Fifth Circuit Court of Appeal
State of Louisiana

No. 25-C-505

KENSINGTON CAPITAL ADVISORS, LLC, ET AL.

versus

DELOS CAPITAL MANAGEMENT LP, ET AL.

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 851-721, DIVISION "C"
HONORABLE JUNE B. DARENSBURG, JUDGE PRESIDING

August 19, 2026

FREDERICKA HOMBERG WICKER

JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Marc E. Johnson, and John J. Molaison, Jr.

<u>WRIT GRANTED</u>

FHW
MEJ
JJM

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LLC, AND JOHN OHLE
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WICKER, J.

Relators, Chelan KC Edgard, LLC, Chelan KC Edgard GP, LLC, Chelan Advisors, LLC, and Kenneth Picache,[1] seek this Court's supervisory review of the August 20, 2025 judgment of the 24th Judicial District Court, denying their Motions to Quash notices of records deposition and subpoenas duces tecum issued to Bank of America, N.A and JP Morgan Chase.[2] The notices and subpoenas duces tecum were issued by respondents, Kensington Capital Advisors, LLC, Kensington Realty Group, LLC, Allied Transportation of Louisiana, LLC, Pelican Barge and Transportation, LLC, Museum of Sports History, LLC, and John Ohle. For the reasons stated below, we grant the writ application and reverse the trial court's judgment ordering Relators to comply with the notices and subpoenas by having BOA and Chase comply with the Bank Subpoenas.

FACTS AND PROCEDURAL HISTORY

The Parties

The plaintiffs and defendants-in-reconvention in this litigation, who are respondents in this writ application, are Kensington Capital Advisors, LLC; Kensington Realty Group, LLC; Allied Transportation of Louisiana, LLC; Pelican Barge and Transportation, LLC; Museum of Sports History, LLC; and John Ohle.[3] The defendants and plaintiffs-in- reconvention in this litigation are Gulf Coast Construction & Materials, LLC, Edgard Construction Materials, LLC, St. James Construction Materials, LLC, and River Parishes Construction Materials, LLC.[4] Relators, whose bank records have been subpoenaed, are ***not*** parties to the litigation.

The Underlying Litigation

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[1] Chelan KC Edgard, LLC, Chelan KC Edgard GP, LLC, and Chelan Advisors, LLC will be referred to hereinafter as "Chelan." Kenneth Picache will be referred to hereinafter as "Picache;" and Chelan and Picache will be referred to collectively as "Relators."

[2] Bank of America, N.A. will be referred to herein as "BOA;" JP Morgan Chase will be referred to herein as "Chase;" BOA and Chase may be jointly referred to herein as the "Banks;" the notices and subpoenas duces tecum issued to BOA and Chase will be jointly referred to herein as the "Bank Subpoenas."

[3] Kensington Capital Advisors, LLC, Kensington Realty Group, LLC, Allied Transportation of Louisiana, LLC; Pelican Barge and Transportation, LLC, and Museum of Sports History, LLC will be referred to hereinafter as "Kensington," and together with John Ohle ("Ohle"), the "Kensington Parties." Allied Transportation of Louisiana LLC individually will be referred to herein as "Allied." Pelican Barge and Transportation, LLC will be referred to herein as "Pelican." The Kensington Parties may be collectively referred to herein as "Respondents."

[4] Gulf Coast Construction & Materials, LLC, Edgard Construction Materials, LLC, St. James Construction Materials, LLC, and River Parishes Construction Materials, LLC will be collectively referred to herein as "GCCM" Additional defendants are Delos Capital Management, LP and Delos Edgard, LP; Hawk RDF, L.L.C.; Robert D. Field; BAK Advisors, Inc.; and Bernard Katz. These defendants did not join with GCCM in the filing of the reconventional demand. Together with GCCM, these parties may be referred to collectively herein as the "GCCM Parties."

The Kensington Parties filed suit against the GCCM Parties alleging breaches of various trucking, employment, and consulting agreements among them and the GCCM Parties, related to the operation of two clay borrow pits – the Willow Bend pit and the Big Shake pit. The borrow pits are owned by GCCM and located in the River Parishes.[5] The Kensington Parties allege that pursuant to agreements dated June 8, 2018, and February 21, 2020, they had the exclusive rights to all trucking and transportation contracts related to the operation of GCCM's borrow pits.[6] The Kensington Parties were controlled by or affiliated with, Ohle, who became a co-manager of GCCM's predecessor in June 2018. The Kensington Parties asserted causes of action for breach of the trucking contracts; breach of the employment/consulting agreements; tortious interference with the trucking contracts; tortious interference with the employment contracts; breach of implied covenants of good faith and fair dealing; negligent misrepresentation; fraud; violation of the Louisiana Unfair Trade Practices Act ("LUTPA"); violation of the Louisiana Wage Payment Act; and conversion and deprivation of intellectual property. The Petition also includes a request for summary proceedings as to unpaid wages and seeks injunctive relief and declaratory judgment.

GCCM terminated its business relationship with Kensington/Ohle in 2024. In its reconventional demand, GCCM has alleged that from late 2022 through the beginning of 2024, the Kensington Parties, through Ohle, engaged in schemes to convert, steal, misappropriate, and skim millions of dollars in trucking fees and commissions from GCCM. They further alleged that Kensington/Ohle converted resources and property belonging to GCCM.[7] They assert causes of action for breach of contract and bad faith breach of contract; fraud and conspiracy to commit fraud; breach of fiduciary duties; tortious interference with business relationships; violations of the Louisiana Unfair Trade Practices Act; conversion and misappropriation; misappropriation of trade secrets and confidential information; violation of the Computer Fraud and Abuse Act; detrimental reliance; and unjust enrichment. They also sought injunctive relief.

The Alleged Relationships of Chelan and Picache to the Parties and the Action

In their writ application, Relators allege that Chelan has "a small stake in the enterprise" operating the borrow pits and that Picache was "involved in the management of the pits years ago." The allegations set forth in Kensington's *Petition for Damages, Declaratory Judgment, Preliminary Injunction, and Permanent Injunction* as supplemented and amended by their *Supplemental, Amended, and Restated Petition for Damages, Declaratory Judgment, Preliminary Injunction, and Permanent Injunction* (the "Petition"), describe their roles in the project.

The Petition alleges the following regarding Chelan and Picache:

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[5] Louisiana's River Parishes are comprised of St. St. Charles, St. John the Baptist and St. James Parishes (the "River Parishes").

[6] GCCM's business was selling clay from the Willow Bend and Big Shake borrow pits for government works projects. The clay was taken away from the pits by truck pursuant to contracts with trucking companies.

[7] Respondents claim that the Bulldozer was sold for $47,000 in June 2023, and that the proceeds of the sale were converted by Kensington/Ohle.

Kensington's wholly owned subsidiary River Parish Dirt and Gravel, LLC ("RPDG"), had an agreement to purchase the Willow Bend borrow pit. In 2018, Kensington entered into a partnership with Chelan and defendant/plaintiff-in-reconvention, Delos Capital Management LP and its special purpose entity, Delos Edgard LP (jointly, "Delos") to purchase, develop and operate the Willow Bend pit.[8] To that end, they formed Edgard Construction Materials Holdings, LLC ("ECM Holdings") and caused RPDG to assign the purchase agreement to EMC Holdings' wholly owned subsidiary, Edgard Construction Materials, LLC ("ECM"). After ECM's purchase of the Willow Bend pit, ECM Holdings was managed by Picache (Chelan) and Ohle (Kensington). Picache and John Wagner, of Kensington, were appointed to ECM Holdings' Board of Managers. Matt Constantino, the managing member of Delos, served as Chairman of ECM Holdings' five-member Board of Managers. When Mr. Constantino resigned from the Board in July 2020, Picache and Ohle were responsible for training his successor, Bernard Katz ("Katz"), whom Delos appointed as an "independent" member of the Board, *i.e.,* he was not employed by Delos.

Picache, together with Ohle, was instrumental in ECM's acquisition of the Big Shake pit, which St. James Construction Materials, LLC ("SJCM"), another wholly owned subsidiary of ECM Holdings, purchased in December 2020. ECM Holdings thereafter changed its name to Gulf Coast Construction and Materials, LLC. Picache was the Chief Executive Officer ("CEO") of GCCM. At Picache's urging, Ohle was appointed as the company's Chief Operating Officer ("COO"). Chelan was to receive a "success fee" upon closing of the Big Shake purchase.

Picache and Ohle also played a crucial role in negotiations with St. James Parish that culminated in an agreement between the Parish and SJCM, in April 2023, which allowed the Big Shake pit to re-open. Immediately after the agreement was completed, Delos advised Picache and Ohle that GCCM would no longer pay their salaries on a current basis.

In 2022, Delos began to experience cash flow problems. Picache and Ohle were tasked by Delos with identifying a funding source for lines of credit or other financial assistance. At the time, Kensington was working with Capital Plus Financial to establish a factoring line of credit for its affiliate, Allied. Kensington "brought its relationship with Capital Plus to GCCM," and ultimately, GCCM also established a factoring line of credit with Capital Plus.[9]

Later, in 2022, Picache and Ohle arranged for Capital Plus to provide a $750,000 collateralized loan to GCCM. In March 2023, Capital Plus informed GCCM that it would not be able to fund further loans. Katz unsuccessfully attempted to restructure the Capital Plus loan, resulting in a lack of capital. Delos ceased funding GCCM's operations and Chelan advanced funds to cover GCCM's payroll. A few months prior to this event, Delos asked Picache to find a "liquidity event" that would enable Delos to meet its obligations to return capital to the Delos

[8] GCCM's reconventional demand describes Delos as a private equity fund that invests in high-quality, lower middle-market companies. Delos ultimately acquired a controlling interest in the company that became GCCM.

[9] A factoring line of credit is a financial tool used to "factor" invoices, or accounts receivable to provide immediate cash for the business, rather than having to wait until its outstanding invoices are paid. Capital Plus agreed to factor GCCM's outstanding trucking invoices/accounts receivable.

Fund II investors. Picache was unable to do so and Delos then asked him and Ohle to identify a purchaser for Delos' interest in GCCM and to bring a purchase offer to Delos, which they did. Delos refused the offer and in May 2023 fired Picache from his position as CEO for GCCM; however, Picache remained a member of GCCM's Board of Managers. As of February 2024, GCCM's website continued to represent that Picache was the CEO of GCCM. It appears from allegations set forth in GCCM's reconventional demand that Picache was not a member of GCCM's Board at the time the reconventional demand was filed.[10] It appears from Relators' writ application that Chelan continues to own a minority stake in GCCM.[11]

In the reconventional demand, GCCM alleged, with respect to Chelan and Picache that:

In 2018, Picache made a proposal to Delos to provide capital necessary to purchase the Willow Bend pit from its then owner, which was in bankruptcy. Picache, who had a long-standing relationship with Mr. Constantino, the managing member of Delos, introduced him to Ohle, who, through RPDG, controlled the rights to purchase the Willow Bend pit. Mr. Constantino was concerned about getting involved in a business investment with Ohle, a disbarred attorney who had previously been convicted of fraud, embezzlement, and tax evasion, but Picache vouched for Ohle and stated that hiring Ohle was a condition of the investment. Based on reports and information provided by Ohle and Picache, Picache's representations that Ohle would be an asset to the business despite his past, and Ohle's assurances that he would give Delos no cause for concern relative to his involvement in the project, Delos proceeded with the investment and retained Ohle and Picache as paid outside consultants to manage the investment. An agreement among the parties was confected in April 2018 setting out the terms of Delos' investment in the Willow Bend pit. It provides, among other provisions, that Delos, through a subsidiary, would own and control the pit until Delos had recovered its entire agreed-upon return on investment, all trucking and transportation contracts relating to the Willow Bend pit would be referred to a company owned or controlled by Kensington/Ohle, and the parties would jointly pursue an opportunity to provide trucking services for Willow Bend and share the profits, with 50% going to Delos and Chelan, and 50% going to Kensington/Ohle.

In 2019, Picache and Ohle made a proposal to Delos for Delos to provide the capital necessary to purchase the Big Shake pit in St. James Parish. The proposal provided that Ohle would be retained as the COO of the ownership entity. Delos ultimately agreed to proceed with the investment but retained Ohle – and Picache – as outside consultants only. GCCM's predecessor entered into a letter of intent to purchase the Big Shake pit in February 2020. Also, in February 2020, Picache, as the CEO of the purchaser, purportedly signed a letter agreement – according to GCCM, without authority – granting an affiliate of Kensington/Ohle the trucking rights for hauling material from the Big Shake pit.

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[10] In the reconventional demand, GCCM represents that Ohle's suspicious use of an Allied Trucking email account was reported to Picache, "then a member of GCCM's board."

[11] Relators represent in their writ application/brief that "the Chelan entities hold a small stake in the enterprises."

Thereafter, Picache (and Ohle) induced GCCM's board to provide additional funding based on their representations that the company was experiencing legitimate cash flow issues. They convinced Delos that additional capital was needed to protect Delos' interest in the pits and capital calls were made, the largest portions of which were borne by Delos, as Kensington and Chelan only had a combined 6% interest in the company. Delos/GCCM ultimately discovered that the cash flow issues were allegedly caused by Picache's mismanagement and Ohle's skimming activities.

The foregoing demonstrates that the parties are in agreement that Picache played a significant role in GCCM prior to his termination in May 2023; however, no party on either side of this litigation has asserted any claims against him or Chelan.

The Notices of Records Deposition and Subpoenas Duces Tecum

Relators maintain bank accounts at BOA and Chase. On June 24, 2025, Kensington served the Bank Subpoenas on these banks, seeking production of more than seven years (2018 to the present) of Relators' bank account records for depository accounts, certificates of deposit, and any other financial accounts held at the banks in their names.

For each account (checking, savings, investment, or deposit), the banks were subpoenaed to produce (1) statements; (2) transaction histories; (3) deposit slips; (4) withdrawal slips; (5) checks; (6) wire transfer records; (7) account opening documents, including "know your customer" forms; (8) documents identifying account owners, users, and signatories; (9) signature cards; (10) tax forms; (11) images of cash, canceled, dishonored, or deposited checks, (12) images of deposit tickets/forms; (13) documents concerning safety deposit boxes; (14) records of transfers sent or received, including deposits, withdrawals, electronic fund transfers, and wires.

The return date set forth on both subpoenas was August 7, 2025. Copies of the Bank Subpoenas were served on Picache on June 25, 2025, and on Chelan on July 2, 2025.

The Motion to Quash

Relators filed a Motion to Quash the Bank Subpoenas. Therein, Relators contended, first, that Respondents failed to serve Chelan with the subpoenas within thirty business days prior to the return date shown in the subpoena, as required by La. R.S. 6:333(C)(2).[12] Relators argue that thirty *business days* prior to August 7, 2025, was June 25, 2025. Picache was served on June 25, 2025, but Chelan was not served until seven days later. Relators argue further that, under La. R.S. 6:333(C)(2), Respondents were required to furnish the banks with affidavits certifying that service had been made personally on each customer named in the subpoenas or the customer's counsel of record, within the thirty day period, and that they had produced no evidence that they complied with La. R.S. 6:333(C)(2). As a result, Relators argued that Respondents could not obtain Chelan's

[12] La. R.S. 6:333 provides the exclusive method by which a litigant may obtain customer bank records. *Ouachita Nat. Bank in Monroe v, Palowskey,* 554 So.2d 108, 111 (La. App. 2d Cir. 1989). That statute will be discussed in more detail, *infra.*

subpoenaed banking records. Second, Relators argued that, even if Respondents had complied with La. R.S. 6:333, the Bank Subpoenas were overly broad, that their banking records are not relevant to Respondents' claims, and that Respondents failed to establish good cause for seeking production of their bank records.

The Motion to Quash was opposed by Respondents.[13] They contended that, because the Bank Subpoenas were served on Chelan more than thirty business days prior to the *hearing* date, which was August 20, 2025, service was timely under La. R.S. 6:333(C)(2). They argued that the requested banking records were relevant to "dispute GCCM Defendants' allegation in their Reconventional Demand which accuses Plaintiffs of being the cause of GCCM's cash flow issues and provide veracity to the truthfulness of Kenneth Picache's and Matt Constantino's testimony regarding an illegal $250,000 cross-investment payment from GCCM to the Chelan Entities." They further argued "good cause" was established by Picache's testimony that a single payment of $250,000 from GCCM was made to him in February 2020 that was related, not to GCCM's business, but to United Flea Markets, an unrelated Delos investment; Mr. Constantino's testimony that if such a payment were made, it would have been "illegal" and unethical; Mr. Constantino's testimony that quarterly payments of $20,000 - 25,000 had been made from GCCM to "outside" – non-Delos – GCCM Board members for attendance at board meetings; and Mr. Katz's testimony that he informed Ohle that his consulting payments would not be made due to cash flow issues. In support of their opposition, Respondents attached excerpts from the depositions of Picache, Mr. Constantino, and Katz.

The Ruling: *Review*

A hearing was conducted on August 20, 2025. After lengthy arguments, the trial court. as to Chelan and Picache, stated:

> [W]ell, I now I have Picache and Constantino's testimony. Let me just say, Picache, in his deposition, said one thing regarding the $250,000 payment. Constantinos testimony regarding 250 is illegal, and what they said because of what they said, one said one thing, one said something else, then the Court is of [the] opinion that we need the records from the bank. No, do we? Maybe we need seven? Is it seven years from 2018, yes, seven years of records, especially considering that there was a $25,000 board member payment, allegedly. So, there's some questions. There's some questions as to the money flow from GCCM and Mr., the Plaintiffs are alleging that you cut my pay. You have money flow issues. . .so the only way to figure out if anybody was doing anything illegal would be checks would have to be deposited. Money would have to be, checks would have to be written to take money out of the account. Unfortunately, the only way to resolve all of this is to allow the bank statements to be

[13] On July 18, 2025, Respondents had also issued subpoenas to BOA and Chase for the banking records of the GCCM Defendants' and those of non-party Delos Investment Fund II, LLP, for the same seven-year period. The documents subpoenaed from the GCCM Defendants were virtually identical to those subpoenaed from Relators. The GCCM Defendants filed a Motion to Quash those subpoenas. Respondents filed a single opposition to both motions to quash.

provided. Of course, there needs to be a protective order in place in regards to those bank statements.

Although counsel for Chelan and Picache argued Respondents' failure to comply with La. R.S. 9:633(C)(2) at the hearing, the trial court did not rule on that issue. A written judgment was entered the same day of the hearing, denying the motion to quash filed by Chelan and Picache.[14] Relators filed a Motion for Suspensive Appeal on August 22, 2025. The matter was docketed in this Court under No. 25-CA-505. An appeal timely followed. On January 6, 2026, after the parties had filed their appeal briefs, the appeal was converted to an application for supervisory writs and was reassigned Docket No. 25-C-505.

DISCUSSION

Relators assign two errors. First, they assert that the trial court erred in finding that the subpoenas seeking Chelan's banking records were enforceable even though Respondents did not comply with La. R.S. 6:333. Second, they allege that the trial court erred in enforcing the Bank Subpoenas seeking their financial records without a showing of relevance and good cause for production and without proper consideration of their confidentiality interests as non-parties.

Failure to Comply with La. R.S. 6:333 as to Chelan

The exclusive method for obtaining records from a bank is found in La. R.S. 6:333. Subsection C allows a bank to disclose financial records pursuant to a disclosure demand, but only if the statutory requirements are met prior to such disclosure. *Bourgeois v. Bourgeois*, 13-38 (La. App. 1 Cir. 9/13/13), 135 So.3d 1, 4, *writ not considered*, 13-2439 (La. 1/27/14), 130 So. 3d 954, *citing Dana Johno, LLC v. Centennial Ins. Co.,* 04–1658 (La. App. 4 Cir. 12/1/04), 891 So.2d 32, 34.

La. R.S. 6:333 provides, in pertinent part:

> C. A bank may disclose financial records pursuant to a disclosure demand **if each of the following conditions are met**:
>
> (1) The disclosure demand is served on the bank's president, one of the bank's registered agents for service of process, or, if applicable, on the bank's counsel of record unless such service on such individuals is expressly waived by the bank.
>
> (2) Prior to the return date, the person requesting the issuance of the disclosure demand **furnishes the bank with an affidavit certifying both of the following:**
>
> (a) That such disclosure demand, or a certified copy thereof, has also been personally served upon each customer named in the disclosure demand to whom the financial records being sought pertain or upon such customer's counsel of record in accordance with Subsection D of this Section.

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[14] Also heard and decided that day was GCCM's motion to quash and motions to compel discovery.

(b) That such service was made at least thirty calendar days prior to the return date.

(3) The bank has not received written notice that a customer to whom the financial records pertain has taken legal action to enjoin or otherwise restrain the release of the financial records.

D. Service of a disclosure demand, or certified copy thereof, on any customer shall be made by utilizing any applicable method for service of citation on said customer authorized by the Code of Civil Procedure, including Articles 1231 through 1265. However, any such service may be made by an individual who is not a party and who is at least eighteen years of age, rather than by the sheriff. Service on any customer's counsel of record shall be made by personal service in the office of such counsel of record on either his secretary, as defined in Code of Civil Procedure Article 1235(C), or any partner or office associate of such counsel of record. Service on a customer or on his counsel of record may be made within or without the state of Louisiana.

(Emphasis added).

In *Bourgeois,* the court stated:

> In its written reasons, the trial court found no proof that the disclosure demand was personally served upon the customer, Mr. Bourgeois, or his counsel of record, as required by the statute. The court stated that '[m]ailing a copy of the letter requesting the subpoena duces tecum to [Mr. Bourgeois'] counsel of record does not comply with the statute as the statute specifically requires service of the disclosure demand through the Sheriff or a private process server.' Additionally, the trial court found no proof that the disclosure demand was personally served upon either Mr. Bourgeois or his counsel of record at least fifteen days prior to the return date as required by the statute. Lastly, the trial court found that no evidence was offered showing that Ms. Bourgeois or her counsel served Regions Bank with the affidavit required under LSA–R.S. 6:333C(2).[15] Finding that Ms. Bourgeois failed to comply with the requirements of LSA–R.S. 6:333, the trial court granted the motion to quash.
>
> It is well-settled that a court of appeal may not set aside a trial court's findings of fact in the absence of manifest error or unless it is clearly wrong. *Evans v. Lungrin,* 97–0541 (La.2/6/98), 708 So.2d 731, 735. Upon our thorough review of the record we find no manifest error in the factual findings of the trial court. Accordingly, we find no error in the granting of the motion to quash.

La. C.C.P. art. 2164 grants appellate courts broad authority to render any judgment that is just, legal, and proper upon the record on appeal. Although the trial court in this matter did not rule on this issue, it is clear from our extensive

[15] The notice provision under the current version of La. R.S. 6:333 is thirty days.

examination of the record in this case that Respondents introduced no evidence that the disclosure demand was personally served on Chelan or its counsel of record at least thirty days prior to the return date as required by La. R.S. 6:333(C)(2) or that it provided the required affidavits to the banks.

Accordingly, we find that the motion to quash should have been granted, as to Chelan for failure of Respondents to comply with the requirements of La. R.S. 6:333.

Relevancy and Good Cause as to Picache

A party may obtain discovery of any information, not privileged, which is relevant to the subject involved in the pending action. La. C.C.P. 1422. Discovery statutes are to be liberally and broadly construed to achieve certain basic objectives of the discovery process: (1) to afford all parties a fair opportunity to obtain facts pertinent to pending litigation; (2) to discover the true facts and compel disclosure of these facts wherever they may be found; (3) to assist litigants in preparing for trial; (4) to narrow and clarify the issues between the parties; and (5) to facilitate and expedite the legal process by encouraging settlement or abandonment of less than meritorious claims. *Centanni v. Centanni*, 21-30 (La. App. 5 Cir. 10/19/21), 362 So.3d 682, 687, *writ denied*, 21-1851 (La. 21522), 332 So.3d 1184, *citing Hodges v. Southern Farm Bureau Cas. Ins. Co.*, 433 So.2d 125, 129 (La. 1983).

However, there are limitations on discovery, particularly when justice requires that a party or other person be protected from annoyance, embarrassment, oppression, or undue burden or expense. La. C.C.P. art. 1426; *Kensington Capital Advisors, LLC, et al. v. Delos Capital Management LP, et al*., 25-C-430 (La. App. 5 Cir. 10/31/25), 423 So.3d 1159, 1163, *citing Stolzle v. Safety & Systems Assur. Consultants, Inc*., 02-1197 (La. 5/24/02), 819 So.2d 287, 289. A subpoena duces tecum request is limited to information that is relevant or necessary to the case before the court. *In Re Kohn*, 357 So.2d 279 (La. App. 4th Cir. 1979); *Keiffe v. La Salle Realty Co*., 112 So. 799, 163 La. 824 (1927).

Additionally, where a party is seeking production of records from a non-party, Louisiana jurisprudence requires both a showing of relevancy and good cause. *Stolze,* 819 So.2d at 289 (citing *Ouachita Nat'l Bank in Monroe v. Palowsky,* 554 So.2d 108 (La. App. 2d Cir. 1989)); *see also St. Bernard Port, Harbor & Terminal Dist. v. Violet Dock Port, Inc., L.L.C.,* 14-286 (La. App. 4 Cir. 8/27/14), 147 So.3d 1266, 1268. La. C.E. 401 The standard of relevancy is a liberal one, but it is not so liberal as to allow a party "to roam in shadow zones of relevancy and to explore matters which do not presently appear germane on the theory that it might conceivably become so." *Palowsky*, 554 So.2d at 112, *quoting In re Fontaine,* 402 F. Supp. 1219 (E.D.N.Y. 1975). "Good cause exists when a party shows that the court's intervention is justified and that an undue burden will not fall on the party who must produce the documents." *Dupre v. Our lady of Lourdes Regional Medical Center, Inc.*, 25-126, 25-147 (La. App. 3 Cir. 9/24/25), 422 So.3d 353, *citing Stolzle,* 819 So.2d at 289; *LaBarre v. Texas Brine Co., LLC*, 17-309 (La. App. 1 Cir. 2/7/18), 347 So.3d 949. Stated another way, good cause may be demonstrated where the party shows "the unavailability of the information from other sources, and further, by relating its need [for the discovery] to the issues in dispute." *Bianchi v. Pattison Pontiac Co., Inc.*, 258 So.2d 388, 390 (La. App. 4th Cir. 1972).

Ordinarily, documents such as bank records and tax returns are confidential documents due to the "highly personal character of their content." *Palowsky,* 554 So.2d at 112; *see also Kensington Capital Advisors, LLC, et al. v. Delos Capital Management, LP*, *et al*., 25-430 (La. App. 5 Cir. 10/31/25), 423 So.3d 1159, 1163, *citing Centanni,* 362 So.3d at 687. To discover these records, the party must make a significant showing of relevancy. The court should be very cautious in permitting inspection and copying of such records. Such action should be authorized only after the court is convinced both of its relevancy and necessity for the prosecution of the litigation. *Palowsky,* 554 So.2d at 112, *citing Bianchi,* 258 So.2d at 390.

La. C.C.P. Art. 1354 permits the trial court to vacate or modify a subpoena duces tecum request if it is unreasonable or oppressive. That article states in pertinent part:

> A subpoena may order a person to appear and/or produce at the trial or hearing, books, papers, documents, or any other tangible things in his possession or under his control, if a reasonably accurate description thereof is given. . . The court in which the action is pending in its discretion may vacate or modify the subpoena if it is unreasonable or oppressive.

A trial court is afforded broad discretion in its consideration of discovery matters. *Sercovich v. Sercovich*, 11-1780 (La. App. 4 Cir. 6/13/12), 96 So. 3d 600, 603. The test for discoverability is not whether the information will be admissible at trial, but whether the information appears reasonably calculated to lead to the discovery of admissible evidence. La. C.C.P. art. 4122. On appellate review, this Court will not disturb the trial court's ruling on a motion to quash concerning a subpoena duces tecum in the absence of an abuse of discretion. An appellate court must balance the information sought considering the factual issues involved and the hardships that would be caused by the court's order when determining whether the trial court erred in ruling on a discovery order. *Kensington Capital Partners, LLC*, 423 So.3d at 1163, *citing Sercovich*, 96 So.3d at 603. This balancing approach allows courts to fashion appropriate relief through protective orders, as provided in La. C.C.P. art. 1426.[16] *Kensington Capital Partners, LLC.* 423 So.3d at 1163. The granting of a protective order, and the extent of the protection, are within the discretion of the district court. *Palowsky v. Campbell*, 21-279 (La. App. 5 Cir. 8/26/21), 327 So.3d 589, 598, *writ denied*, 21-1428 (La. 11/23/21), 328 So.3d 74.

When an appellate court finds the trial court made a reversible error of law, it is required, whenever the state of the record on appeal allows, to redetermine the facts *de novo* and render a judgment on the merits. *Dileo v. Horn*, 15-684 (La. App. 5 Cir. 3/16/16), 189 So.3d 1189, 1207. Nevertheless, an appellate court may remand a case to the trial court for proper consideration, where it is necessary to reach a just decision and to prevent a miscarriage of justice. La. C.C.P. art. 2164; *Wegener v. Lafayette Ins. Co.*, 10-810 (La. 3/15/11), 60 So.3d 1220, 1233-34. Whether a case should be remanded is a matter which is vested within the court's discretion and depends upon the circumstances of the case." *Id.*; 323 So.3d at 939 (citation omitted).

[16] Article 1426 provides various protective mechanisms, and authorizes courts to seal documents, restrict the disclosure of confidential information, or order that information not be disclosed or be disclosed in a designated way.

As they did in the trial court, Relators claim here that Respondents failed to demonstrate that the information sought in the Bank Subpoenas was relevant to the issues in the case or to demonstrate good cause for the production of the subpoenaed documents.

The Bank Subpoenas

As discussed above, when discovery is sought from a *non-party*, the party seeking production must demonstrate relevancy and good cause, particularly where the records that are the subject of a subpoena are confidential, such as the banking records here. The trial court treated these non-parties the same as the parties, with respect to these Bank Subpoenas; however, there is a legal distinction. The burden of showing relevancy and good cause is heightened when the records sought are those of non-parties, such as Relators. *Palowsky,* 554 So.2d at 111-12. The district court erred in failing to take this distinction into account and denying Relators' motion to quash. A motion to quash tests whether the party seeking production from the non-party has convincingly established relevancy and good cause. Relevancy and good cause must be shown as to each non-party and the non-party's subpoenaed records. We accordingly review the district court's decision *de novo* in accordance with the authorities discussed above and render judgment on the merits.

Because Relators are non-parties, Respondents were required to demonstrate that the records are unavailable from other sources, that they are necessary for the prosecution of the litigation and that they relate to the issues in dispute. We observe that, in each instance, Respondents failed to meet their burden of proof. They did not demonstrate that they have not already obtained or cannot obtain the information related to payments that may have been wrongfully made to Picache from other sources, such as GCCM's own banking records. They have not shown that the Bank Subpoenas were narrowly tailored to obtain evidence that could lead to the discovery of admissible evidence. Instead, they have simply taken a "shotgun" approach to obtain years of confidential banking records of Picache, who is not a party to this litigation.

Respondents have identified a single transaction that occurred in February 2020, wherein Picache was paid $250,000 from GCCM's account relating to services rendered in conjunction with a company that was not related to GCCM. This payment is not contested by GCCM or by Picache. The only relevance identified by Respondents is that the payment was made by GCCM and "affected" its cash flow issues. Respondents have not identified any payments that Picache received for attending GCCM board meetings. Importantly, Respondents have not offered any evidence that funds belonging to GCCM, which should have been paid to them by GCCM, were diverted and deposited into any bank account owned by Picache (or Chelan for that matter) at BOA or Chase. They simply have not tied these bank accounts to any funds that may have been misappropriated, or misapplied.

The trial court stated that:

> When you file a lawsuit, then you're open to almost anything, and that's what I think a lot of people don't understand. They want to limit the discovery. But once you file that lawsuit, the other party

> wants to know everything, and they're entitled to it, and one thing leads to another.

Whether or not we agree with these statements, it is clear in this case that Picache did not file a lawsuit; nor is he a defendant in a lawsuit. Picache has not been accused of misappropriation of funds or of aiding and abetting the misappropriation of funds by any party to this litigation. At best, Picache is a witness, who should not be expected or required to open some seven years of his personal banking records to the parties in this action without some evidence that his BOA and Chase bank accounts were actually used to assist GCCM in avoiding its obligations to Respondents.

Accordingly, for the reasons stated above the writ application is granted and the judgment of the trial court ordering Chelan and Picache to comply with the Bank Subpoenas is reversed.

WRIT GRANTED

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **AUGUST 19, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell
CURTIS B. PURSELL
CLERK OF COURT

25-C-505

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE JUNE B. DARENSBURG (DISTRICT JUDGE)
JAMES H. GILBERT (RELATOR)
MATTHEW W. MCDADE (RESPONDENT)
THOMAS M. FLANAGAN (RELATOR)
ROBERT J. STEFANI, JR. (RESPONDENT)
COREY E. DUNBAR (RESPONDENT)
W. SPENCER KING (RESPONDENT)

MAILED
NO ATTORNEYS WERE MAILED