

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ESTATE OF LISA McPHERSON,)
by and through the Personal)
Representative, DELL LIEBREICH,)
)
Petitioner,)
)
v.)
)
CHURCH OF SCIENTOLOGY FLAG)
SERVICE ORGANIZATION, INC.,)
)
Respondent.)
_____)

Case No. 2D01-5122

Opinion filed April 3, 2002.

Petition for Writ of Certiorari to the
Circuit Court for Pinellas County;
Robert E. Beach, Senior Judge.

Kennan G. Dandar of Dandar & Dandar,
P.A., Tampa, for Petitioner.

Kendrick L. Moxon and Helena K.
Kobrin of Moxon & Kobrin, Clearwater;
Lee Fugate and Morris Weinberg, Jr., of
Zuckerman, Spaeder, LLP, Tampa; and
Michael Lee Hertzberg, New York, New
York, for Respondent.

PARKER, Judge.

The estate of Lisa McPherson, by and through the personal representative, Dell Liebreich (the estate), petitions this court for a writ of certiorari to quash a discovery order that grants a request by the respondent, the Church of Scientology Flag Service Organization, Inc. (the church), for production of documents. We grant the writ and quash the discovery order.

The estate filed a wrongful death action against the church for the death of Lisa McPherson. McPherson died while in the care of church staff members. The parties' medical experts disagree on the cause of McPherson's death. At issue here is a discovery order the trial court entered pursuant to the church's forty-seventh request for production. The challenged order requires the estate to produce the following:

[A]ll documents concerning the payment by any person or entity since January 1, 2000 of any sum of money over the amount of \$500 to the plaintiff or her attorney or any representative or agent of plaintiff, used to pay for any cost, expense, or fee associated with this litigation, excluding payments from Robert Minton¹ and any agreements thereto.

(Footnote added.)

Certiorari review "is appropriate when a discovery order departs from the essential requirements of law, causing material injury to a petitioner throughout the remainder of the proceedings below and effectively leaving no adequate remedy on appeal." Allstate Ins. Co. v. Langston, 655 So. 2d 91, 94 (Fla. 1995). First, to determine whether this court has jurisdiction for certiorari review, we must "assess

¹ Earlier discovery confirmed that Robert Minton has provided one million dollars to the petitioner's attorney to aid in the funding of this wrongful death action.

whether the petitioner has made a prima facie showing that the order creates irreparable harm." Morgan, Colling & Gilbert, P.A. v. Pope, 798 So. 2d 1, 3 (Fla. 2d DCA 2001). We recognize that the disclosure of irrelevant information does not necessarily create irreparable harm. See Langston, 655 So. 2d at 94; Morgan, Colling & Gilbert, 798 So. 2d at 2. Under the circumstances here, however, we agree with the estate that if the challenged discovery is allowed, it will create irreparable harm that cannot be remedied on plenary appeal. Here, the defendant in a wrongful death case is seeking information from the plaintiff and its counsel regarding the source of significant contributions to fund the litigation. As the estate contends, this will create a chilling effect on receiving future funding. Furthermore, the estate points out that if it is forced to disclose how much money it has to spend on litigation prior to the conclusion of the case, the church will know how long the estate "can last before it has to throw in the towel due to lack of funds." The fact that this is the church's forty-seventh request for production bolsters the conclusion that the church will litigate until the estate can no longer afford to continue. With this in mind, we hold that the production of the requested documents will cause the estate to suffer irreparable harm.

Second, this court must consider whether the trial court departed from the essential requirements of law. See City of Oldsmar v. Kimmins Contracting Corp., 805 So. 2d 1091 (Fla. 2d DCA 2002). The trial court's discovery order requires the estate and its counsel to produce documents to the church that reveal the source of funding for this litigation. "Discovery in civil cases must be relevant to the subject matter of the case and must be admissible or reasonably calculated to lead to admissible evidence." Langston, 655 So. 2d at 94; see Fla. R. Civ. P. 1.280(b)(1). We have thoroughly

reviewed the church's lengthy response and attachments and conclude that the information sought is not reasonably calculated to lead to the discovery of admissible evidence in the trial of this wrongful death action. Under the circumstances here, we conclude that the trial court's order is a departure from the essential requirements of the law.

The petition for writ of certiorari is granted, and the trial court's order granting the church's forty-seventh request for production is quashed.

WHATLEY and CASANUEVA, JJ., Concur.