

DENY; and Opinion Filed September 9, 2019.



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

No. 05-19-00912-CV

IN RE ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, Relator

**Original Proceeding from the 191st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-16-04652**

MEMORANDUM OPINION

Before Justices Myers, Molberg, and Nowell
Opinion by Justice Molberg

Before the Court is relator’s August 2, 2019 petition for writ of mandamus challenging the trial court’s March 1, 2019 order requiring relator to pay a sanction of \$1,000 to Regenerative Ortho Spine Institute of Texas (ROSIT), a non-party. The March 1 order was based on relator’s August 27, 2018 motion to compel and motion to show cause directed at ROSIT. Relator generally contends the trial court abused its discretion by (1) awarding sanctions based on the misconduct of a non-party records service, and (2) utilizing an improper burden of proof which required relator to show its motion to compel “was meritorious and ‘not self-defeating on its face.’”

To be entitled to mandamus relief, 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. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). After reviewing the petition and the mandamus record, we conclude relator has not shown it is entitled to the relief requested.

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).

/Ken Molberg/
KEN MOLBERG
JUSTICE

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