

**Petition for Writ of Mandamus Denied and Memorandum Opinion filed
August 18, 2022.**



In The

Fourteenth Court of Appeals

NO. 14-22-00216-CV

IN RE FECON, INC., Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
269th District Court
Harris County, Texas
Trial Court Cause No. 2019-69076**

MEMORANDUM OPINION

On March 24, 2022, relator Fecon, Inc. filed a petition for writ of mandamus and an emergency motion to stay net worth discovery in this Court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the Honorable Cory Don Sepolio, presiding judge of the 269th District Court of Harris County, to vacate the trial court's February 18, 2022

order finding that “Plaintiffs have demonstrated a substantial likelihood of success on their claims for exemplary damages in accordance with CPRC chapter 41.”

“Mandamus is an extraordinary remedy available only in limited circumstances to correct a clear abuse of discretion or the violation of a duty imposed by law when the relator has no adequate remedy by appeal.” *In re Crow–Billingsley Air Park, Ltd.*, 98 S.W.3d 178, 179 (Tex. 2003) (orig. proceeding) (per curiam). “As a general rule, mandamus does not lie to correct incidental trial court rulings when there is a remedy by appeal.” *In re Entergy Corp.*, 142 S.W.3d 316, 320 (Tex. 2004) (orig. proceeding); *see also Polaris Inves. Mgmt. Corp. v. Abascal*, 892 S.W.2d 860, 862 (Tex. 1995) (orig. proceeding) (per curiam). “The writ will issue ‘only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies.’ ” *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding) (internal quotations omitted). “The reluctance to issue extraordinary writs to correct incidental trial court rulings can be traced to a desire to prevent parties from attempting to use the writ as a substitute for an authorized appeal.” *Entergy*, 142 S.W.3d at 320–21.

In this proceeding, the order at issue does not compel relator to produce net worth information; instead, we have a pretrial finding and an express denial of the real parties’ request that the trial court issue such relief. Because net worth production is not required by relator at this time, we conclude that this Court is presented with an incidental pretrial ruling not reviewable by mandamus. *See Walker*, 827 S.W.2d at 840.¹

¹ “Mandamus relief is available when the trial court compels production beyond the permissible bounds of discovery.” *In re Weekley Homes, L.P.*, 295 S.W.3d 309, 322 (Tex. 2009) (orig. proceeding).

As such, we hold relator has not established that it is entitled to mandamus relief. Accordingly, we deny relator's petition for writ of mandamus. Additionally, all pending motions are denied as moot. Moreover, we lift our March 25, 2022 stay.

PER CURIAM

Panel consists of Chief Justice Christopher and Justices Zimmerer and Wilson.

Whether a trial court ordered net worth discovery within the scope of the civil practice and remedies code may be reviewed by mandamus. *See In re Boone*, 629 S.W.3d 372, 374 (Tex. App.—San Antonio 2020, orig. proceeding) (op.) (mandamus review of net worth discovery order after trial court granted motion to obtain defendant's net worth); *see also In re Daybreak Cmty. Servs. Tex., LLC*, No. 10-19-00395-CV, 2020 WL 958457, at *1 (Tex. App.—Waco Feb. 26, 2020, orig. proceeding) (mem. op.) (trial court allowing discovery of net worth); *In re Islamorada Fish Co. Tex., LLC*, 319 S.W.3d 908, 910 (Tex. App.—Dallas 2010, orig. proceeding) (op. on reh'g) (trial court compelling production of net worth information).