

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

PETRI POSITIVE PEST CONTROL, INC., a Florida Corporation,
Petitioner,

v.

CCM CONDOMINIUM ASSOCIATION, INC., a Florida Non-Profit
Corporation d/b/a Country Club Manor Condominium Association,
Respondent.

No. 4D14-4728

[September 24, 2015]

Petition for writ of certiorari to the Circuit Court for the Seventeenth
Judicial Circuit, Broward County; Marina Garcia-Wood, Judge; L.T. Case
No. 13-027168-18 CACE.

Daniel M. Schwarz, Scott A. Cole and Gregory J. Willis of Cole, Scott &
Kissane, P.A., Miami, for petitioner.

Eric C. Edison and Thomas P. Angelo of Angelo & Banta, P.A., Fort
Lauderdale, for respondent.

PER CURIAM.

Petitioner, Petri Positive Pest Control, Inc. (Petri), seeks certiorari relief
from a November 12, 2014 order granting respondent CCM Condominium
Association, Inc.'s (CCM) motion for leave to assert a punitive damages
claim. *See* § 768.72, Fla. Stat. (2014). Certiorari review is available to
determine whether a trial court has complied with the procedural
requirements of section 768.72, but not the sufficiency of the evidence.
See Globe Newspaper Co. v. King, 658 So. 2d 518, 520 (Fla. 1995).

Although the trial court held a hearing on the matter, neither the
court's verbal comments nor written order indicate whether it found that
CCM demonstrated a reasonable basis for seeking punitive damages.
"[W]e read section 768.72 as creating a positive legal right in a party not
to be subjected to financial worth discovery until the trial court has first
made an *affirmative finding* that there is a reasonable evidentiary basis for
the punitive damages claim to go to the jury." *Henn v. Sandler*, 589 So.
2d 1334, 1335 (Fla. 4th DCA 1991) (emphasis added). We quash the order

on review and remand for the trial court to enter its affirmative findings or, if necessary, hold further proceedings consistent with this opinion.

STEVENSON, GROSS and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.