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Day Pitney Wins Favorable Decision for Client SCS Healthcare Marketing

NJ Court Ruled Allergan Can't Dodge Trade Secret Suit

A team of Day Pitney lawyers successfully defeated Allergan USA, Inc.'s motion to dismiss a trade secret suit filed by client SCS Healthcare Marketing LLC in New Jersey state court.

In a case of first impression, the Chancery Court considered if common law claims were preempted by the recently adopted New Jersey Trade Secrets Act. Judge Harry G. Carroll, in a December 7, 2012 opinion, ruled that Allergan's argument that the bulk of the common law claims made by SCS were preempted by the new state law that took effect in January was not valid. The trade secret suit stems from allegations that Allergan revealed SCS's proprietary and confidential information to a rival health care promotional marketing company in violation of state unfair competition, disclosure and trade secrets laws.

In ruling in favor of SCS, Judge Carroll held that, unlike other states, New Jersey alone appears to have uniquely adopted a provision which expressly provides that the rights, remedies and prohibitions of the New Jersey Trade Secrets Act are "in addition to and cumulative of" any other right, remedy or prohibition provided under the common law or statutory law of this state. In addition, the court found that the new state law expressly adds that "nothing within its provisions shall be construed to deny, abrogate or impair such a right, remedy or prohibition."

Judge Carroll also wrote in his opinion that the statute cannot be read in isolation?- ignoring the subsections as Allergan had?- which would render the law meaningless.

"This is a noteworthy decision because it is the first time a court interpreted the language of the statute," said Anthony J. Marchetta, a veteran trade secret and litigation partner at Day Pitney. "The Court's determination in this case makes it clear that the Legislature included specific language in the statute that permitted individuals to assert claims of misappropriation of trade secrets as well as common law claims and not lose the ability to protect things that might not rise to the level of trade secrets, like customer lists, that are deserving of protection under common law."

In addition to Marchetta, SCS is represented by Day Pitney attorneys Maureen C. Pavely and Jennifer Gorga Capone, and assisted by Kathleen Trawinski.

About Day Pitney
Day Pitney LLP is a full-service law firm with more than 300 attorneys in New York, New Jersey, Connecticut, Boston, and Washington, DC. The firm offers clients strong corporate and litigation practices, with experience on behalf of large national and international corporations as well as emerging- and middle-market companies and individuals.