

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

SLOSSBERG FAMILY CHIROPRACTIC
CENTER, INC., A/A/O KATIE BARNETTE,
Petitioner,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,
Respondent.

APPELLATE DIVISION (CIVIL): AY
CASE NO: 502014CA000763XXXXMB
L.T. NO.: 502012SC015538XXXXMB

Opinion filed: **JUN 19 2015**

Appeal from the County Court in and for Palm Beach County,
Judge Reginald Corlew

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PER CURIAM.

Petitioner/Plaintiff Slossberg Family Chiropractic, Inc., a/a/o Katie Barnette, seeks to quash a trial court order overruling its objections to discovery requested by Respondent/Defendant State Farm Mutual Automobile Insurance Co. Petitioner claims that the trial court departed from the essential requirements of the law by failing to engage in a balancing of interests, set forth its findings, or hold an *in camera* review before ordering disclosure of trade secrets. State Farm counters that Petitioner waived these claims, and that any error is invited error, because the trial court offered to entertain a motion for *in camera* review, which Petitioner did not file. We agree with State Farm for the reasons stated below and deny the Petition.

Generally, when trade secret privilege is asserted as the basis for resisting production, the trial court must first determine whether the requested production qualifies as a trade secret. *American Express Travel Related Services, Inc. v. Cruz*, 761 So. 2d 1206, 1208 (Fla. 4th DCA 2000). An *in camera* review is generally suggested in making this determination. See *Summitbridge Nat'l Invs. LLC v. 1221 Palm Harbor, LLC*, 67 So. 3d 448, 450 (Fla. 2d DCA 2011). Only once the trial court finds that the requested production qualifies as trade secret must the court engage in balancing interests and set forth its findings. *American Express Travel Related Services*, 761 So. 2d at 1208-09; *Westco, Inc. v. Scott Lewis' Gardening & Trimming, Inc.*, 26 So. 3d 620, 622 (Fla. 4th DCA 2009).

Here, Petitioner argued to the trial court that the requested discovery would require it to produce information regarding terms and rates set forth in various contracts subject to third party confidentiality agreements, and that the trial court was required to perform an *in camera* inspection. The trial court agreed, stating that the parties could either enter into a confidentiality agreement or the trial court would entertain a motion for an *in camera* review. Petitioner declined to do so and instead filed the present Petition. Because of this, the trial court's failure to hold an *in camera* review and perform the subsequent analysis is not a departure from the essential requirements of the law.

Accordingly, the Petition for Writ of Certiorari is DENIED. Respondent's Motion for Appellate Attorney's Fees is GRANTED and remanded to the trial court, subject to the trial court's determination that Respondent's proposal for settlement meets the requirements of Florida Statute Section 768.79, and, if applicable, the reasonable amount of attorney's fees.

SASSER, HAFELE, and ARTAU, JJ., concur.