 S.W.3d at 604 (internal quotations omitted).

Based on the record before us, we conclude relator has not shown a clear abuse of discretion. Accordingly, we deny relator’s 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).

/Robert M. Fillmore/
ROBERT M. FILLMORE
JUSTICE

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