

DISTRICT COURT OF APPEAL OF FLORIDA, FIFTH DISTRICT

Springhill Health Care Associates, LLC v. Benlein

81 So. 3d 624 (Fla. Dist. Ct. App. 2012) · No. No. 5D11-2780 · Decided March 9, 2012

SUMMARY

The Florida Fifth District Court of Appeal granted a petition for writ of certiorari and quashed an order compelling production of documents and answers to interrogatories. The court held that the trial court was required to conduct an in camera inspection and assess asserted work-product and statutory privileges, including privileges under sections 400.147 and 415.107, Florida Statutes.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fifth District
WRITING FOR THE COURT	Griffin; Sawaya; Torpy
JURISDICTION	Florida
DECIDED	March 9, 2012
DOCKET	No. 5D11-2780
DISPOSITION	quashed
PROCEDURAL POSTURE	Springhill sought certiorari review of a trial court discovery order compelling production of documents and an answer to interrogatories despite asserted work-product and statutory privileges.
STANDARD OF REVIEW	Certiorari review for departure from the essential requirements of law resulting in material injury that cannot be corrected on plenary appeal.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Springhill Health Care Associates, LLC, et al. v. Linda Benlein, Personal Representative of, etc.

TOPICS

- discovery dispute
- writ of certiorari
- work product doctrine
- medical records privacy
- appellate procedure

PRACTICE AREAS

- civil procedure
- health law
- discovery
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court departed from the essential requirements of law by compelling production of allegedly privileged documents and an answer to an interrogatory without conducting an in camera inspection.
2. Whether the trial court was required to determine the applicability of the statutory privileges under sections 400.147(4), 400.147(8)(d), and 415.107(1), Florida Statutes (2011), before compelling production.

HOLDINGS

1. The trial court departed from the essential requirements of law by ordering production and an answer to interrogatories without first conducting an in camera inspection to determine the precise nature of the documents and the applicability of the asserted work-product and statutory privileges.
2. On remand, the trial court must determine the discoverability and privilege status of each identified document and address the claimed privileges applicable to the interrogatory before compelling disclosure.

KEY QUOTATIONS

“We grant the petition for writ of certiorari because the trial court departed from the essential requirements of the law by ordering the production of documents and an answer to interrogatories without first conducting an in camera inspection to determine the precise nature of the ostensibly privileged documents and to further determine the applicability of the work product and statutory privileges.” (81 So. 3d at 624-25)

“PETITION GRANTED; ORDER QUASHED.” (81 So. 3d at 625)

FACTUAL BACKGROUND

The discovery dispute involved several documents dated December 8 and December 10, 2007, documents identified by Bates numbers 00032-55, a final document, and an interrogatory. Springhill asserted work-product and statutory privileges over the materials and interrogatory. The trial court compelled production without conducting an in camera inspection to determine the precise nature of the documents and the applicability of the asserted privileges.

PROCEDURAL HISTORY

The trial court ordered production of ostensibly privileged documents and an answer to interrogatories without first conducting an in camera inspection. The Fifth District granted the petition for writ of certiorari, quashed the order, and directed the trial court to conduct the required privilege and discoverability analysis.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The trial court must conduct an in camera inspection; determine the precise nature and discoverability of the documents; apply sections 400.147(4), 400.147(8)(d), and 415.107(1), Florida Statutes (2011), as applicable; consider any other privilege asserted by Springhill; and address the claimed privileges applicable to the interrogatory.

CASES CITED

- Mariner Health Care of Metrowest, Inc. v. Best, 879 So. 2d 65, 67 (Fla. 5th DCA 2004)

OPINION

PER CURIAM.

81 So. 3d 624 (2012) SPRINGHILL HEALTH CARE ASSOCIATES, LLC, et al., Petitioners, v. Linda BENLEIN, Personal Representative of, etc., Respondent. No. 5D11-2780. District Court of Appeal of Florida, Fifth District. March 9, 2012. Thomas A. Valdez and Deborah L. Moskowitz of Quintairos, Prieto Wood & Boyer, P.A., Tampa, for Petitioners. Gregory J. Perenich and Jowita L. Wysocka of Perenich Law, P.L., Clearwater, for Respondent.

PER CURIAM. We grant the petition for writ of certiorari because the trial court departed from the essential requirements of the law by ordering the production of documents and *625 an answer to interrogatories without first conducting an in camera inspection to determine the precise nature of the ostensibly privileged documents and to further determine the applicability of the work product and statutory privileges.

Specifically, with respect to the document dated December 8, 2007, the trial court should determine if it is discoverable pursuant to section 400.147(4), Florida Statutes (2011). See Mariner Health Care of Metrowest, Inc. v. Best, 879 So. 2d 65, 67 (Fla. 5th DCA 2004) (if record discoverable pursuant to section 400.147(4), need and inability to obtain substantial equivalent from other sources without undue hardship must be shown).

As to the document dated December 10, 2007 (and all documents identified by Bates numbers 00032-55), the trial court must determine whether these documents fall within the privilege identified in section 400.147(8)(d), or any other applicable privilege asserted by Springhill Health Care Associates, LLC, in its response. Concerning the last document, although we view the assertion of privilege with some skepticism given the nature of the document, the trial court should consider the applicability of section 415.107(1), before compelling the production of the document.

Additionally, the trial court should also address the claimed privileges to the interrogatory. PETITION GRANTED; ORDER QUASHED. GRIFFIN, SAWAYA and TORPY, JJ., concur.