

Florida First District Court of Appeal Docket

Case Docket

Case Number: 1D17-4582

Civil Prohibition Petition from Leon County

Michael Barfield vs. Florida Department of Health, and Surterra etc.

Lower Tribunal Case(s):15-3014

[Right-click to copy shortcut directly to this page \(/DCAResults/CaseByYear?](#)

[List of Abbreviat](#)

[CaseYear=2017&CaseNumber=4582&Court=1\)](#)

Date Docketed	Description	Date Due	Filed By	Notes
11/01/2017	Petition Prohibition		Andrea Flynn Mogensen 0549681	and motion to enforce mandate and quash stay
11/01/2017	Appendix		Andrea Flynn Mogensen 0549681	to petition
11/02/2017	Prohibition / Acknowledgement letter			
11/02/2017	RESPONSE		John L. Wharton 0563099	Intervenor's response to emergency petition
11/02/2017	Case Filing Fee			
11/03/2017	SC Why Prohibition Should not be Granted	11/17/2017		On or before November 17, 2017, respondents Florida Department of Health petition for writ of prohibition should not be granted. Petitioner may file a reply thereafter. The motion to enforce mandate and to quash stay is denied without in case number 1D16-4091.
11/03/2017	SC Why Prohibition Should not be Granted	11/17/2017		On or before November 17, 2017, respondents Florida Department of Health petition for writ of prohibition should not be granted. Petitioner may file a reply thereafter. The motion to enforce mandate and to quash stay is denied without in case number 1D16-4091. The court notes that a response was filed by respondent on November 2, 2017.
11/03/2017	Motion For Clarification		Andrea Flynn Mogensen 0549681	of time to file reply to premature response filed by Surterra FL, LLC
11/08/2017	Notice of Appearance		Michael J. Williams 109786	and designation of email addresses
11/14/2017	Acknowledgment of Service List			The notice filed by counsel for the respondent on November 8, 2017, providing addresses, is acknowledged. However, in addition to filing such notice, counsel is responsible for ensuring their primary and/or secondary e-mail addresses and are consistent with the filed notice in order to receive e-mailed notification (C of the filing of documents in this case to those e-mail addresses. Profiles for counsel are updated by clicking on the "My Profile" link and clicking the "Submit" button for desired changes.
11/16/2017	Grant Clarification			Petitioner's motion for clarification, filed on November 3, 2017, is granted. Petitioner is granted to Surterra Florida, LLC's response immediately and may file a reply within 10 days of the Department of Health's response, if it chooses to file one as allowed by the Court of November 3, 2017.
11/17/2017	RESPONSE		Michael J. Williams 109786	of DOH
11/22/2017	REPLY		Andrea Flynn Mogensen 0549681	PT's consolidated reply to response to OSC by RSS
03/27/2018	Denied - PC Denied			
04/17/2018	Case Permanent			
04/17/2018	West Publishing			

[List of Abbreviat](#)

This site is best viewed using Chrome, Firefox, Edge, or Internet Explorer version 11.0.50 or higher.

IN THE CIRCUIT OF THE  
SECOND JUDICIAL CIRCUIT IN  
AND FOR LEON COUNTY,  
FLORIDA

MICHAEL BARFIELD,

Plaintiff,

vs.

FLORIDA DEPARTMENT OF HEALTH,  
AN AGENCY OF THE STATE OF FLORIDA,

Defendant.

---

CASE NO. 2015 CA 003014  
CIVIL DIVISION

*Handwritten signature and date: 10/27/17*

**ORDER REGARDING WHETHER IDENTITIES OF  
CONSULTANTS ARE TRADE SECRETS**

The First District Court of Appeal's opinion filed June 9, 2017 reversed this court's finding that the list of identities and related information of Intervenor's consultants is not a trade secret. That opinion instructed me to make specific findings as to whether the list of consultants meets each of the requirements found in Florida's trade secret definition.

The appellate court's opinion gave me considerable guidance. It stated, for example, "that at the least some of the consultants' identities and related information concerned the production process, which met the definition of a trade secret." The appellate court further stated:

A “list of suppliers” can qualify as a trade secret according to section 812.081 (1) (c). Consultants in the low – THC cannabis and medical cannabis industry can supply organizations with valuable information about how to cultivate, process, transport, and dispense cannabis. A list of such consultants might qualify as a list of suppliers considered to be: secret; of value; for use or in use by the business; and of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. Therefore, such a list may qualify as a trade secret under section 812.081 (1) (c).

Pursuant to my order of August 31, 2017, regarding how to proceed on remand, Intervenors filed under seal a confidential memorandum of law and fact. In that memorandum Intervenors provided argument regarding specifically named consultants, giving them numbers I, II, III, IV, V, VI, and VII. In this order, to continue to protect the confidentiality of those consultants while this case is under review, I will refer to those named consultants by those Roman numerals.

Documents regarding consultant I are found in Exhibit 5 at pages 296, 324 and 412. Considering the language of the appellate court’s opinion, I’s role concerned the production process, which according to the appellate court is significant. According to the documents, consultant I supplied Intervenors with valuable information about how to cultivate and process cannabis. They have kept his identity secret. It is of value and advantage to them. Therefore, his identity and related information qualifies as a trade secret, as outlined in the appellate court’s opinion.

Documents regarding consultant II are found in Exhibit 5 at pages 947 and 403. II apparently did the site and building design. Some of the related information, specifically the drawings, qualify as a trade secret and some does not. For example, the location of lobbies, offices, conference rooms, etc., are not trade secrets. However, the related information/drawings in their totality do concern the production process and supply Intervenors with valuable information about how to cultivate, process, transport, and dispense cannabis. Therefore, the identity of II and the related information qualifies as a trade secret, as outlined in the appellate court's opinion.

Documents regarding consultant III are found in Exhibit 5 at page 947. III was the general contractor for production facilities for Intervenors. The information in the documents regarding III concerned the production process. For essentially the same reasons stated in the discussion of II, the identity of III and the related information qualifies as a trade secret, as outlined in the appellate court's opinion.

Documents regarding consultant IV are found in Exhibit 5 at page 51. IV apparently provides Intervenors with significant expertise as to how to cultivate and process cannabis. The identity of IV and the related information qualifies as a trade secret, as outlined in the appellate court's opinion.

Documents concerning consultant V are found in Exhibit 5 at page 447. V is a pharmaceutical laboratory with extensive experience testing cannabis. V's role concerned the production process. V supplied Intervenors with valuable information about how to process cannabis. Its identity and related information qualifies as a trade secret, as outlined in the appellate court's opinion.

Documents regarding consultant VI are found at Exhibit 5, page 44. VI is purported to be a respected industry leader in the legal cannabis and traditional agricultural industries. VI apparently supplied Intervenors with valuable information about how to cultivate cannabis. Therefore, his identity and related information qualifies as a trade secret, as outlined in the appellate court's opinion.

Documents regarding consultant VII are found in Exhibit 5 at page 45. VII apparently supplied Intervenors with information comparable to that supplied by VI. Accordingly, VII's identity and related information qualifies as a trade secret, as outlined in the appellate court's opinion.

With regard to consultants I through VII, Intervenors have taken significant measures to keep their identities and related information secret. Each of the consultants, according to the court's review of the relevant documents, had tasks which were of value to Intervenors, and for use in their business. The services provided by each provided an opportunity to obtain an advantage in Intervenors' business, over those who do not know or use it.

**DONE AND ORDERED** in Chambers, Tallahassee, Leon County, Florida

on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.



CHARLES DODSON  
Circuit Judge

*Copies furnished via E-Portal to:*

Michael J. Williams, Assistant General Counsel  
Florida Department of Health  
4052 Bald Cypress Way, Bin A-02  
Tallahassee, FL 32399

Andrea Flynn Morgensen, Esquire  
200 South Washington Boulevard – Suite 7  
Sarasota, FL 34236  
amorgensen@sunshinelitigation.com

John Wharton, Esquire  
Brittany Finkbeiner, Esquire  
215 Monroe Street – Suite 815  
Tallahassee, FL 32301  
[jwharton@deanmead.com](mailto:jwharton@deanmead.com)  
[bfinkbeiner@deanmead.com](mailto:bfinkbeiner@deanmead.com)