



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-20-00462-CV

**IN RE BERRIDGE MANUFACTURING COMPANY**

Original Mandamus Proceeding<sup>1</sup>

Opinion by: Liza A. Rodriguez, Justice

Sitting: Rebeca C. Martinez, Justice  
Irene Rios, Justice  
Liza A. Rodriguez, Justice

Delivered and Filed: December 16, 2020

**PETITION FOR WRIT OF MANDAMUS CONDITIONALLY GRANTED IN PART  
AND DENIED IN PART**

In the underlying personal injury suit, the trial court granted the plaintiff's motion to compel relator's net worth. In its petition for writ of mandamus, relator asserts the trial court abused its discretion and asks this court to direct the trial court to vacate its order. We conditionally grant the petition in part and deny in part.

**BACKGROUND**

The real party in interest is the plaintiff below, Jared Martin. Martin sustained on-the-job injuries while working at relator's plant in Seguin, Texas, on February 28, 2019. The injuries led to Martin having his right thumb and index finger amputated. He later had his left toe transplanted

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<sup>1</sup> This proceeding arises out of Cause No. 2019-CI-07623, styled *Jared Martin v. Berridge Manufacturing Company*, pending in the 408th Judicial District Court, Bexar County, Texas. The Honorable David A. Canales signed the order at issue in this original proceeding.

to his right hand to create a thumb. In his lawsuit against relator, Martin alleges he is unable to work for the remainder of his life. In addition to other damages, Martin sought exemplary damages based on relator's alleged gross negligence.

During the course of discovery, Martin requested discovery of relator's net worth, to which relator objected. On August 19, 2020, the trial court conducted a hearing. The next day, the trial court signed an order in which it found that Martin had demonstrated a substantial likelihood of success of the merits of his claim for exemplary damages. The court ordered relator to provide Martin with the following:

1. Answer the following interrogatory under oath: "Please state your net worth at the present time, including the facts and methods used to calculate what Defendant alleges its current net worth to be."
2. Produce the following documents: I.R.S. Form 4562 for tax year 2019, Defendant's Balance Sheet from January 1, 2019, through August 20, 2020, and Defendant's Profit and Loss Statement from January 1, 2019, through August 20, 2020.

Relator filed its petition and a motion to stay on September 16, 2020. Relator later filed an amended petition that included the transcript from the August 19 hearing. This court granted the stay. Martin filed a response.

### **STANDARD OF REVIEW**

Mandamus is an extraordinary remedy that will issue only to correct a clear abuse of discretion when there is no other adequate remedy at law. *In re Sw. Bell Tel. Co., L.P.*, 235 S.W.3d 619, 623 (Tex. 2007) (orig. proceeding). To satisfy the clear abuse of discretion standard, the relator must show "that the trial court could reasonably have reached only one decision." *Liberty Nat'l Fire Ins. Co. v. Akin*, 927 S.W.2d 627, 630 (Tex. 1996) (orig. proceeding) (quoting *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding)).

“A trial court’s ruling that requires production beyond what our procedural rules permit is an abuse of discretion.” *In re Dana Corp.*, 138 S.W.3d 298, 301 (Tex. 2004) (orig. proceeding) (per curiam). Mandamus relief may be justified when the appellate court would not be able to cure the trial court’s discovery error. *Walker*, 827 S.W.2d at 843.

### **EVIDENCE OF NET WORTH**

Relator asserts the trial court abused its discretion by compelling it to produce evidence of its net worth. After reviewing the petition, response, and the record, we conclude relator did not establish the trial court abused its discretion. However, we next address whether the trial court erred by compelling discovery of relator’s tax records, balance sheet, and profit/loss statement.

### **DISCOVERY OF INCOME TAX RETURNS**

Relator asserts that, even if discovery of its net worth is appropriate, the trial court erred by ordering production of relator’s tax records, balance sheet, and profit/loss statement. The trial court ordered that relator

[p]roduce the following documents: I.R.S. Form 4562 for tax year 2019, Defendant’s Balance Sheet from January 1, 2019, through August 20, 2020, and Defendant’s Profit and Loss Statement from January 1, 2019, through August 20, 2020.

Relator contends that, because only its current net worth is relevant, the trial court abused its discretion by ordering production of these documents.

With respect to net-worth discovery, generally, only financial documents pertaining to current net worth are relevant. *See In re Jacobs*, 300 S.W.3d 35, 44-45 (Tex. App.—Houston [14th Dist.] 2009, orig. proceeding) (concluding trial court abused its discretion by ordering relators to produce two years of net-worth information beyond relators’ current net worth); *In re House of Yahweh*, 266 S.W.3d 668, 673 (Tex. App.—Eastland 2008, orig. proceeding) (holding trial court erred in failing to limit discovery to relators’ current balance sheets because earlier

balance sheets would not be relevant to relators' current net worth); *see also* TEX. R. APP. P. 24.2(c)(1).<sup>2</sup> Therefore, “[a] trial court abuses its discretion by ordering the production of financial records that would not necessarily evidence net worth.” *Yahweh*, 266 S.W.3d at 673.

After a party objects to the production of tax returns, the party seeking to obtain the tax returns has the burden to show the tax returns are relevant and material to the issues in the case. *See El Centro del Barrio, Inc. v. Barlow*, 894 S.W.2d 775, 779 (Tex. App.—San Antonio 1994, orig. proceeding); *Yahweh*, 266 S.W.3d at 674. “The burden is thus unlike general discovery requests, which place the burden on the party resisting the discovery.” *In re Brewer Leasing, Inc.*, 255 S.W.3d 708, 714 (Tex. App.—Houston [1st Dist.] 2008, orig. proceeding).

If there are other adequate methods to ascertain net worth, the trial court should not allow discovery of tax returns. *Id.*; *In re Garth*, 214 S.W.3d 190, 194 (Tex. App.—Beaumont 2007, orig. proceeding) (per curiam) (trial court abuses discretion by requiring production of tax returns when trial court's order also requires production of financial statements regarding net worth of party because tax returns are typically of little value in showing net worth since they show only assets); *see also Maresca v. Marks*, 362 S.W.2d 299, 301 (Tex. 1962) (orig. proceeding) (“It is self-evident that the maximum protection of privacy is unattainable if trial courts [do] not exercise their discretion to safeguard from discovery those portions of income tax returns which are irrelevant and immaterial, and it is our view that failure to exercise such discretion is arbitrary action.”).

At the hearing, Martin did not argue, nor establish, that relator's tax returns were relevant or material to the net worth issue or that the information sought could not be obtained from some

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<sup>2</sup> “A judgment debtor who provides a bond, deposit, or security . . . in an amount based on the debtor's net worth must simultaneously file with the trial court clerk an affidavit that states the debtor's net worth and states complete, detailed information concerning the debtor's assets and liabilities from which net worth can be ascertained.” TEX. R. APP. P. 24.2(c)(1).

other source. Therefore, because Martin did not satisfy his burden, we conclude the trial court abused its discretion in compelling production of I.R.S. Form 4562 for tax year 2019.

As to the request for the balance sheet and profit/loss statement, “[t]he burden on the discovery of financial records lies with the party seeking to prevent production.” *Brewer Leasing*, 255 S.W.3d at 712. “A trial court does not abuse its discretion by ordering the production of financial documents that are relevant and material to prove net worth.” *Id.* Here, other than a conclusory statement that the trial court erred, relator makes no argument in its petition regarding whether these documents are irrelevant or immaterial to its net worth. Therefore, we conclude relator did not establish an abuse of discretion by the trial court in compelling production of the balance sheets and profit/loss statements.

### **CONCLUSION**

We conclude the trial court abused its discretion by compelling relator to produce I.R.S. Form 4562 for tax year 2019. Therefore, we conditionally grant the petition for writ of mandamus and direct the trial court to vacate that portion of its August 20, 2020, “Order on Plaintiff’s Motion to Compel Discovery of Defendant Berridge Manufacturing Company’s Net Worth, and Confidentiality and Protective Order,” which compels relator to produce I.R.S. Form 4562 for tax year 2019, no later than fifteen days from the date of this opinion. In all other respects the petition for writ of mandamus is denied.

Liza A. Rodriguez, Justice