

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Fernando Fandino-Sende, M.D. v. Walgreen Co., et al.

Fandino-Sende v. Walgreen Co. · No. 26-cv-23374-ALTMAN · Decided May 19, 2026

SUMMARY

The Southern District of Florida denied Dr. Fernando Fandino-Sende’s expedited motion for a temporary restraining order seeking to prevent Walgreens from refusing to fill controlled-substance prescriptions he issued. The court concluded that Walgreens was not a stranger to the business relationships between the doctor and his patients and that the plaintiff had not shown a substantial likelihood of success on his tortious-interference claim. The court also found that the alleged reputational, business, and professional injuries were speculative and that the plaintiff had not shown why his patients could not use other pharmacies.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Roy K. Altman
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	May 19, 2026
DOCKET	26-cv-23374-ALTMAN
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for an expedited temporary restraining order requiring Walgreens to continue filling his controlled-substance prescriptions. The district court denied the motion.
STANDARD OF REVIEW	A temporary restraining order and preliminary injunction are evaluated under the same four-factor test: substantial likelihood of success on the merits, likely irreparable injury absent relief, balance of harms, and consistency with the public interest. The movant bears the burden of persuasion, and failure to satisfy any one factor defeats the request.
PRECEDENTIAL VALUE	Unknown
PARTIES	Fernando Fandino-Sende, M.D. v. Walgreen Co., James Uthmeier, in his official capacity as Attorney General of the State of Florida

TOPICS

injunctions

equitable relief

torts

civil procedure

PRACTICE AREAS

civil procedure

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QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated a substantial likelihood of success on his Florida tortious-interference claim sufficient to support a temporary restraining order.
2. Whether Plaintiff demonstrated that he was likely to suffer irreparable injury absent a temporary restraining order.
3. Whether the remaining injunction factors needed to be addressed after Plaintiff failed to satisfy the first two factors.

HOLDINGS

1. Plaintiff failed to demonstrate a substantial likelihood of success because Walgreens was not a stranger to the business relationships between Plaintiff and his patients who used Walgreens to fill prescriptions. Walgreens had an economic interest in and control over those relationships, defeating the third-party stranger requirement for an unjustified-interference claim.
2. Plaintiff failed to demonstrate that irreparable injury was likely in the absence of a temporary restraining order. His assertion that he could not redirect patients to another pharmacy was conclusory and unsupported, while his alleged loss of medical practice, reputation, and employability was speculative rather than actual and imminent.
3. The court declined to address the third and fourth injunction factors because Plaintiff failed to satisfy the likelihood-of-success and irreparable-injury factors.

KEY QUOTATIONS

“A defendant is not a stranger to a business or contractual relationship if the defendant has any beneficial or economic interest in, or control over, that relationship.” (Analysis § I)

“To satisfy the second element of the temporary-restraining-order test, the party seeking the temporary restraining order must “demonstrate that irreparable injury is likely in the absence of an injunction.”” (Analysis § II)

FACTUAL BACKGROUND

Dr. Fernando Fandino-Sende is a Florida-licensed pain-management physician with active Florida medical and DEA licenses authorizing him to prescribe controlled substances. Walgreens notified him that it would stop filling controlled-substance prescriptions he issued, based on its response to a prescriber-evaluation audit, and gave him nearly two months' notice. More than 175 of his patients allegedly used Walgreens to fill their medications, and Plaintiff claimed that Walgreens's decision would damage his practice and reputation.

PROCEDURAL HISTORY

Plaintiff filed a three-count complaint alleging tortious interference with a business relationship, seeking injunctive relief, and asserting a due-process claim. He filed an expedited TRO motion on the same day, contending that Walgreens's decision to stop filling his controlled-substance prescriptions would cause irreparable economic, reputational, professional, and patient-care harms. The district court denied the TRO because Plaintiff failed to show a substantial likelihood of success on the tortious-interference claim and failed to show likely irreparable injury.

DISPOSITION

other

CASES CITED

- Parker v. State Bd. of Pardons and Paroles, 275 F.3d 1032, 1034–35 (11th Cir. 2001)
- Finkelstein v. Mt. Sinai Med. Ctr. of Fla., 2023 WL 6118179, at *2 n.1 (S.D. Fla. Sept. 19, 2023)
- Gonzalez v. Governor of Ga., 978 F.3d 1266, 1270–71 (11th Cir. 2020)
- Siegel v. LePore, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc)
- Ne. Fla. Chapter of Ass'n of Gen. Contractors v. City of Jacksonville, 896 F.2d 1283, 1285 (11th Cir. 1990)
- Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22 (2008)
- Wreal, LLC v. Amazon.com, Inc., 840 F.3d 1244, 1248 (11th Cir. 2016)
- Duty Free Ams., Inc. v. Estee Lauder Cos., Inc., 797 F.3d 1248, 1279 (11th Cir. 2015)
- Ethan Allen, Inc. v. Georgetown Manor, Inc., 647 So. 2d 812, 814 (Fla. 1994)
- Salit v. Ruden, McClosky, Smith, Schuster & Russell, P.A., 742 So. 2d 381, 386 (Fla. Dist. Ct. App. 1999)
- Nimbus Techs., Inc. v. SunnData Prods., Inc., 484 F.3d 1305, 1309 (11th Cir. 2007)
- Palm Beach Cnty. Health Care Dist. v. Pro. Med. Educ., Inc., 13 So. 3d 1090, 1094 (Fla. Dist. Ct. App. 2009)
- Temurian v. Piccolo, 2019 WL 1763022, at *8 (S.D. Fla. Apr. 22, 2019)
- Marino v. Phaidon Int'l, Inc., 2024 WL 147849, at *6 (S.D. Fla. Jan. 8, 2024), aff'd, 2024 WL 4298164 (11th Cir. Sept. 26, 2024)