

*Koror State Government v. Western Caroline Trading Co.*, 5 ROP Intrm. 337 (Tr. Div. 1995)

**KOROR STATE GOVERNMENT,  
Petitioner,**

v.

**WESTERN CAROLINE TRADING COMPANY,  
a Corporation of the Republic of Palau, PETER TSAO,  
LARRY BRAGAT, and DOES 1 to 10, Inclusive,  
Respondents.**

CIVIL ACTION NO. 121-91

Supreme Court, Trial Division  
Republic of Palau

Decision

Decided: October 13, 1995

ARTHUR NGIRAKLSONG, Chief Justice:

Before the Court are petitioner's motion for summary judgment, its motion to compel discovery, and the respondents' motion for a protective order. At issue is whether the respondents must disclose certain documents and information to the petitioner.

Koror State Government (KSG) began this action by filing a petition for a writ of mandamus that would allow KSG, in its capacity as a shareholder of Western Caroline Trading Company (WCTC), to gain access to WCTC's records. During the hearing on the summary judgment motion, counsel for KSG stated that it was limiting its motion, and the relief that it seeks in this action, to what it sought in its Third Request for Interrogatories and its First Request for Production of Documents. KSG has abandoned all of its other claims for relief.

KSG seeks access to information and records relating to four accounts that are listed as bad debts in WCTC's financial statements. One of those bad debts was incurred through what could be viewed as unusual circumstances. For the reasons set forth below, the petitioner's motion for summary judgment is GRANTED.

The common law recognizes a shareholder's limited right to inspect the records of the corporation. The right is limited because allowing shareholders unlimited access to corporate records would undermine efficiency. 18A Am. Jur. 2d, *Corporations*, sec. 363 (1985). "The common-law right of a stockholder to inspect **1338** corporate books and records . . . must be exercised at a proper and reasonable time and place, and for a proper purpose." 18A Am. Jur. 2d at sec. 348 (footnotes omitted). "[S]ummary judgment shall be granted if the pleadings, depositions, answers to interrogatories, admissions, or affidavits show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." *Wolff v. Sugiyama*, 5 ROP Intrm. 105, 109 (1995). See ROP R. Civ. Proc. 56(c).

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Especially in light of the limited scope of the information and documents sought by KSG, it has shown that there is no genuine issue of material fact as to the time-and-place requirement. WCTC has presented no argument regarding this requirement.

The dispute between the parties focuses on whether KSG has a proper purpose. The specific allegations made by KSG concerning the bad debt and the limited nature of the information and documents sought demonstrate that KSG has a proper purpose; KSG is gathering the information to protect its investment in WCTC. *See* 18A Am. Jur. 2d at sec. 367-69.

WCTC argues that it has shown a genuine issue of material fact because a deposition of KSG's executive administrator shows that his desire for the information sought in the complaint was based on mere rumors and suppositions. This is insufficient to show a genuine issue as to whether KSG has a proper purpose for obtaining the information in question. Regardless of whether mere rumors and suppositions are insufficient to constitute a proper purpose, a matter that the Court does not decide, KSG's specific concerns and the limited nature of the information it seeks show that it has a proper purpose. *See* 18A Am. Jur. 2d at secs. 367-69.

WCTC also contends that KSG is not entitled to mandamus relief because KSG has failed to follow WCTC's internal procedures establishing a manner in which shareholders can inspect corporate records. WCTC has not shown that adopting such rules can narrow KSG's inspection rights under the common law. *See* 18A Am. Jur. 2d at sec. 356.

For the reasons stated herein, the Court GRANTS petitioner's motion for summary judgment. WCTC shall provide the information requested in KSG's Third Set of Interrogatories and its First Request for Production of Documents. During the hearing regarding the instant motions, counsel for KSG stated that he would withdraw his motion to compel discovery if the Court granted his motion for summary judgment. The Court would be inclined to grant the motion to compel but, in light of the Court's ruling on the summary judgment motion, the motion to compel discovery is effectively **1339** withdrawn and, in any event, the motion to compel and WCTC's motion for a protective order are moot.