

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

ORANGE PARK CHRISTIAN
ACADEMY, etc.,

Petitioner,

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

v.

CASE NO. 1D04-4490

SUSAN RUSSELL, as mother of
ROZENA BRUNI,

Respondent.

Opinion filed April 15, 2005.

Petition for Writ of Certiorari - Original Jurisdiction.

Michael R. D'Lugo, Esq. and Richard E. Ramsey, Esq. of Wicker, Smith, O'Hara, McCoy, Graham & Ford, P.A., Orlando, for Petitioner.

John W. Dill, Esq. of Attorneys Trial Group, Orlando; Deborah Halvorsen, Esq. of O'Hara, Spradley & Waters, Jacksonville, for Respondent.

PER CURIAM.

Petitioner, Orange Park Assembly of God, doing business as Orange Park Christian Academy, seeks certiorari review of the trial court's order compelling disclosure of a report produced by a teacher at the school and notes and memoranda

prepared by the school's principal regarding an incident during which the minor daughter of respondent, Susan Russell, was struck by a motor vehicle when petitioner was allegedly responsible for supervising her. Petitioner argues that the trial court departed from the essential requirements of law in ordering disclosure because the documents constitute work product. We agree.

The documents created in anticipation of litigation are privileged pursuant to the work product doctrine because it was foreseeable that litigation might ensue from the incident. See Wal-Mart Stores, Inc. v. Ballasso, 789 So. 2d 519, 520 (Fla. 1st DCA 2001); McRae's, Inc. v. Moreland, 765 So. 2d 196, 197 (Fla. 1st DCA 2000). Additionally, both the teacher and principal gave deposition testimony indicating that each had contemplated litigation at the time the documents were prepared. As such, the trial court departed from the essential requirements of law in granting the motion to compel where there was no showing that respondent needs the documents and could not obtain substantially the same information without undue hardship. See Fla. R. Civ. P. 1.280(b)(3). Therefore, we GRANT the petition for writ of certiorari, quash the trial court's order, and REMAND the cause for further proceedings consistent with this opinion.

ERVIN, PADOVANO and LEWIS, JJ., CONCUR.