

IN THE FIRST DISTRICT COURT OF APPEAL

DOCKETING STATEMENT and NOTICE OF APPEARANCE OF COUNSEL

(Amended February 14, 2018)

APPELLANT/PETITIONER: If this case involves an original writ, is an appeal of a non-final order, or is a "child" case (as defined in paragraph 12 below), this Docketing Statement must be completed and returned immediately. In all other cases, the Appellants must file the Docketing Statement within 20 days from the date of the Court's acknowledgment notice accepting this case and assigning a case number.

APPELLEE/RESPONDENT/AMICUS CURIAE: Appellees, Respondents, and Amici are only required to file a Docketing Statement if their name does not already appear on the certificate of service or they wish to make amendments or corrections to a Docketing Statement filed by another party. An Appellee's Docketing Statement is due no later than the answer brief. A Respondent's Docketing Statement is due no later than the response to the petition.

PLEASE PROVIDE THE FOLLOWING INFORMATION (attach additional pages if needed):

1. NAME OF CASE:

DCA CASE NUMBER:

Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Perkins Nursery, Inc.

1D19-1781

2. DOCKETING STATEMENT OF:

PARTY'S NAME: Louis Del Favero Orchids, Inc.
ATTORNEY'S NAME: Seann M. Frazier
BAR NUMBER: 971200
ADDRESS: 215 South Monroe Street, Suite 750, Tallahassee, FL 32301
PHONE NO.: (850) 681-0191
EMAIL ADDRESS (if available): sfrazier@phrd.com

Please check which type of filer you are:

Appellant/Petitioner [checked] Appellee/Respondent [] Amicus []

3. REAL PARTIES IN INTEREST: List names and addresses (including email addresses if known) of all persons, business entities, and organizations having a direct interest in the outcome of this action.

- 1. Louis Del Favero Orchids, Inc., 6601 Gant Road, Tampa, Florida 33625
2. Florida Department of Health, Office of Medical Marijuana Use, 4052 Bald Cypress Way, Tallahassee, FL 32399
3. Spring Oaks Greenhouses, Inc., 17323 Lake Street, Umatilla, FL 32784
4. Dewar Nurseries, Inc., 625 West Keene Road, Apopka, Florida 32703
5. DeLeon's Bromeliads, Inc., 13745 S.W. 1216 Street, Goulds, Florida 33170-2401
6. Hart's Plant Nursery, Inc., 360 W. Butterfield Road #280, Elmhurst, Illinois 60126
7. Perkins Nursery, Inc., 2575 Case Road, Labelle, FL 33975
8. Redland Nursery, Inc., 18455 S.W. 264th Street, Homestead, Florida 33031
9. Tree King-Tree Farm, Inc., 1882 Capital Circle NE, Suite 102, Tallahassee, FL 32308
10. Bill's Nursery, Inc., P.O. Box 900637, Homestead, Florida 33090-0637
11. Liner Source, Inc., 21102 State Road 44, Eustis, FL 32736
12. East Coast Packers, LLC, 1900 Old Dixie Highway, Fort Pierce, FL 34946
13. Caribbean Distillers, LLC, d/b/a Florida Distillers, 220 Alhambra Circle 304, Coral Gables, Florida 33134

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4. JUDGES BELOW: List the name and lower tribunal of all judge(s), judge(s) of compensation claims, master(s), and hearing officer(s)/examiner(s) who were involved in this action below.

Administrative Law Judge G.W. Chisenhall, Division of Administrative Hearings

5. ATTORNEYS: List the names and addresses (including email addresses if known) of all attorneys who are, or have been, of record in this case and whom they represent.

Please see attached response.

6. If this case is an appeal of a final order or of a partial final judgment, are there any matters still pending in the lower tribunal other than those relating to fees and/or costs? No Yes . If yes, please explain the nature of the order being appealed and what matters remain pending in the lower tribunal.

The nature of the order being appealed is a Final Order entered by the Florida Department of Health enforcing a Joint Settlement Agreement between the Department and Perkins Nursery, Inc., which licenses Perkins Nursery, Inc. as a Medical Marijuana Treatment Center, pursuant to section 381.986(8)(a), Florida Statutes.

What remains pending is an Amended Petition for Formal Administrative Hearing filed by Louis Del Favero Orchids, Inc. challenging the Department of Health's action approving issuance of Medical Marijuana Treatment Center licenses to eight applicants, including Perkins Nursery, Inc.

7. RECUSALS: Do you believe any judge(s) on this Court should not participate in this case? No Yes . If so, list the judge(s) and state your reasons for that belief. **(Note: Providing information on this form does not replace the need to file a motion if you intend to seek the disqualification of a judge.)**

8. RELATED CASES PENDING IN THIS COURT:

(a) Are there any other cases now pending before this Court arising from the same case in the lower tribunal? No Yes . If so, list the style and docket number of those cases.

Liner Source, Inc. v. Perkins Nursery, Inc. & Dep't of Health, Case No. 1D19-1812

(b) Are there any other cases now pending before this Court which involve the same or similar issues? No Yes . If so, list the style and number of those cases and state the issue(s).

Please see attached response.

(c) Are there any cases now pending before this Court which are related to this case for reasons other than those set forth in 8(a) and 8(b) above, including, but not limited to cases arising from the same set of facts? No Yes . If so, list the style and docket number of those cases and state the reason(s) the cases are related.

(d) If you become aware after the filing of this Docketing Statement of cases in this Court that involve a co-defendant in a criminal case, the same controversy or parties, or substantial similar issues, please file and serve an Amended Docketing Statement or a Notice of Related Case(s) that lists the style and docket number of those cases and states the reason(s) the cases are related.

9. RELATED CLOSED PROCEEDINGS IN THIS COURT: Are there any previously decided or closed proceedings in this court which involve the same parties or issues as this case? No Yes . If so, list the style and docket number or citation of those cases.

1. Fla. Dep't of Health; Celeste Philip, M.D.; Office of Med. Marijuana Use; & Christian Bax v. People United for Med. Marijuana; Fla. for Care, Inc.; Diana Dodson; & Catherine Jordan, 1D18-2206

2. Fla. Dep't of Health v. Edward Miller & Son, Inc., 1D18-4110

3. Fla. Dep't of Health v. Nature's Way Nursery of Miami, Inc., 1D18-2929

4. Fla. Dep't of Health v. George Hackney, Inc., d/b/a Trulieve, 1D19-0578

5. The Fla. House of Representatives v. George Hackney, Inc. d/b/a Trulieve, Fla. Dep't of Health, 1D19-747

6. Mecca Farms, Inc. v. Fla. Dep't of Health, Office of Compassionate Use & Louis Del Favero Orchids, Inc., 1D18-3761

10. RELATED PROCEEDINGS BELOW: Are there any cases other than this case pending before a lower tribunal or about to be filed in this court, which involve the same controversy or parties or substantial similar issue(s)? No Yes . If so, list each such case by style, case number, and tribunal where filed.

11. RELATED PROCEEDINGS IN OTHER COURTS: Are there any pending or prior proceedings in other courts other than those listed above related to this action? No Yes . If so, list the style, case number, and court of those cases.

1. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health, Office of Medical Marijuana Use, Courtney Coppola, and Scott Rivkees, Case No. 2019 CA 1047, in the Second Judicial Circuit of Florida

2. Florigrown, LLC & Voice of Freedom v. Fla. Dep't of Health, Office of Med. Marijuana Use, et al., Case No. 2017 CA 2549, in the Second Judicial Circuit of Florida

3. FTG Development, Inc. v. Fla. Dep't of Health, Case No. 2019 CA 858, in the Second Judicial Circuit of Florida

4. Louis Del Favero Orchids, Inc. & Mecca Farms, Inc. v. Fla. Dep't of Health, Office of Compassionate Use, Case No. 18-2838RP, in the Division of Administrative Hearings

5. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health, Office of Compassionate Use, Case No. 19-1035F, in the Division of Administrative Hearings

❖ **PLEASE READ CAREFULLY**

12. **CHILD CASES:** Does this appeal directly involve and substantially affect child custody/visitation, support, placement, juvenile dependency, termination of parental rights, or delinquency?

No Yes

Unless good cause to the contrary is shown, the Court will follow a policy of expediting appeals which involve or affect custody, support, placement, dependency, termination of parental rights, and delinquency. The briefing schedule in dependency and termination of parental rights cases is expedited by Court order. No extensions of time for briefing will be granted except when necessary to preserve the constitutional rights of a party or when substantial evidence exists to demonstrate that without the extension the child's best interests will be harmed. Motions will not toll the briefing schedule. The case will be processed in an expedited manner and decided as early as the interests of justice permit.

CERTIFICATION OF GOOD FAITH AND CERTIFICATE OF SERVICE

I hereby certify the following:

- The information I provided above is accurate and complete.
- I am familiar with and have had the opportunity to read the Court's Notice to Attorneys and Parties. This document was sent to me by the Court at case opening and contains important information. It is also available on the Court's website at www.1dca.org.
- If this is a Workers' Compensation case, the Court also sent me a Notice in Workers' Compensation Cases. If applicable, I have read and am familiar with the Court's Notice, especially the requirements for extensions of time to file briefs in this type of case.
- If I am an Appellant in a Reemployment Assistance Appeals Commission case, the Court also sent me a Notice in Reemployment Assistance Appeals Commission Cases. If applicable, I have read and am familiar with the Court's Notice.
- It is my responsibility to ensure that a copy of the Docketing Statement is served on opposing parties or their attorneys. If I am pro se, I certify that I will mail or deliver a copy of this Docketing Statement to all parties of record or their attorneys or, if I have received permission from the opposing parties or their attorneys to provide service by electronic means, I will provide an electronic copy of the Docketing Statement to all parties of record or their attorneys.

I certify that a copy hereof has been furnished to

James A. McKee, jmckee@foley.com; Benjamin J. Grossman, bjgrossman@foley.com; Nicholas J.P. Meros, nmeros@foley.com
106 East College Avenue, Suite 900, Tallahassee, FL 32301; Counsel for Perkins Nursery, Inc.

Eduardo Lombard, elombard@radeylaw.com
301 S. Bronough Street, Suite 200, Tallahassee, FL 32301; Counsel for the Department of Health

by Seann M. Frazier

on June 3, 2019

/S/ Seann M. Frazier

5. ATTORNEYS: List the names and addresses (including email addresses if known) of all attorneys who are, or have been, of record in this case and whom they represent.

Seann Frazier, sfrazier@phrd.com; Marc Ito, mito@phrd.com; Kristen Bond, kbond@phrd.com
215 South Monroe Street, Suite 750, Tallahassee, FL 32301; Counsel for Louis Del Favero Orchids, Inc.

James A. McKee, jmckee@foley.com; Benjamin J. Grossman, bjgrossman@foley.com; Nicholas J.P. Meros, nmeros@foley.com
106 East College Avenue, Suite 900, Tallahassee, FL 32301; Counsel for Perkins Nursery, Inc.

Eduardo Lombard, elombard@radeylaw.com
301 S. Bronough Street, Suite 200, Tallahassee, FL 32301; Counsel for the Department of Health

Karl E. Pearson, kpearson@pearsonbitman.com; Courtney M. Crossland, ccrossland@pearsonbitman.com
485 N. Keller Road, Suite 401, Maitland, FL 32751; Counsel for Liner Source, Inc.

Glenn Burhans, Jr., gburhans@stearnsweaver.com; Gigi Rollini, grollini@stearnsweaver.com
106 E. College Avenue, Suite 700, Tallahassee, FL 32301; Counsel for East Coast Packers, LLC

William Spicola, WilliamSpicolaPA@gmail.com
204 South Monroe Street, Suite 201, Tallahassee, FL 32301; Counsel for Caribbean Distillers, LLC

Gary Perko, gperko@hgslaw.com
P.O. Box 6526, Tallahassee, FL 32314; Counsel for Tree King-Tree Farm, Inc.

Megan S. Reynolds, mreynolds@vlplaw.com
413 East Park Avenue, Tallahassee, FL 32301; Former Counsel for the Department of Health

8. RELATED CASES PENDING IN THIS COURT:

(b) Are there any other cases now pending before this Court which involve the same or similar issues? No Yes **X** If so, list the style and number of those cases and state the issue(s).

1. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Spring Oaks Greenhouses, Inc., Case No. 1D19-1772 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and Spring Oaks Greenhouses, Inc.

2. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Dewar Nurseries, Inc., Case No. 1D19-1777 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and Dewar Nurseries, Inc.

3. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & DeLeon's Bromeliads, Inc., Case No. 1D19-1778 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and DeLeon's Bromeliads, Inc.

4. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Hart's Plant Nursery, Inc., Case No. 1D19-1780 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and Hart's Plant Nursery, Inc.

5. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Redland Nursery, Inc., Case No. 1D19-1782 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and Redland Nursery, Inc.

6. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Tree King-Tree Farm, Inc., Case No. 1D19-1783 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and Tree King-Tree Farm, Inc.

7. Louis Del Favero Orchids, Inc. v. Fla. Dep't of Health & Bill's Nursery, Inc., Case No. 1D19-1784 - At issue is a Final Order of the Florida Department of Health enforcing a Joint Settlement Agreement between the Department of Health and Bill's Nursery, Inc.

8. Liner Source, Inc. v. Bill's Nursery & Dep't of Health, Case No. 1D19-1810 - Same issue as Case No. 1D19-1784

9. Liner Source, Inc. v. Dewar Nurseries, Inc. & Dep't of Health, Case No. 1D19-1811 - Same issue as Case No. 1D19-1777

10. Liner Source, Inc. v. Tree King-Tree Farm, Inc. & Dep't of Health, 1D19-1813 - Same issue as Case No. 1D19-1783

11. Liner Source, Inc. v. Spring Oaks Greenhouses, Inc. & Fla. Dep't of Health, 1D19-1814 - Same issue as Case No. 1D19-1772

12. *Liner Source, Inc. v. DeLeon's Bromeliads, Inc. & Dep't of Health*, 1D19-1815 - Same issue as Case No. 1D19-1778

13. *Fla. Dep't of Health v. Redner*, 1D18-1505 - Whether the Florida Constitution authorizes a qualified patient to cultivate and process marijuana for his own medical use under state law. This Court issued its decision on April 3, 2019; Appellee's Motion for Rehearing is pending.

14. *Fla. Dep't of Health, Office of Med. Marijuana Use, Courtney Coppola, in her official capacity as Director of the Office of Medical Marijuana Use, et al. v. Florigrown, LLC a Florida limited liability company & Voice of Freedom, Inc., d/b/a Florigrown*, 1D18-4471 - Whether the circuit court erroneously granted temporary injunctive relief to Florigrown.; Oral Argument set for June 11, 2019

15. *The Fla. House of Representatives v. Florigrown, LLC, Voice of Freedom, Inc., Fla. Dep't of Health, et al.*, 1D18-4994 - Whether the Florida House of Representatives is entitled to intervene as an additional defendant in lawsuit brought by Florigrown LLC and Voice of Freedom, which challenges the constitutionality of part of section 381.986, Florida Statutes; Oral Argument requested.

16. *The Fla. House of Representatives v. Patients & Producers Alliance, Inc., Fla. Dep't of Health, et al.*, 1D19-2002 - Whether the circuit court erred in denying intervention to the Florida House of Representatives