

**Petition for Writ of Mandamus Denied and Memorandum Opinion filed
December 18, 2017.**



In The

Fourteenth Court of Appeals

NO. 14-17-00967-CV

**IN RE ITEX PIPING PRODUCTS, LLC, RONNIE WEINSTEIN,
FEDERICO FARINA, CARLO FARINA, PAOLO FARINA, SOTER, INC.
AND PAOLO BRANDO BALLERINI, Relators**

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
215th District Court
Harris County, Texas
Trial Court Cause No. 2017-50832**

MEMORANDUM OPINION

On December 13, 2017, relators ITEX Piping Products, LLC, Ronnie Weinstein, Federico Farina, Carlo Farina, Paolo Farina, Soter, Inc., and Paolo Brando Ballerini filed a petition for writ of mandamus in this court. *See* Tex. Gov't

Code Ann. § 22.221 (West Supp. 2017); *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable Elaine H. Palmer, presiding judge of the 215th District Court of Harris County, to (i) vacate her Rule 202 order (which grants permission to depose William B. Bootz before suit) signed on October 6, 2017, (ii) order dismissal of the underlying proceeding, or (iii) vacate the order requiring the production of documents in connection with the Rule 202 deposition.

Relators have also filed a motion for temporary relief asking our court to stay the deposition that has been noticed for December 19, 2017. *See* Tex. R. App. P. 52.10.

As the party seeking relief, relators have the burden of providing this court with a sufficient record to establish their right to mandamus relief. *See Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding); Tex. R. App. P. 52.7(a)(1) (relator must file with petition “a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in any underlying proceeding.”).

Arguments not presented to the trial court will not be considered in the review of a petition for writ of mandamus.¹ Relators have not provided our court with a record showing that the arguments and authorities stated in their petition for writ of

¹ *See In re Am. Optical Corp.*, 988 S.W.2d 711, 714 (Tex. 1998) (orig. proceeding). “It is well established that arguments not presented to the trial court will not be considered in a petition for writ of mandamus.” *In re RH White Oak, LLC*, 14-15-00789-CV, 2016 WL 3213411, at *9 (Tex. App.—Houston [14th Dist.] June 9, 2016, orig. proceeding) (mem. op.) (quoting *In re Advance Payroll Funding, Ltd.*, 254 S.W.3d 710, 714 (Tex. App.—Dallas 2008, orig. proceeding)); *see also In re Jindal Saw Ltd.*, 264 S.W.3d 755, 767 (Tex. App.—Houston [1st Dist.] 2008, orig. proceeding) (same).

mandamus were presented to the trial court. We therefore deny the petition for writ of mandamus and the motion for temporary relief.

PER CURIAM

Panel consists of Justices Boyce, Jamison, and Brown