

TRADE SECRET



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Points of the Presentation

- What exactly is trade secret?
- Confidentiality vs. trade secret.
- What does a company have to do to properly preserve trade secret rights in the State of Florida?



Points of the Presentation cont.

- Common problems that arise during the trade secret process.
- Interplay between public records and trade secret protection once a public records request is received.



Trade secret defined

Trade Secret is defined in 688.002(4) Florida Statutes, as:

- “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:
- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and



Trade secret defined cont.

- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- What exactly does all of this mean?



KING OF THE COURT ROOM

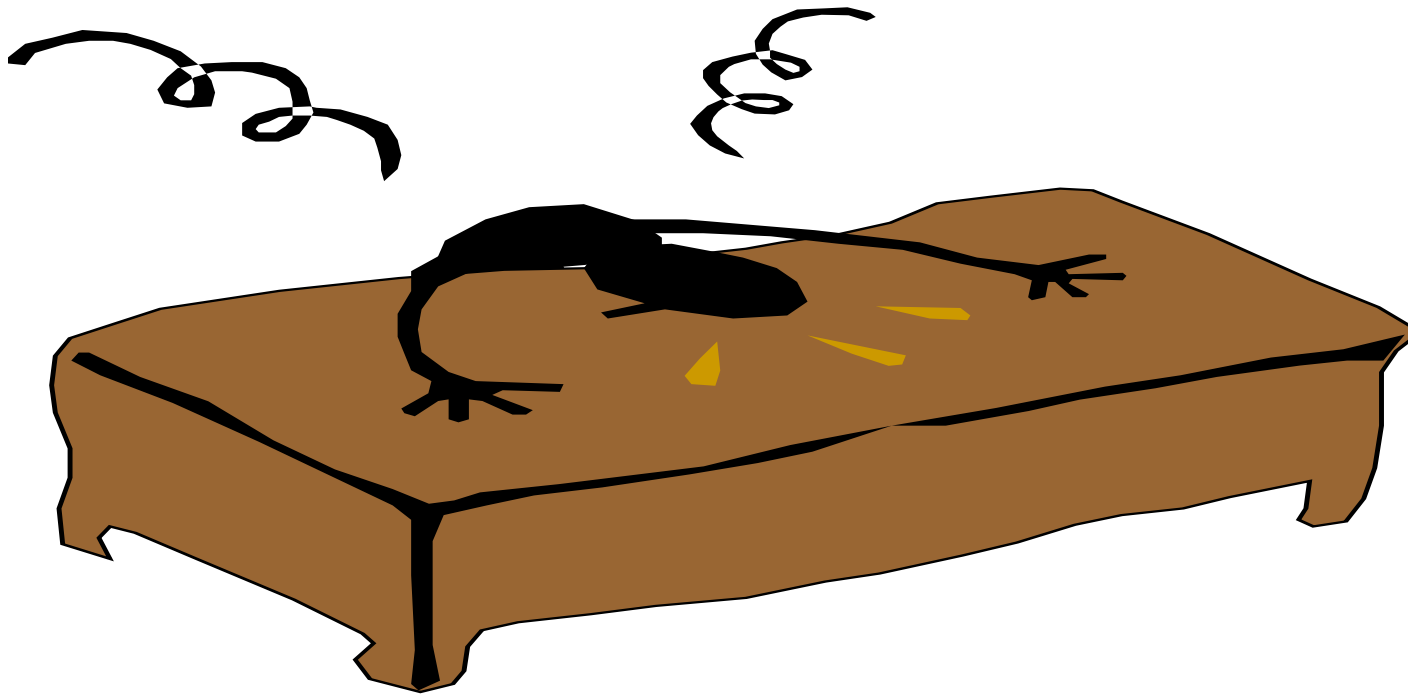


Confidentiality Versus Trade secret



Chapter 119, Florida Statutes

- Open disclosure
- Trade secret



Section 624.4213, Florida Statutes

- (1) If any person who is required to submit documents or other information to the office or department pursuant to the Insurance Code or by rule or order of the office, department, or commission claims that such submission contains a trade secret, such person may file with the office or department a notice of trade secret as provided in this section. Failure to do so constitutes a waiver of any claim by such person that the document or information is a trade secret.



Requirements cont.

- (a) Each page of such document or specific portion of a document claimed to be a trade secret must be clearly marked as “trade secret.”
- (b) All material marked as a trade secret must be separated from all non-trade secret material, such as being submitted in a separate envelope clearly marked as “trade secret.”
- (c) In submitting a notice of trade secret to the office or department, the submitting party must include an affidavit certifying under oath to the truth of the following statements concerning all documents or information that are claimed to be trade secrets:



Requirements cont.

- 1. [I consider/My company considers] this information a trade secret that has value and provides an advantage or an opportunity to obtain an advantage over those who do not know or use it.
- 2. [I have/My company has] taken measures to prevent the disclosure of the information to anyone other than those who have been selected to have access for limited purposes, and [I intend/my company intends] to continue to take such measures.



Requirements cont.

- 3. The information is not, and has not been, reasonably obtainable without [my/our] consent by other persons by use of legitimate means.
- 4. The information is not publicly available elsewhere.





Public records and trade secret

Public records and trade secret

- A request will be routed to legal for assistance in the matter.
- We will review the materials marked trade secret, and compare the actions taken by the company to the requirements imposed by Section 624.4213, Florida Statutes.
- We will contact the company which has claimed trade secret and inform them of the public records request that has been made.



Public records and trade secret

- We are going to ask the company if they would still like to pursue trade secret protection.
- The company will be sent a letter giving the company 30 days in which to initiate an action for injunction from circuit court preventing us from releasing the trade secret materials.
- Failure of the company to file an action within 30 days serves as a **WAIVER** of the trade secret protection pursuant to Section 624.4213 Florida Statutes, and the public records request will be fulfilled.



Questions?

