



NUMBER 13-13-00575-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE MOBILE CRANE SERVICE, INC.

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Benavides, Perkes, and Longoria
Memorandum Opinion Per Curiam¹**

Relator, Mobile Crane Service, filed a petition for writ of mandamus and an emergency motion for temporary relief in the above cause on November 1, 2013. Through this original proceeding, relator contends that the trial court abused its discretion by issuing pretrial rulings: (1) denying relator's motion to void high-low settlement agreements entered by other parties; (2) denying relator's motion to admit evidence of the high-low settlement agreements at the upcoming trial; (3) denying

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).

relator's motion to realign the parties and equalize peremptory strikes; and (4) limiting the future trial testimony of two of relator's experts.

To be entitled to the extraordinary relief of a writ of mandamus, the relator must show that the trial court abused its discretion and that there is no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). The relator has the burden of establishing both prerequisites to mandamus relief. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding). This burden is a heavy one. *See In re Epic Holdings, Inc.*, 985 S.W.2d 41 (Tex. 1998) (orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that relator has not met its burden to obtain mandamus relief. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 135–36. Accordingly, the petition for writ of mandamus and emergency motion for temporary relief are DENIED. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed the
1st day of November, 2013.