

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH
DISTRICT

Patient Depot, LLC v. Acadia Enterprises, Inc., Ryan O’Connor and
Lori Ann O’Connor

Patient Depot, LLC v. Acadia Enterprises, Inc., No. 4D21-1934 (Fla. 4th DCA Apr. 26, 2023) · No. No. 4D21-1934 · Decided April 26, 2023

SUMMARY

The Florida Fourth District Court of Appeal reversed summary judgment in favor of Acadia Enterprises, Inc., Ryan O’Connor, and Lori Ann O’Connor in Patient Depot’s action involving alleged breach of confidentiality obligations, misappropriation of trade secrets, tortious interference, and unjust enrichment. The court held that a genuine issue of material fact existed as to whether Patient Depot’s compilation of supplier and customer information on its password-protected Zoho platform constituted confidential information or a trade secret, even though some component information was publicly available. The court also concluded that summary judgment was premature because discovery remained outstanding and that the tortious-interference ruling addressed an issue not raised in the pleadings.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Warner, J.; Ciklin, J.; Forst, J.
JURISDICTION	Florida
DECIDED	April 26, 2023
DOCKET	No. 4D21-1934
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Patient Depot appealed a final summary judgment entered for appellees on claims for breach of contract, misappropriation of trade secrets, tortious interference, and unjust enrichment, as well as the denial of rehearing.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Under Florida Rule of Civil Procedure 1.510 and the adopted federal standard, the moving party may obtain summary judgment by showing an absence of evidence supporting the nonmoving party’s case; the nonmovant must have

	been afforded adequate time for discovery, and factual inferences must be viewed in the nonmovant's favor.
PRECEDENTIAL VALUE	published appellate opinion
PARTIES	Patient Depot, LLC v. Acadia Enterprises, Inc., Ryan O'Connor, Lori Ann O'Connor

TOPICS

misappropriation of trade secrets trade secrets summary judgment discovery dispute
intentional interference with expectancy

PRACTICE AREAS

contract law trade secrets civil procedure commercial litigation

QUESTIONS PRESENTED

1. Whether a genuine issue of material fact existed as to whether the compilation of information on Patient Depot's password-protected Zoho platform constituted a trade secret or confidential information protected by the parties' agreements.
2. Whether summary judgment was premature because discovery concerning appellees' use of the Zoho information and subsequent business dealings was incomplete.
3. Whether the trial court improperly granted summary judgment on the tortious-interference claim based on section 542.335, Florida Statutes, when appellees had not pleaded or raised that issue in their motion.

HOLDINGS

1. A genuine issue of material fact existed as to whether the compiled information on Patient Depot's Zoho platform constituted a trade secret and confidential information protected by the parties' agreements. The public availability of individual pieces of information did not establish as a matter of law that the unique compilation was unprotected.
2. Summary judgment was premature and improper because discovery was still in its early stages and outstanding discovery could have revealed additional genuine issues of material fact.
3. The trial court improperly granted summary judgment on the tortious-interference claim based on section 542.335 because appellees neither asserted that defense in an answer nor raised it in their motion for summary judgment.

KEY QUOTATIONS

"We reverse, as a genuine issue of material fact remains as to whether the compilation of the information, even that which was within the public domain, constituted information protected as a trade secret." (at 1)

"Further, even if the court could make the inference that any broker could obtain pricing and commission information, that inference would not lead to summary judgment because the compilation of information in

the Zoho platform is the trade secret component, not some of the individual pieces of information.” (at 11)

“Where the information contained in outstanding discovery could create genuine issues of material fact, summary judgment would not be proper.” (at 12)

FACTUAL BACKGROUND

Patient Depot brokers personal protective equipment by matching end consumers with suppliers. It used a password-protected Zoho platform containing compiled information about viable suppliers and customers, including contacts, pricing, contract terms, supply availability, order histories, and sales strategies. Ryan O’Connor and Acadia entered sales representative agreements with Patient Depot that contained confidentiality and nondisclosure provisions, accessed the Zoho platform, and later terminated their agreements and competed in PPE sales. Patient Depot alleged that appellees retained or used its confidential information and trade secrets, but discovery concerning appellees’ use of the platform and business dealings remained outstanding when summary judgment was granted.

PROCEDURAL HISTORY

Patient Depot sued appellees after Ryan O’Connor and Acadia terminated their agreements with Patient Depot and began competing in PPE sales. Appellees never answered the complaint and instead moved for summary judgment before discovery was complete. The circuit court granted summary judgment on all claims and denied rehearing, including after Patient Depot submitted additional discovery materials. The Fourth District reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings, including additional discovery and reconsideration of the claims under the applicable contractual and trade-secret standards.

CASES CITED

- Gromann v. Avatar Prop. & Cas. Ins. Co., 345 So. 3d 298, 300 (Fla. 4th DCA 2022)
- Fla. Int’l Univ. Bd. of Trs. v. Fla. Nat’l Univ., Inc., 830 F.3d 1242, 1252 (11th Cir. 2016)
- In re Amends. to Fla. R. Civ. P. 1.510, 309 So. 3d 192, 193-194 (Fla. 2020)
- In re Amends. to Fla. R. Civ. P. 1.510, 317 So. 3d 72, 74-77 (Fla. 2021)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-323, 325 (1986)
- Mittenzwei v. Indus. Waste Serv., Inc., 618 So. 2d 328, 329-330 (Fla. 3d DCA 1993)
- Digiport, Inc. v. Forum Development BFC, LLC, 314 So. 3d 550, 553 (Fla. 3d DCA 2020)
- Bridge Financial, Inc. v. J. Fischer & Associates, Inc., 310 So. 3d 45, 48-49 (Fla. 4th DCA 2020)
- E. Colonial Refuse Serv., Inc. v. Velocci, 416 So. 2d 1276, 1278 (Fla. 5th DCA 1982)

- Zodiac Records Inc. v. Choice Env't Servs., 112 So. 3d 587, 590 (Fla. 4th DCA 2013)
- State Farm Mutual Automobile Insurance Co. v. Figler Family Chiropractic, P.A., 189 So. 3d 970, 974 (Fla. 4th DCA 2016)
- Brevard Cnty. v. Waters Mark Dev. Enters., LC, 350 So. 3d 395, 398 (Fla. 5th DCA 2022)
- Skop v. City of Atlanta, 485 F.3d 1130, 1136 (11th Cir. 2007)
- Babani v. Broward Auto., Inc., 348 So. 3d 608, 609 (Fla. 4th DCA 2022)
- Chmilariski v. Empire Fire, 340 So. 3d 563, 566 (Fla. 3d DCA 2022)
- Reliance Wholesale Inc. v. Godfrey, 51 So. 3d 561, 564 (Fla. 3d DCA 2010)
- RX Sols., Inc. v. Express Pharmacy Servs., Inc., 746 So. 2d 475, 478 (Fla. 2d DCA 1999)
- Zupnik v. All Fla. Paper, Inc., 997 So. 2d 1234, 1238-1239 (Fla. 3d DCA 2008)
- Del Monte Fresh Produce Co. v. Dole Food Co., Inc., 148 F. Supp. 2d 1326, 1336 (S.D. Fla. 2001)
- Templeton v. Creative Loafing Tampa, Inc., 552 So. 2d 288, 290 (Fla. 2d DCA 1989)

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