

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2011*

**JOSEPH CHARNECO,**  
Petitioner,

v.

**KEVIN GAYDA, KELLY GAYDA, and NICHOLAS CHARNECO,**  
Respondents.

No. 4D11-2606

[September 14, 2011]

PER CURIAM.

The petition for writ of certiorari is dismissed.

WARNER and POLEN, JJ., concur.  
GROSS, J, concurs specially with opinion.

GROSS, J., concurring specially.

Although I find the trial judge's order to be a departure from the essential requirements of law, I see no reason why the harm that will result from the order cannot be corrected on plenary appeal. The order fails to meet the requirements for certiorari review of an order denying discovery. *See Romanos v. Caldwell*, 980 So. 2d 1091, 1092 (Fla. 4th DCA 2008). (observing that certiorari review of orders denying discovery "is reserved for extraordinary and highly unusual situations where the trial court's order constitutes a serious departure from the essential requirements of law that cannot be remedied on direct appeal"). In a case where the defendant below has not been shown to have any responsibility for the sanctioned conduct of his stricken experts and prior counsel, there is nothing to prevent the trial judge from reconsidering the severity of the sanction he has imposed.

\* \* \*

Petition for writ of certiorari to the Seventeenth Judicial Circuit, Broward County; Peter Weinstein, Judge; L.T. Case No. 08-34923 (12).

Neil Rose of Bernstein, Chackman, Liss & Rose, Hollywood, for petitioner.

Bard D. Rockenbach of Burlington & Rockenbach, P.A., West Palm Beach, John J. Uustal and Eric S. Rosen of Kelley, Uustal, PLC, Fort Lauderdale, for respondents.

***Not final until disposition of timely filed motion for rehearing.***