

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

WERNER ENTERPRISES, INC.,

Petitioner,

v.

Case No. 5D21-857
LT Case No. 2019-CA-1383

LISA SWEENEY, MICHAEL LANCE
AND MICHAEL KELLY,

Respondents.

_____ /

Opinion filed October 22, 2021

Petition for Certiorari Review of Order
from the Circuit Court for Marion County,
Edward L. Scott, Judge.

Michael M. Brownlee, of The Brownlee
Law Firm, P.A., Orlando, for Petitioner.

Harold S. Velez, of Farah & Farah, P.A.,
Orlando, for Respondent, Lisa
Sweeney.

Jarrold G. King, of King Law Firm, Ocala,
for Respondent, Michael Lance.

Daniel S. Weinger, of Luks, Santaniello,
Petrillo & Cohen, Fort Lauderdale, for
Respondent, Michael Kelly.

PER CURIAM.

The petition for writ of certiorari is dismissed for lack of jurisdiction.

PETITION DISMISSED.

EISNAUGLE and WOZNIAK, JJ., concur.

EVANDER, J., concurring and concurring specially, with opinion.

Petitioner seeks certiorari review of the trial court's order compelling a better answer to a particular interrogatory. I agree that dismissal of the petition is required because petitioner has failed to establish irreparable harm. Quite simply, the interrogatory at issue does not constitute a "*carte blanche*" request for irrelevant discovery. See, e.g., *Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 95 (Fla. 1995) ("Although we cannot say that irrelevant materials sought in a discovery request necessarily caused irreparable harm, we cannot believe that a litigant is entitled *carte blanche* to irrelevant discovery.").

Petitioner unsuccessfully argued below that the subject interrogatory was overbroad and burdensome. I believe that argument was clearly meritorious. However, overbreadth is not a proper basis for certiorari review of a discovery order. See *Bd. of Trs. of Internal Improvement Tr. Fund v. Am. Educ. Enters., LLC*, 99 So. 3d 450 (Fla. 2012). Our dismissal of the instant petition does not preclude the trial court from revisiting its order, particularly should petitioner provide the trial court with greater detail as to the costs likely to be incurred in order to comply with the discovery request. Nor does our dismissal of the petition preclude petitioner from seeking to

recoup costs incurred from overly burdensome discovery at the conclusion of the case. See *Topp Telecom, Inc. v. Atkins*, 763 So. 2d 1197, 1200 n.5 (Fla. 4th DCA 2000) (“Of course the mere fact that a trial judge has allowed burdensome discovery to proceed does not forestall later reallocation of the costs incurred when the prevailing party seeks to tax costs at the end of the case.”).