

CONDITIONALLY GRANT and Opinion Filed June 2, 2020



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-20-00170-CV

**IN RE STEPHEN PERL AND
PM FACTORS, INC. D/B/A 1ST PMF BANCORP, Relators**

**Original Proceeding from the 193rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-18-18862**

MEMORANDUM OPINION

**Before Justices Bridges, Osborne, and Reichek
Opinion by Justice Osborne**

In this original proceeding, relators Stephen Perl and PM Factors, Inc. d/b/a 1st PMF Bancorp (“PMF”) complain of the trial court’s January 28, 2020 “Order Granting Plaintiffs’ Motion to Compel Expedited Jurisdictional Discovery.” To be entitled to mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). A clear failure by the trial court to analyze or apply the law correctly constitutes an abuse of discretion. *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding);

In re Tex. Am. Express, Inc., 190 S.W.3d 720, 723–24 (Tex. App.—Dallas 2005, orig. proceeding). We conditionally grant the relief requested.

BACKGROUND

The facts are well-known to the parties, and we do not repeat them here except as necessary to explain the basic reasons for our opinion. TEX. R. APP. P. 47.4.

Relator PMF is a California entity that provides commercial lending and invoice factoring. Relator Perl is PMF’s chief financial officer. PMF contracts with small businesses throughout the country, buying their accounts receivable and providing financing. PMF has held a California Finance Lenders License since 1998 and is regulated under California law. It maintains its only office in California, has never registered to do business in Texas, and has no assets, employees, or presence in Texas. Perl is a lifelong resident of California where he lives with his family, although the record reflects that Perl has obtained a Texas driver’s license and rented an apartment in Texas.

Real parties in interest Michael’s Stores, Inc., Lamrite West, Inc. d/b/a Darice, and Mezzimatic LLC (“RPIs”) are the plaintiffs in the trial court and have asserted claims against Perl and PMF for conversion (Count II of RPIs’ operative petition), money had and received (petition Count III), and aiding and abetting the fraud, fraudulent inducement, and negligence of defendants Cakecraft, LLC d/b/a Cake Craft Imports (“CC Imports”), Cake Craft Factory LLC (“CC Factory”), Cake Craft USA (“CC USA”), and William Naim (collectively, “Cake Craft”) (petition Count

VIII). RPIs allege that Perl and PMF conspired with Cake Craft regarding defectively manufactured paint balls supplied to RPIs.

PMF's relationship with Cake Craft began in August 2015 when PMF entered into a factoring agreement with CC Imports. At that time, CC Imports was a California entity. The agreement was negotiated and executed in California, was governed by California law, required no performance in Texas, and did not refer to Texas. On March 1, 2017, CC Imports registered as a foreign company in Texas to conduct business. On April 25, 2017, CC Factory was formed as a Texas corporation, and in November 2017, PMF entered into a second factoring agreement with CC Factory. Both agreements included California choice of law and venue provisions. Under these agreements, PMF purchased customer accounts from CC Imports or CC Factory, including at some point in time the account of RPI Mezzimatic LLC. CC Imports and CC Factory were required to direct the customers whose accounts were purchased to pay their invoices to PMF in California. PMF's agreement with CC Factory granted PMF a security interest in CC Factory's assets, perfected by a UCC-1 form filed with the Texas Secretary of State.

Cake Craft contracted with several of the RPIs to manufacture and import paint balls called "Goblies" for RPIs to sell to consumers. RPIs initially sued Cake Craft alleging that the paint balls were defective. After discovering emails from Cake Craft referencing Perl or PMF as partners, RPIs added Relators to the lawsuit,

alleging that Relators and Cake Craft conspired to use defective components “for no reason other than to cut costs and pocket more profits.”

Relators filed a special appearance. The RPIs responded that general and specific jurisdiction exists as to both Relators. They alleged that Perl traveled to China with Cake Craft’s principal to inspect production of the paint balls. They also provided evidence that at an unknown date, Perl rented an apartment in Garland, Texas, and in March 2019 obtained a Texas driver’s license in furtherance of Relators’ relationship with Cake Craft. The parties entered into a rule 11 agreement by which Relators agreed to provide expedited jurisdictional discovery but preserved all objections to such discovery. Relators answered some of the discovery requests but objected to others on the ground that they sought discovery on non-jurisdictional matters. RPIs filed a motion to compel. The trial court granted the motion.

In this proceeding, Relators challenge the trial court’s order compelling responses to the following requests:

INTERROGATORY NO. 2: Describe in detail your business relationship with Cake Craft LLC, Cake Craft Factory LLC, Cake Craft USA, and/or William Naim (collectively, “Cake Craft Defendants”), as well as any Texas entities related to Cake Craft Defendants, generally and as it relates to the Goblies product and facts giving rise to this lawsuit. This includes business relationships with the Cake Craft Defendants involving different products or business ventures. A responsive answer should include how the relationship was started, the details of how business is conducted between you and the Cake Craft Defendants, and the process by which the relationship is maintained and any agreements and/or contracts governing your relationship.

INTERROGATORY NO. 6: Describe in detail any instance in which you have received money from any person or entity in Texas in the last 10 years. A responsive answer should include the person or entity to whom you directed the money, their address and phone number, the circumstances under which you directed the money, and the amount of money you sent.

INTERROGATORY NO. 8: Describe in detail the work, role and/or services you provided for or on behalf of the Cake Craft Defendants, including any inspection or auditing work.

REQUEST FOR PRODUCTION NO. 3: Produce all communications between you and the Cake Craft Defendants regarding Goblies, the matters at issue in this lawsuit, and/or Plaintiffs, which occurred from January 1, 2017, until August 7, 2019, that were sent or believed to have been sent to or from Texas, involve individuals who work or reside in Texas, relate to work or obligations in Texas, and/or relate to Cake Craft Defendants' business or operations in Texas.

REQUEST FOR PRODUCTION NO. 4: Produce all communications between you and the Cake Craft Defendants regarding Goblies, the matters at issue in this lawsuit, and/or Plaintiffs, which occurred from August 7, 2019 to present, that were sent or believed to have been sent to or from Texas, involve individuals who work or reside in Texas, relate to work or obligations in Texas, and/or relate to Cake Craft Defendants' business or operations in Texas.

REQUEST FOR PRODUCTION NO. 5: Produce all communications and documents regarding your engagement and business relationship with the Cake Craft Defendants, including work you provided for Cake Craft Defendants relating to their business or operations in Texas.

REQUEST FOR PRODUCTION NO. 15: Produce all documents that detail the inspection and auditing services that you performed on the Cake Craft Defendants.¹

¹ Relators do not challenge the portions of the trial court's order compelling responses to Interrogatory No. 5 and Request for Production Nos. 9, 10, 11, and 12. Consequently, our opinion and order do not address the trial court's order as to these requests.

In their single issue, Relators argue the trial court abused its discretion by ordering them to respond to discovery unrelated to the jurisdictional question before the court.

SCOPE OF JURISDICTIONAL DISCOVERY

Texas Rule of Civil Procedure 120a provides that any party may file a special appearance “for the purpose of objecting to the jurisdiction of the court over the person or property of the defendant on the ground that such party or property is not amenable to process issued by the courts of this State.” TEX. R. CIV. P. 120a(1). The party bringing the special appearance is entitled to have it heard and decided before any other pleading. TEX. R. CIV. P. 120a(2). Although rule 120a(3) specifically provides for jurisdictional discovery, discovery ““is limited to matters directly relevant to the issue”” of jurisdiction. *Stanton v. Gloersen*, No. 05-16-00214-CV, 2016 WL 7166550, at *6 (Tex. App.—Dallas Nov. 30, 2016, pet. denied) (mem. op.) (quoting *In re Doe*, 444 S.W.3d 603, 608 (Tex. 2014) (orig. proceeding)); see also TEX. R. CIV. P. 120a(3). A court should not reach the merits of the case when deciding a special appearance. See *Michiana Easy Livin’ Country, Inc. v. Holten*, 168 S.W.3d 777, 790–92 (Tex. 2005).

SPECIAL APPEARANCE

RPIs may obtain discovery only as to facts essential to justify their opposition to Relators’ special appearance. See *Stanton*, 2016 WL 7166550, at *6. The inquiry is restricted to whether Relators purposefully established minimum contacts such as

would satisfy due process. *Id.* The merits of RPIs’ claims are not at issue. *See id.* Consequently, we review the well-settled principles that govern special appearances.

Texas courts may exercise personal jurisdiction over a nonresident defendant if “(1) the Texas long-arm statute authorizes the exercise of jurisdiction, and (2) the exercise of jurisdiction is consistent with federal and state constitutional due-process guarantees.” *Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 574 (Tex. 2007). The latter inquiry turns on two requirements: (1) the defendant must have established minimum contacts with the forum state, and (2) the assertion of jurisdiction “cannot offend traditional notions of fair play and substantial justice.” *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 66 (Tex. 2016). Sufficient minimum contacts exist when the nonresident defendant purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws. *Id.* at 66–67. When determining whether a nonresident purposefully availed itself of the privilege of conducting activities in Texas, we consider three factors: (1) only the defendant’s contacts with the forum are relevant, not the unilateral activity of another party or third person, (2) the contacts relied on must be purposeful rather than random, isolated, or fortuitous, and (3) the defendant must seek some benefit, advantage, or profit by availing itself of the jurisdiction. *Cornerstone Healthcare Grp. Holding, Inc. v. Nautic Mgmt. VI, L.P.*, 493 S.W.3d 65, 70–71 (Tex. 2016). In addition to minimum contacts, due process requires the exercise of personal jurisdiction to comply with traditional notions of fair play and

substantial justice. *See Spir Star AG v. Kimich*, 310 S.W.3d 868, 878 (Tex. 2010) (discussing relevant factors).

The plaintiff bears the initial burden of pleading allegations that suffice to permit a court's exercise of personal jurisdiction over the nonresident defendant. *Searcy*, 496 S.W.3d at 66. The burden then shifts to the defendant to negate all potential bases for personal jurisdiction that exist in the plaintiff's pleadings. *Id.* The defendant can negate jurisdiction either on a factual basis, by presenting evidence to disprove the plaintiff's jurisdictional allegations, or on a legal basis by showing that even if the plaintiff's alleged facts are true, the evidence is legally insufficient to establish jurisdiction. *Kelly v. Gen. Interior Constr., Inc.*, 301 S.W.3d 653, 659 (Tex. 2010). The burden then returns to the plaintiff to show, as a matter of law, that the court has jurisdiction over the nonresident defendant. *Assurances Generales Banque Nationale v. Dhalla*, 282 S.W.3d 688, 695 (Tex. App.—Dallas 2009, no pet.).

A defendant's contacts with a forum may give rise to either general or specific jurisdiction. A court has general jurisdiction over a defendant only if its affiliations with the state are so continuous and systematic as to render it essentially at home in the forum state. *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014). "For an individual, the paradigm forum for the exercise of general jurisdiction is the individual's domicile; for a corporation, it is an equivalent place, one in which the corporation is fairly regarded as home." *Id.* (internal quotation omitted).

Specific jurisdiction exists when the plaintiff's claims arise out of or are related to the defendant's contacts with the forum. *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 (1984). Courts must consider the relationship between the defendant, the forum state, and the litigation. *Id.* There must be a substantial connection between the defendant's contacts and the operative facts of the litigation. *Moncrief Oil Int'l, Inc. v. OAO Gazprom*, 414 S.W.3d 142, 156 (Tex. 2013). But-for causation alone is insufficient. *Id.* at 157. The operative facts are those on which the trial will focus to prove the liability of the defendant who is challenging jurisdiction. *Leonard v. Salinas Concrete, LP*, 470 S.W.3d 178, 188 (Tex. App.—Dallas 2015, no pet.).

DISCUSSION

1. Discovery relevant to general jurisdiction

Discovery requests must be reasonably tailored to include only relevant matters. *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003) (per curiam) (orig. proceeding). We first consider whether the discovery requests at issue seek any information relevant to general jurisdiction over either relator. General jurisdiction exists only over (1) individuals who are domiciled in the forum and (2) corporations that maintain their principal place of business in the forum. *Daimler AG*, 571 U.S. at 137. The Court in *Daimler* also left open the possibility that there could be an “exceptional case” when a corporation's operations in another state might be so substantial as to render it “at home” there. *See N. Frac Proppants, II, LLC v. 2011*

NF Holdings, LLC, No. 05-16-00319-CV, 2017 WL 3275896, at *5 (Tex. App.—Dallas July 27, 2017, no pet.) (mem. op.) (discussing *Daimler*).

RPIs pleaded that there is general jurisdiction over PMF because it is “currently, and at all relevant times has been, doing business in the State of Texas.” “Doing business” in a forum, however, is insufficient to establish general jurisdiction, *see Daimler AG*, 571 U.S. at 137–38, and RPIs acknowledged in their petition that PMF “is an entity doing business in and with its principal place of business in the State of California.” Further, PMF provided evidence that its headquarters, principal place of business, and sole United States office is in California. Given this evidence, only requests seeking information relevant to “whether this is an exceptional case in which [PMF] is nevertheless also ‘at home’ in Texas” are within the scope of permissible discovery. *See N. Frac Proppants, II, LLC*, 2017 WL 3275896, at *23 (no “exceptional case” where corporation had agent for service of process, employees, 15% of its sales, and one of its plants in Texas). None of the disputed requests seek this information.

RPIs pleaded that there is general jurisdiction over Perl because he resides at a Texas address, was issued a Texas driver’s license, and is a partner in a Texas entity. But the record reflects that Perl has responded to the discovery requests seeking information relevant to these allegations. No request at issue in this mandamus proceeding seeks information relevant to whether Perl is domiciled in

Texas, and his domicile is the basis for general jurisdiction.² *See id.* at *9 (no general jurisdiction over individual who was not domiciled in Texas despite conducting business there).

We conclude that the disputed discovery requests do not seek information relevant to the question whether the trial court has general jurisdiction over Relators.

2. Discovery relevant to specific jurisdiction

We next consider whether the discovery requests seek information regarding the relationship between Relators, Texas, and the RPIs' claims in this lawsuit, supporting the exercise of specific jurisdiction over Relators. *See Hall*, 466 U.S. at 414; *Moki Mac*, 221 S.W.3d at 575–76. RPIs' claims against Relators are for conversion of \$145,000 in cash advance payments, money had and received (funds paid by RPIs for the defective products), and “aiding and abetting”³ Cake Craft's fraud (representing that Goblies would be, and were, manufactured in accordance with RPIs' specifications, when they were not) and negligence (putting a defective product into the chain of commerce). They pleaded that they sent all payments

² In an affidavit, Perl has averred that California, where he lives with his wife and three children, is his permanent home and he has never intended to make any other place his domicile. An individual may have multiple residences, but only one domicile. *See Lawrence v. Page*, No. 01-16-00133-CV, 2016 WL 5947490, at *4 (Tex. App.—Houston [1st Dist.] Oct. 13, 2016, no pet.) (mem. op.).

³ We express no opinion as to whether Texas law recognizes a cause of action for aiding and abetting separate and apart from a civil conspiracy claim. *See Richardson v. Potter's House of Dallas, Inc.*, No. 05-16-0046-CV, 2017 WL 745803, at *3 n.2 (Tex. App.—Dallas Feb. 27, 2017, pet. denied) (mem. op.). In *Richardson*, we said that “[t]o the extent there is a common law cause of action for ‘aiding and abetting’ separate and apart from a civil conspiracy claim, liability for aiding and abetting generally arises where an actor, with unlawful intent, gives substantial assistance and encouragement to a wrongdoer in a tortious act.” *Id.* at *3. “Aiding and abetting is a dependent claim premised on an underlying tort.” *Id.* (internal quotations omitted).

related to Goblies to PMF, and that “Defendants” refused to return funds collected for orders that they did not fulfill in accordance with RPIs’ specifications. They alleged that Relators “were integrally involved in the matters at issue” because Perl made loans to the other defendants, “was funding the litigation and driving strategy decisions” on Cake Craft’s behalf, and “is a driving force behind [Cake Craft’s] decision to wrongfully alter the formulations of the Goblies and to subsequently refuse to accept responsibility.” In their “aiding and abetting” allegations, RPIs pleaded:

Mr. Naim and Mr. Perl conspired and aided and abetted Cake Craft to defraud Plaintiffs and had an agreement to otherwise achieve an unlawful purpose by (1) deviating from the Specifications for manufacturing the Goblies product in order to cut costs, (2) unfairly obtaining and retaining funds from Mezzimatic and hiding the proceeds of those funds and other assets, and (3) refusing to obtain appropriate insurance as required despite their promises to do so.

“Texas law holds, with respect to a conspiracy theory of personal jurisdiction, that the inquiry is restricted to whether the defendant ‘*itself* purposefully established minimum contacts such as would satisfy due process.’” *In re Stern*, 321 S.W.3d 828, 841 (Tex. App.—Houston [1st Dist.] 2010, orig. proceeding) (quoting *Nat’l Indus. Sand Ass’n v. Gibson*, 897 S.W.2d 769, 773 (Tex.1995) (orig. proceeding)); see also *Novamerican Steel, Inc. v. Delta Brands, Inc.*, 231 S.W.3d 499, 509 (Tex. App.—Dallas 2007, no pet.) (“acts of conspirators cannot be imputed to a nonresident defendant as the basis for the assertion of specific jurisdiction”). Further, characterizing the contacts as tortious has no bearing on the jurisdictional analysis.

See Michiana Easy Livin' Country, Inc., 168 S.W.3d at 791–92 (specific jurisdiction turns on defendant's contacts, not whether the contacts were tortious). Only the defendant's purposeful contacts with the forum are relevant. *Id.* at 788–92.

Relators argue that Interrogatory Nos. 2 and 8 and Request for Production Nos. 5 and 15 focus on the substance of their lending relationship with Cake Craft rather than on any jurisdictional fact. We agree. Interrogatory No. 2, for example, requests information about the inception of Relators' relationship with Cake Craft, when it is undisputed that the relationship began in California—between two California entities and governed by California law—and continued there until CC Imports moved to Texas two years later. Consequently, discovery directed at the inception or first two years of the relationship does not seek information relevant to Relators' activities in the forum. Communications outside the state of Texas with non-residents of Texas are not relevant to the jurisdictional inquiry. *Stanton*, 2016 WL 7166550, at *6.

Similarly, Interrogatory No. 2's request for "details of how business is conducted between" Relators and Cake Craft, Interrogatory No. 8's request for Relators' "work, role and/or services" to Cake Craft, Request for Production No. 5's requests for documents "regarding your engagement and business relationship" with Cake Craft, and Request for Production No. 15's request for documents "that detail the inspecting and auditing services that you performed on the Cake Craft defendants" do not focus on any jurisdictional fact. None of these requests are

confined to any of the three purposeful availment factors: Relators' own activities, aimed at Texas, or the specific benefit, advantage, or profit Relators would earn from a Texas relationship. *See Cornerstone Healthcare Grp. Holding, Inc.*, 493 S.W.3d at 70–71 (factors in determining purposeful availment); *Moncrief Oil Int'l, Inc.*, 414 S.W.3d at 151, 156 (requiring substantial connection between defendant's contacts and operative facts of the litigation). As Relators argue, these requests are “directed squarely at the merits of the suit,” not at the relevant jurisdictional facts. RPIs argue that the auditing services referenced in Request for Production No. 15 were performed in Texas. But the substance and details of those services and of PMF's general business relationship with Cake Craft go to the merits of RPIs' claims; they are not relevant jurisdictional facts. The requested information has no bearing on RPIs' opposition to Relators' special appearance. *See Stanton*, 2016 WL 7166550, at *6. Allowing merits discovery before deciding a special appearance is an abuse of discretion. *See In re Stern*, 321 S.W.3d at 837, 841.

RPIs' requests are also overbroad. Interrogatory No. 6, seeking information about any payments Relators received from anyone in Texas in the last ten years, has no connection to RPIs' claims in this lawsuit and thus no relevance to specific jurisdiction, and is accordingly overbroad. Perl testified that PMF enters into factoring agreements with its clients in California and receives payments there. Perl also testified that PMF's relationships are with the merchants to whom the funds were originally owed, not the entity sending the check. Perl explained that PMF does

not record the originating state for payments it receives under its factoring agreements and researching to obtain the requested information would require hundreds of hours of work. PMF's receipt of payments from its clients' customers—third parties who happen to reside in Texas but with whom PMF has not contracted and who have no connection with this lawsuit—does not constitute a contact demonstrating purposeful availment. Even direct contracts between PMF and its clients' customers would not necessarily demonstrate purposeful availment. *See KC Smash 01, LLC v. Gerdes, Hendrichson, Ltd., L.L.P.*, 384 S.W.3d 389, 393 (Tex. App.—Dallas 2012, no pet.) (existence of contract between nonresident defendant and resident of forum and engaging in communications related to execution and performance of that contract were not contacts demonstrating purposeful availment).

Request for Production Nos. 3 and 4 (identical except for the date restrictions) are broadly worded to request not only Relators' communications, but Cake Craft's as well, "sent or believed to have been sent to or from Texas" that "relate to Cake Craft Defendants' business operations in Texas." Request for Production No. 5 seeks documents regarding "work you provided for Cake Craft Defendants relating to their business or operations in Texas." These requests are about Cake Craft's business operations in Texas, not Perl's or PMF's, and consequently are not relevant to Relators' purposeful availment. Only Relators' contacts with Texas are relevant, not those of a third party. *Cornerstone Healthcare Grp. Holding, Inc.*, 493 S.W.3d at 70–71. Because these requests encompass communications by parties other than

Relators regarding matters other than the relationship between Relators, Texas, and the RPIs' claims in this lawsuit, they are overbroad. *See In re Stern*, 321 S.W.3d at 843.

Quoting *Barron v. Vanier*, 190 S.W.3d 841, 849 (Tex. App.—Fort Worth 2006, no pet.), RPIs argue that the trial court “need only determine that ‘at least some of the categories of information for which [plaintiff] requests discovery relate to specific jurisdiction.’” But as Relators respond, *Barron* addressed the question whether jurisdictional discovery would be permitted at all. *See id.* at 850 (“we believe that Barron has alleged sufficient information which, if existing and discovered, could support his allegations of personal jurisdiction over Vanier and Goldowitz”). As we have noted, the parties here agreed to conduct jurisdictional discovery, and have done so except as to the seven requests at issue in this proceeding.

A central consideration in determining overbreadth is whether the request could have been more narrowly tailored to exclude irrelevant information while still seeking necessary, pertinent information. *In re Allstate Cty. Mut. Ins. Co.*, 227 S.W.3d 667, 669 (Tex. 2007) (per curiam) (orig. proceeding). In *In re Stern*, the court concluded that two requests for production were “not narrowly tailored to avoid inclusion of tenuous information irrelevant to the establishment of jurisdiction,” and consequently were overbroad. *In re Stern*, 321 S.W.3d at 843; *see also In re Fed. Corp.*, No. 13-16-00219-CV, 2016 WL 6519110, at *5 (Tex. App.—

Corpus Christi–Edinburg Nov. 1, 2016, orig. proceeding) (mem. op. on reh’g) (“discovery requests which are not reasonably tailored to disclose only the defendant’s activities directed at the forum are overbroad”). Request for Production Nos. 3 and 4 are not narrowly tailored to seek only relevant information about Relators’ purposeful availing of a Texas forum. *See In re Stern*, 321 S.W.3d at 843; *Searcy*, 496 S.W.3d at 66–67.

We conclude that the challenged interrogatories and requests for production exceed the scope of discovery permitted by rule of civil procedure 120a(3). *See* TEX. R. CIV. P. 120a(3). Consequently, we conclude the trial court abused its discretion when it granted RPIs’ motion to compel responses to Interrogatory Nos. 2, 6, and 8 and Request for Production Nos. 3, 4, 5, and 15.

We also conclude that mandamus relief is appropriate. “Mandamus is the proper remedy for a discovery order that compels production beyond the rules of procedure.” *In re Deutsche Bank Secs. Inc.*, No. 03-14-00744-CV, 2015 WL 4079280, at *4 (Tex. App.—Austin July 3, 2015, orig. proceeding) (mem. op.) (internal quotations omitted). RPIs argue that “the only injury claimed is the ordinary expense of litigation.” But “allowing discovery of a potential claim against a defendant over which the court would not have personal jurisdiction denies him the protection Texas procedure would otherwise afford.” *In re Deutsche Bank Secs. Inc.*, 2015 WL 4079280, at *4 (internal quotations omitted). Accordingly, we conclude mandamus relief is appropriate. *See id.* We sustain Relators’ sole issue. *See In re*

Stanton, No. 05-17-00834-CV, 2017 WL 3634298, at *1 (Tex. App.—Dallas Aug. 24, 2017, orig. proceeding) (mem. op.) (granting writ, explaining that “Rule 120a requires discovery be limited to matters relevant to jurisdiction prior to a ruling on a special appearance”).

CONCLUSION

Relators have shown their entitlement to mandamus relief. Accordingly, we conditionally grant Relators’ petition for writ of mandamus and direct the trial court to issue an order vacating the portion of its January 28, 2020 “Order Granting Plaintiffs’ Motion to Compel Expedited Jurisdiction Discovery” requiring Relators to respond to Interrogatory Nos. 2, 6, and 8 and Request for Production Nos. 3, 4, 5, and 15. A writ will issue only if the trial court does not comply within thirty days of the date of this opinion.

/Leslie Osborne/
LESLIE OSBORNE
JUSTICE

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