

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

THINKING SYSTEMS CORPORATION,

Petitioner,

v.

JINGBAI WANG; THINKING SYSTEMS SALES AND SERVICE, LLC;
and XIAOYI WANG,

Respondents.

No. 2D22-606

November 2, 2022

Petition for Writ of Certiorari to the Circuit Court for Pinellas
County; Amy Williams, Judge.

Joseph P. Kenny of Weber, Crabb & Wein, P.A., St. Petersburg, for
Petitioner.

No appearance for Respondent Jingbai Wang.

Robert E. Burguieres of Robert E. Burguieres, P.A., St. Petersburg,
for Respondents Thinking Systems Sales and Service, LLC and
Xiaoyi Wang.

BLACK, Judge.

Thinking Systems Corporation (TSC) seeks certiorari review of the trial court's order compelling TSC to produce corporate documents to Jingbai Wang. Because the documents requested amount to an accounting to which Mr. Wang has not been determined to be entitled, we grant the petition and quash the trial court's order.

TSC's lawsuit against Mr. Wang included claims for declaratory relief, breach of fiduciary duty, and conversion. As relevant here, Mr. Wang filed counterclaims against TSC, including a claim for an accounting. Following the entry of partial summary judgment in favor of Mr. Wang, where the court found only that "no reasonable jury could find that [Mr. Wang] was not an owner of shares in TSC or an equitable shareholder in this business," Mr. Wang sought discovery of corporate documents. TSC denied Mr. Wang's discovery request, relying in part on Mr. Wang's failure to comply with section 607.1602(3), Florida Statutes (2021). Mr. Wang then filed a motion to compel, which was granted. The order on review states only that Mr. Wang's motion to compel is granted

and that "those items required under FS 607 shall be produced within 15 days."

TSC correctly asserts in its petition that these types of discovery concerns are generally addressed via certiorari. *See Collier Anesthesia, P.A. v. Worden*, 726 So. 2d 342, 343 (Fla. 2d DCA 1999); *D. Stephenson Constr., Inc. v. Mendiguren*, 958 So. 2d 527, 528 (Fla. 4th DCA 2007). TSC argues that the trial court departed from the essential requirements of the law when it granted the motion to compel because the documents sought by Mr. Wang are not those available to all shareholders as a matter of course under section 607.1602(1) and Mr. Wang has not established entitlement to the documents pursuant to section 607.1602(3).

We agree with TSC that the records and documents sought are not those listed in section 607.1602(1) and that in order to be entitled to review the requested documents—documents amounting to an accounting—Mr. Wang must first have established a right to an accounting and compliance with section 607.1602(3). *See Collier Anesthesia*, 726 So. 2d at 343 ("Items possibly relevant to an accounting are not discoverable until the right to an accounting has

first been established."). Mr. Wang's counterclaim seeking an accounting remained pending at the time the trial court granted the motion to compel. He was therefore not entitled to the information sought when the court entered the order, and the court departed from the essential requirements of the law by finding otherwise. *See id.* at 344. Accordingly, we grant the petition for writ of certiorari and quash the trial court's order granting Mr. Wang's motion to compel.

Petition granted; order quashed.

NORTHCUTT and LUCAS, JJ., Concur.

Opinion subject to revision prior to official publication.