

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-09-00796-CV

**IN RE CATERPILLAR INC. and HOLT TEXAS, LTD, d/b/a HOLT CAT**

Original Mandamus Proceeding<sup>1</sup>

PER CURIAM

Sitting: Karen Angelini, Justice  
Rebecca Simmons, Justice  
Steven C. Hilbig, Justice

Delivered and Filed: December 23, 2009

PETITION FOR WRIT OF MANDAMUS DENIED

On December 11, 2009, relators filed a petition for writ of mandamus, complaining of the trial court's granting of the motion to strike the designation of a responsible third party. Mandamus will issue only to correct a clear abuse of discretion for which relators have no adequate remedy at law. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839-40 (Tex. 1992) (orig. proceeding). The court has considered relators' petition for writ of mandamus and is of the opinion that relators are not entitled to the relief sought because they have an adequate remedy by appeal. *See In re Scoggins Const. Co.*, No. 13-08-

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<sup>1</sup> This proceeding arises out of Cause No. 2007-CI-15864, styled *Alfonso Lopez and Maria Elena Lopez v. Caterpillar, Inc. and Holt Texas, Ltd. d/b/a Holt Cat*, pending in the 224th Judicial District Court, Bexar County, Texas, the Honorable Gloria Saldana presiding. However, the ruling complained of was made by the Honorable Martha Tanner, presiding judge of the 166th Judicial District Court, Bexar County, Texas.

00317-CV, 2008 WL 2721181 (Tex. App.—Corpus Christi June 30, 2008, orig. proceeding [mand. denied]) (mem. op.); *In re Unitec Elevator Servs. Co.*, 178 S.W.3d 53, 64-65 (Tex. App.—Houston [1st Dist.] 2005, orig. proceeding). Accordingly, the petition for writ of mandamus is DENIED. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM