



NUMBER 13-15-00296-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

**IN RE BENEVIS, LLC, DENTISTRY OF BROWNSVILLE, P.C., AND
KOOL SMILES, P.C.**

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Valdez, Benavides, and Perkes
Memorandum Opinion Per Curiam¹**

Relators, Benevis, LLC, Dentistry of Brownsville, P.C., and Kool Smiles, P.C., filed a petition for writ of mandamus and motion for emergency stay in the above cause on July 7, 2015. Through this original proceeding, relators contend that the trial court abused its discretion in ordering amendments to a protective order.

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."); *Id.* R. 47.4 (distinguishing opinions and memorandum opinions).

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, and this burden is a heavy one. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding). A trial court clearly abuses its discretion if it reaches a decision that is so arbitrary and unreasonable that it amounts to a clear and prejudicial error of law or if it clearly fails to analyze the law correctly or apply the law correctly to the facts. *In re Cerberus Capital Mgmt., L.P.*, 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding) (per curiam). The adequacy of an appellate remedy must be determined by balancing the benefits of mandamus review against the detriments. *In re Team Rocket, L.P.*, 256 S.W.3d 257, 262 (Tex. 2008) (orig. proceeding). A discovery order that compels production beyond the rules of procedure is an abuse of discretion for which mandamus is the proper remedy. *In re Nat'l Lloyds Ins. Co.*, 449 S.W.3d 486, 488 (Tex. 2014) (orig. proceeding) (per curiam); *In re Deere & Co.*, 299 S.W.3d 819, 820 (Tex. 2009) (orig. proceeding) (per curiam).

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by the real parties in interest,² and the applicable law, is of the opinion

² The real parties in interest herein are Paula Antu as next friend of E.A., a minor; Scarlett Ayala as next friend of X.U., a minor; Guadalupe Cepeda as next friend of O.C., a minor, Ana Laura Cornejo as next friend of J.C.C., a minor; Marior Cuellar and Priscilla Trujillo as next friends of A.C., a minor; Maria Gaytan as next friend of F.T., a minor; Elizabeth Gonzalez and Marco Reyes as next friends of K.R., a minor; Francisca Guzman as next friend of A.G., a minor; Ismael and Isabel Maldonado as next friends of J.M., a minor; Freisi Olivar as next friend of A.S.II, a minor; Rary Rosales as next friend of D.M., a minor; Reynol Salinas as next friend of R.S.Jr., a minor; Anahy Alanis as next friend of J.V., a minor; Esmeralda Caro as next friend of K.D.L, a minor; Mary Chaves as next friend of T.C., a minor; Gracie Fuentes as next friend of B.F., a minor; Maricela and Jorge Garza as next friends of B.G., a minor; Claudia and George Lopez as next friends of A.L., a minor; Esmeralda Lopez as next friend of J.L., a minor; Dalia Lopez and Jorge Saucedo as next friends of D.S., a minor; Jose and Norma Montoya as next friends of I.M., a minor; Mayra

Munoz as next friend of J.H., a minor; Rosalba Quilantan and Emilio Cavazos as next friends of E.C., a minor; Vanessa and Joshua Santillan as next friends of J.S., a minor; Maryne and Jose Alanis as next friends of O.M., a minor; San Juanita Cantu as next friend of E.C., a minor; Mcdulia Dehoyos as next friend of B.C., a minor; Carla Garza as next friend of K.S., a minor; Yadira and Jesus Gomez as next friends of J.G., a minor; Feliz Perez, Jr. as next friend of K.P., a minor; Griselda Perez as next friend of S.P., a minor; Rosalba Quilantan and Emilio Cavazos as next friends of A.C., a minor; Cristina Salas as next friend of J.C., a minor; Jessica Rodriguez as next friend of E.C., a minor; Rosa Turrubiates and Pedro Salas, Jr. as next friends of P.S., a minor; Maryne Alanis and Jose Luis as next friends of J.A., a minor; Tatiana and Miguel Calderon as next friends of A.C., a minor; Celia Gutierrez as next friend of J.C.V.III, a minor; Steffany Klump as next friend of J.C., a minor; Luis Lara as next friend of M.L., a minor; Charlie Park as next friend of M.P., a minor; Gabriela Reyes as next friend of A.B.R., a minor; Cruz Rios as next friend of X.A., a minor; Seferina Salinas as next friend of N.B., a minor; Kimberly Sustaita and Rodolfo Avila as next friends of R.A.Jr., a minor; Teresa Alaniz as next friend of D.T., a minor; Teresa Alaniz as next friend of D.T., a minor; Nereyda Benitez and Jose Angel Arriaga as next friends of J.A., a minor; Maribel Espinoza as next friend of B.E., a minor; Jennifer and Ismael Garcia, Jr. as next friends of I.G.III, a minor; Enrique Gomez as next friend of S.G., a minor; Felix Martinez and Lucero Bautista as next friends of J.B., a minor; Rosaura Molina as next friend of I.M., a minor; Jacquelyne Rubalcava as next friend of J.R., a minor; Vanessa Anika Salmon as next friend of M.A.R.Jr., a minor; Adriana Torres as next friend of S.T., a minor; Beatriz Velez as next friend of U.M., a minor; Priscilla Aparicio as next friend of J.A., a minor; Maria Buitron as next friend of E.B., a minor; Monica De La Rosa and Jose Espinoza as next friends of J.E., a minor; Guadalupe Perez and Cesar Hernandez as next friends of C.H., a minor; Lizet Ramirez as next friend of I.G., a minor; Luis and Lizeth Reyes as next friends of I.R., a minor; Jennifer and Valentin Reyna as next friends of H.R., a minor; Alfredo Rodriguez as next friend of C.R., a minor; Daisy Torres as next friend of E.T., a minor; Manuel Uresti as next friend of D.U., a minor; Guadalupe and Edgar Uribe as next friends of J.U., a minor; Margarita and Humberto Viacobo as next friends of V.V., a minor; Sylvia Aranda as next friend of L.B., a minor; Guadalupe Cepeda as next friend of S.C., a minor; Mirian De Los Santos as next friend of M.D., a minor; Noriselda and Miguel Garcia, Jr. as next friends of M.G.III, a minor; Amanda Garza as next friend of R.P.Jr., a minor; Mirian and Fernando Gonzales, Jr. as next friends of F.L.III, a minor; Maria Gonzalez as next friend of C.M., a minor; Monica Hernandez as next friend of A.C., a minor; Alejandra Lara as next friend of J.T., a minor; Isela Lee Ledesma as next friend of D.L.P., a minor; Nancy Rodriguez as next friend of I.J.R., a minor; Abel and Illiana Zuniga as next friends of M.Z., a minor; Erika Armendariz as next friend of J.A., a minor; Laura and Fidel Gomez, Jr. as next friends of J.P., a minor; Irasena Gonzalez as next friend of R.G., a minor; Olga Granados as next friend of E.G., a minor; Margarita Molar as next friend of V.N.T., a minor; Haide and Juan Reyes as next friends of J.E.R.II, a minor; Amanda and Juan Rodriguez as next friends of N.R., a minor; Blanca Rodriguez as next friend of S.R., a minor; Carmen Salazar as next friend of K.C., a minor; Adriana Venancio and Cesar Mejia as next friends of Y.M., a minor; Denisse Arroyo as next friend of Z.L., a minor; Maria Buitron as next friend of L.B., a minor; Imelda and Gustavo Coronado as next friends of R.C., a minor; Narda Dominguez as next friend of N.H., a minor; Mirian Gonzales and Fernando Lopez, Jr. as next friends of A.L., a minor; Monica Hernandez as next friend of R.C.III, a minor; Elizabeth Longoria as next friend of C.L., a minor; Erika Mendoza as next friend of J.I., a minor; Wendy Morales as next friend of A.M.Z., a minor; Rachel Rodriguez as next friend of E.R., a minor; Sandra Rodriguez as next friend of D.I., a minor; San Juanita Cantu as next friend of E.C., a minor; Darlene Cardenas as next friend of E.G., a minor; Nancy Cervantes as next friend of L.C., a minor; Wallace Clark and Maria Ramirez as next friends of D.C., a minor; Andy and Norma Garcia as next friends of A.D.G., a minor; Myra Garza as next friend of D.R., a minor; Jorge and Cynthia Ginez as next friends of J.G., a minor; Nelssy Gonzalez as next friend of N.H., a minor; Maria Hernandez as next friend of K.R., a minor; Karina Hernandez as next friend of I.M., a minor; Teresita Lemus as next friend of N.P., a minor; Edward Lopez as next friend of A.L., a minor; Veronica Quintanilla as next friend of D.M., a minor; Maria Salazar as next friend of D.L., a minor; Hugo and Norma Vargas as next friends of A.V., a minor; Amy Zuniga as next friend of B.Z., a minor; Monica De La Rosa and Jose Espinoza as next friends of E.E., a minor; Jennifer Gonzalez as next friend of B.R., a minor; Maria Herrera as next friend of R.F., a minor; Carlos Martinez as next friend of A.M., a minor; Ana Ortiz as next friend of E.S., a minor; Ramiro Perez and Ivonne Carbajal as next friends of L.C., a minor; Ricardo Ramirez, Jr. as next friend of J.R., a minor; Luis and Lizeth Reyes as next friends of S.R., a minor; Veronica Rodriguez as next friend of J.R., a minor; Kimberly Sustaita and Rodolfo Avila as next friends of K.a., a minor.

that relators have not met their burden to obtain mandamus relief. See *Eli Lilly & Co. v. Marshall*, 850 S.W.2d 155, 160 (Tex. 1993) (orig. proceeding); *Garcia v. Peeples*, 734 S.W.2d 343 (Tex. 1987) (orig. proceeding); see also *Idar v. Cooper Tire & Rubber Co.*, No. C-10-217, 2011 WL 688871 (S. D. Tex. Feb. 17, 2011). Accordingly, we LIFT the stay previously imposed in this cause and we DENY the petition for writ of mandamus. See TEX. R. APP. P. 52.8(a), 52.10.

PER CURIAM

Delivered and filed the
21st day of July, 2015.