

majority's disposition on the reasoning I have now laid out.



**Judith H. RICHMAN and Dur-rich Realty, Inc., Appellants,**

v.

**Robert S. CALZARETTA, Debra Calzaretta, Kelsmeg, LLC and Sea & Sun Realty, Inc., Appellees.**

Case No. 5D21-1307

District Court of Appeal of Florida,  
Fifth District.

Opinion filed May 13, 2022

**Background:** Shareholder initiated garnishment proceedings to collect judgment for attorney fees, which had been obtained in underlying suit to inspect and copy corporate records, and moved for additional fees. The Circuit Court, 18th Judicial Circuit, Brevard County, Dale Curtis Jacobus, J., awarded fees incurred in garnishment effort. Defendant appealed.

**Holdings:** The District Court of Appeal, Eisnaugle, J., held that shareholder was not entitled to additional award of attorney fees.

Reversed and remanded.

### 1. Statutes ⇌1079, 1153

When interpreting a statute, Florida follows the supremacy-of-text principle—namely, the principle that the words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.

### 2. Statutes ⇌1091, 1153

Every word employed in a legal text is to be expounded in its plain, obvious, and common sense, unless the context furnishes some ground to control, qualify, or enlarge it.

### 3. Creditors' Remedies ⇌842

Shareholder was not entitled to award of attorney fees incurred in his garnishment proceedings to collect judgment for attorney fees which had been entered in his underlying suit to inspect and copy corporate records, where statute only authorized award of fees incurred to enforce shareholder's right to access corporate records. Fla. Stat. Ann. § 607.1604(1).

Appeal from the Circuit Court for Brevard County, Curt Jacobus, Judge. LT Case No. 05-2017-CA-015505-X

August J. Stanton, Jr., of A. J. Stanton, Jr., P.A., Orlando, for Appellants.

Michael R. Riemenschneider and Jeffrey L. DeRosier, of Riemenschneider, Wattwood & DeRosier, P.A., Melbourne, for Appellees.

EISNAUGLE, J.

Judith H. Richman and Dur-Rich Realty, Inc. ("Richman" and "Dur-Rich"), appeal an order awarding Robert S. Calzaretta attorney's fees and costs pursuant to section 607.1604(1), Florida Statutes (2020). We reverse because section 607.1604(1) does not authorize an award of fees incurred in a garnishment proceeding.

In the underlying dispute, Calzaretta sought to inspect and copy corporate records and obtained a judgment for attorney's fees (the "fee judgment") pursuant to section 607.1604, which this court affirmed on appeal. *Dur-Rich Realty, Inc. v. Calzaretta*, 291 So. 3d 616 (Fla. 5th DCA 2020). Thereafter, Calzaretta commenced

garnishment proceedings to collect the fee judgment and then moved for an additional award of attorney's fees incurred in the garnishment effort, once again relying on section 607.1604. The trial court granted the motion and rendered a second fee judgment in the amount of \$18,189.17. This appeal follows.

On appeal, Richman and Dur-Rich argue that section 607.1604(1) does not authorize attorney's fees in garnishment proceedings. Calzaretta responds, in conclusory fashion, that the "seminal language 'enforce its rights under this section ...' clearly contemplates enforcement actions to collect on the judgment." In short, Calzaretta contends that enforcement of his fee judgment is equivalent to the enforcement of his right to inspect and copy corporate records. We agree with Richman and Dur-Rich and reverse.<sup>1</sup>

Section 607.1604(1) provides:

If a corporation does not allow a shareholder who complies with s. 607.1602(1) to inspect and copy any records required by that subsection to be available for inspection, the circuit court in the applicable county may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder. *If the court orders inspection and copying of the records demanded under s. 607.1602(1), it shall also order the corporation to pay the shareholder's expenses, including reasonable attorney fees, in-*

*curring to obtain the order and enforce its rights under this section.*

(emphasis added).

[1, 2] As our supreme court recently explained, when interpreting a statute, Florida's courts "follow the 'supremacy-of-text principle'—namely, the principle that '[t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.'" *Ham v. Portfolio Recovery Assocs., LLC*, 308 So. 3d 942, 946 (Fla. 2020) (alteration in original) (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 (2012)). "[E]very word employed in [a legal text] is to be expounded in its plain, obvious, and common sense, unless the context furnishes some ground to control, qualify, or enlarge it." *State v. McKenzie*, 331 So. 3d 666, 670 (Fla. 2021) (alteration in original) (citation omitted). Importantly, "[c]ontext always matters because sound interpretation requires paying attention to the whole law, not homing in on isolated words or even isolated sections." *Id.* at 671 (internal marks and citation omitted).

[3] When considering the entirety of the statute in context, we reject Calzaretta's strained reading of section 607.1604(1). Instead, we believe the more reasonable reading is that the phrase, "enforce its rights under this section," refers to the statute's primary objective—a shareholder's right to inspect and copy records. We do not read section 607.1604(1) to create a

1. We acknowledge that Calzaretta's reading of the statute might find some general support in the rules of grammar. However, given the lack of briefing, we decline to engage in a lengthy grammatical analysis here. Suffice it to say, we have considered various grammatical principles in reaching our decision, but we conclude any rules of grammar that arguably support Calzaretta's reading are overridden by the context of the statute. See Antonin Scalia & Bryan A. Garner, *Reading Law: The*

*Interpretation of Legal Texts* 141 (2012) ("The presumption of legislative literacy is a rebuttable one; like all the other canons, this one can be overcome by other textual indications of meaning."); see also *State v. McGary*, 122 Wash.App. 308, 93 P.3d 941, 945 (2004) ("[W]e must also consider whether the grammatically correct construction of the statute makes sense within the statutory scheme as a whole." (citation omitted)).

litigation roundabout, where collection proceedings on a fee judgment are followed by a new motion for fees and another fee judgment, only for the cycle to start all over yet again.

In this case, Calzaretta was obviously not attempting, via the garnishment proceedings, to obtain an order for the inspection and copying of records, or even to enforce such an order. Instead, he was attempting to collect on a fee judgment.

We therefore conclude that the plain language of section 607.1604(1) does not authorize an award of fees incurred during garnishment proceedings.<sup>2</sup> As a result, we reverse the order on appeal and remand for further proceedings.

REVERSED and REMANDED.

LAMBERT, C.J., and WALLIS, J.,  
concur.



AMERICAN COASTAL INSURANCE  
COMPANY, Appellant,

v.

MARINA ISLES CLUB CONDO-  
MINIUM ASSOCIATION,  
INC., Appellee.

Case No. 5D21-1221

District Court of Appeal of Florida,  
Fifth District.

Opinion filed May 13, 2022

**Background:** Appellant appealed from orders of the Circuit Court, 18th Judicial

2. The motion at issue here, and the trial court's order, relied on section 607.1604(1). We therefore do not consider whether Calzar-

Circuit, Brevard County, Curt Jacobus, J., which denied its petition to compel completion of appraisal and denied its motion to set aside or vacate that order.

**Holdings:** The District Court of Appeal, Wallis, J., held that trial court abused its discretion by failing to set aside its order denying petition to compel completion of appraisal.

Reversed and remanded with instructions.

**Motions** ⇌ 59(1)

Trial court abused its discretion by failing to set aside its order denying petition to compel completion of appraisal, where court failed to serve legal counsel with copy of that order after counsel had appeared in the case. Fla. R. Jud. Admin., Rule 2.505(e)(1).

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Appeal from the Circuit Court for Brevard County, Curt Jacobus, Judge. LT Case No. 05-2020-CA-037089-X

Ezequiel Lugo, of Banker Lopez Gassler, P.A., Tampa, and Eleanor Sills, of Banker Lopez Gassler, P.A., Tallahassee, for Appellant.

George A. Vaka and Nancy A. Lauten, of Vaka Law Group, Tampa, for Appellee.

WALLIS, J.

American Coastal Insurance Company (American Coastal) appeals the trial court's order denying its Petition to Compel Completion of Appraisal and the order denying its Motion to Set Aside that order. We agree with American Coastal with re-

etta might have been entitled to fees pursuant to some other statute.