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Court Rules that Patient List and Related Medical Practice Information Qualify as Trade Secrets

Minding Your Business on **January 22, 2024**

The 2016 enactment of the Defend Trade Secrets Act ("DTSA") has led to an increase in trade secret litigation. The DTSA codified into federal law the right of an owner of a trade secret to sue in federal court when its trade secret had been misappropriated. Prior to the DTSA, with the absence of diversity jurisdiction, aggrieved trade secret owners had to pursue legal remedies under state law, typically under the Uniform Trade Secret Act ("UTSA"), which has been enacted by 47 states. Notably, the DTSA does not preempt state trade secret laws, therefore, aggrieved trade secret holders may seek civil remedies for alleged misappropriation under either state or federal law or both. Both the DTSA and the UTSA requires the trade secret owner to take reasonable measures to keep the trade secret information secret. The term reasonable can have many meanings in different contexts depending on a multitude of factors. As such, what may be considered reasonable efforts under one set of facts may be deemed deficient under another set of facts.

On August 9, 2023, Humanitary Medical Center Inc. ("Humanitary"), a healthcare services company with medical centers throughout Florida that specializes in treating Spanish speaking patients, brought a suit against its rival, Quality Care Health Services Inc. ("Quality Care"). Humanitary alleged violations of multiple state and federal law claims, including misappropriation of trade secrets under Florida's UTSA, and misappropriation of trade secrets under the DTSA. Specifically, Humanitary claimed that its former chief operating officer and former vice president founded Quality Care after allegedly misappropriating Humanitary's confidential business and trade secret information to unfairly compete with Humanitary. The allegedly misappropriated trade secret information included Humanitary's patient list, employee roster, pricing information, billing information, vendor information, and business referral sources.

In moving to dismiss the complaint, defendants alleged that Humanitary's claims under the DTSA failed as a matter of law because patient list, employee roster, pricing information, billing information and vendor information could not qualify as a trade secret since this information could be found and compiled through an online search. Defendants further argued that Humanitary failed to take reasonable efforts to maintain the secrecy of the alleged trade secrets, including allegedly failing to enter into confidentiality agreements, limit employee access to confidential data, limit the scope of disclosures to employees on a need-to-know basis and failing to mark these materials confidential.

On December 19, 2023, the United States District Court for the Middle District of Florida partially granted the motions to dismiss but noted that Humanitary could replead for clarity and to fix deficiencies. In so ruling, the court held that:

- Patient and employee lists are generally deemed trade secrets unless the facts indicate that such information is easily accessible from outside sources;
- Plaintiff's system to maintain secrecy through password protection and restricting access to information through authorized users via passwords may be considered as an acceptable measure to establish trade secret protection; and,
- The two former Humanitary employee defendants knew that Humanitary treated the trade secrets information as confidential because both had signed written acknowledgements which imposed a duty of confidentiality.

As such, the court found that Humanitary stated a plausible claim for misappropriation of trade secrets. As for whether the information at issue actually constituted a trade secret, the court would leave that fact-intensive inquiry to the factfinder after development of the record. On January 8, 2024, the parties reached a settlement thereby ending the case.

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