



NUMBER 13-08-00548-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE SCOGGINS CONSTRUCTION COMPANY, INC.

On Petition for Writ of Mandamus

MEMORANDUM OPINION

Before Chief Justice Valdez and Justices Rodriguez and Garza
Memorandum Opinion Per Curiam¹

Relator, Scoggins Construction Company, Inc., filed a petition for writ of mandamus in the above cause on September 19, 2008. Through this original proceeding, relator challenges the trial court's order of August 26, 2008, denying relator's motion for leave to join third-party defendants and to designate responsible third parties. The Court requested and received a response from the real party in interest, Mercedes Independent School District.

Mandamus is an extraordinary remedy, which is available only when a trial court has

¹ See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

clearly abused its discretion and the relator lacks an adequate remedy by appeal. See *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004) (orig. proceeding) (citing *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992)); see also *In re Team Rocket, L.P.*, 256 S.W.3d 257, 259 (Tex. 2008) (orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus and response thereto, is of the opinion that relator has not shown itself entitled to the relief sought. See TEX. R. CIV. P. 37, 38; *In re Unitec Elevator Servs. Co.*, 178 S.W.3d 53, 64-66 (Tex. App.–Houston [1st Dist.] 2005, orig. proceeding); *In re Martin*, 147 S.W.3d 453, 458-59 (Tex. App.–Beaumont 2004, orig. proceeding); *In re Arthur Andersen LLP*, 121 S.W.3d 471, 485-86 (Tex. App.–Houston [14th Dist.] 2003, orig. proceeding); see also *In re Scoggins Constr. Co.*, No. 13-08-00317-CV, 2008 WL 2721811 (Tex. App.–Corpus Christi June 30, 2008, orig. proceeding [mand. pending]). Accordingly, the petition for writ of mandamus is DENIED. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Memorandum Opinion delivered and
filed this 15th day of October, 2008.