

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Deel Realty, LLC, etc., et al. v. Daniel J. O'Malley, etc., et al.

No. 3D25-0089; Lower Tribunal No. 24-3617-CA-01 · No. 3D25-0089 · Decided May 7, 2025

OPINION

Deel Realty, LLC, Etc. v. Daniel J. O'Malley

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed May 7, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0089 Lower Tribunal No. 24-3617-CA-01 _____ Deel Realty, LLC, etc., et al., Petitioners, vs. Daniel J. O'Malley, etc., et al., Respondents. On Petition for Writ of Certiorari to the Circuit Court for Miami-Dade County, Valerie R. Manno Schurr, Judge. Shutts & Bowen LLP, and Garrett A. Tozier (Tampa), Julissa Rodriguez, Steven M. Ebner, and Jamie B. Wasserman, for petitioners. Olive Judd, P.A., and Benjamin E. Olive and Christian R. Leto (Fort Lauderdale), for respondents. Before LOGUE, C.J., and LOBREE and GOODEN, JJ. PER CURIAM. In light of the parties' filings, we interpret the proceedings as overruling the Petitioners' objections to discovery except as to materials protected under the attorney-client and work-product privileges and as requiring the Petitioners to file a privilege log listing the documents they assert are protected from disclosure under these privileges. The Petitioners have now apparently filed the privilege log, thereby setting the stage for an in-camera review by the trial court. *Gosman v. Luzinski*, 937 So. 2d 293, 296 (Fla. 4th DCA 2006) ("Before a written objection to a request for production of documents is ruled upon, the documents are not 'otherwise discoverable' and thus the obligation to file a privilege log does not arise. Once the objection is ruled upon and the court determines what information is 'otherwise discoverable,' then the party must file a privilege log reciting which documents are privileged."). Viewing the proceedings in this manner, unless and until the trial court rules on the issues raised by the privilege log, the materials listed on the privilege log need not be produced and a petition for certiorari seeking review is therefore premature. *Dade Truss Co. v. Beaty*, 271 So. 3d 59, 65 (Fla. 3d DCA 2019) ("Based on the record before us, we 'treat the circuit court's order as a preliminary ruling that the information is discoverable,' noting that privileges claimed with regard to specific documents must be affirmatively 2 asserted through the filing of a privilege log, or the segregation of documents claimed to be privileged" (quoting *Tedrow v. Cannon*, 186 So. 3d 43, 49 (Fla. 2d DCA 2016))). Accordingly, the petition for writ of certiorari is dismissed as prematurely filed. Petition dismissed. 3