

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

MICHAEL H. LAMBERT,

CASE NO.: 2013-31402 CI CI

PLAINTIFF,

JUDGE:

VS.

R. J. LARIZZA, AS STATE ATTORNEY
FOR THE SEVENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA,

DEFENDANT.

MOTION FOR TEMPORARY INJUNCTION

1. Plaintiff filed an Amended Complaint in the above-entitled action on June 12, 2013 seeking a permanent injunction to prohibit Defendant, or his employees or agents, from maintaining, viewing or distributing, Plaintiff's partial prescription history records, as well as the prescription history records of 3,300 plus other Florida citizens. (Original Complaint filed on May 31, 2013.)

2. Further, Plaintiff's action seeks a Court Order requiring Defendant to notify, in writing, via certified mail, each of the 3,300 plus citizens whose partial private prescription history records were copied and released by the Defendant through his employees and agents.

3. Plaintiff believes that a portion of his personal and private prescription history records, as well as those of 3,300 plus other Florida citizens, remains in the custody and control of the Defendant and/or his agents and those personal, confidential records are vulnerable to review, exposure, and publication unless a Court Order prohibiting same is entered.

4. Plaintiff's personal and protected prescription history records are private, confidential, and sensitive, as are those records of the other 3,300 plus citizens which the

Defendant presently possesses. Furthermore, copies of those records were given to five or six criminal defense attorneys who may also have copies of a portion of those private personal prescription history records and the ability to view and publish same.

5. Plaintiff, and the 3,300 plus other Florida citizens, whose prescription records have been revealed, will continue to suffer irreparable harm if those records are not retrieved, collected and sealed with judicial oversight to insure and protect the constitutionally mandated privacy of the Plaintiff and the other 3,300 plus Florida citizens.

6. The Defendant, through his staff, copied the private, confidential prescription records of the Plaintiff and 3,300 plus other Volusia County citizens, providing at least five copies, possibly more, of those records to five or six criminal defense lawyers representing those defendants.

7. There are six open cases pending in Volusia County wherein these partial prescription records were given to prosecutors who gave copies of same to the defense attorneys.

8. Those six cases are assigned to three separate judges and three separate prosecutors.

9. Each prosecutor has his/her own disc of these prescription history records.

10. Each secretary for those prosecutors copied a disc for each defendant assigned to that prosecutor.

11. Copying a disc on a computer results in the information from the disc copied to permanently remain on the computer's hard drive.

12. It is unknown how many copies of the Plaintiff's prescription records, and those of 3,300 other Volusia County citizens, are now in the custody and control of the Defendant, though it is known that each computer used to duplicate these discs for each defense attorney and prosecutor now permanently maintains those records on their hard drives.

13. Granting a temporary injunction to the Plaintiff is in the public interest because the citizens of this State expect and are entitled to the protection of their private prescription history records under the Constitution and laws of the State of Florida, as well as the Constitution and laws of the United States. The citizens of this State have a right to expect the Government, and particularly the Defendant, to protect the privacy of their personal prescription histories, to avoid discrimination, criticism, and other negative effects of having their personal prescriptions published or viewed by persons not entitled by law to see them.

WHEREFORE, the Plaintiff moves for the issuance of a temporary injunction against the Defendant as prayed for in the Complaint, and more specifically as follows:

1. Direct the Defendant to immediately recall, collect, and place under seal all prescription history records of the Plaintiff, as well as the prescription history records of the other 3,300 plus Florida citizens which records Defendant received from law enforcement agents at the time Defendant received Plaintiff, Michael H. Lambert's, prescription history records.

2. Direct the Defendant to immediately request that any, and all, law enforcement agencies and any other person, known to the Defendant, who may have copies of the Plaintiff, Michael H. Lambert's prescription history records and/or the prescription history records of the other 3,300 plus Florida citizens to surrender those records to the Defendant to be delivered to the Court under seal to be protected from further unlawful scrutiny.

3. Prohibit the Defendant, and his employees or agents from disseminating, publishing or providing to any other person or agency the Plaintiff, Michael H. Lambert's prescription history records or the prescription history records of the other 3,300 plus citizens whose records were provided to the Defendant at the time Defendant received the Plaintiff, Michael H. Lambert's records.

4. Direct the Defendant to secure any copies whether printed, taped, disc copied, or stored in the hard drive of computers at any of his offices, or otherwise, any and all copies of the Plaintiff, Michael H. Lambert's prescription history records, as well as the prescription history records of the other 3,300 plus Florida citizens.

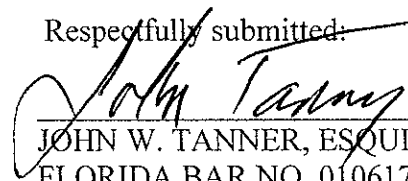
5. Direct the Defendant to immediately notify in writing, via certified letter, each of the 3,300 plus Florida citizens whose prescription history records were delivered to the Defendant at the time Defendant received the Plaintiff, Michael H. Lambert's prescription history records.

6. Direct the Defendant to instruct every member of his office who may have seen the Plaintiff, Michael H. Lambert's prescription history records and any of the other 3,300 plus citizens' prescription history records, to not further discuss or reveal any part of those prescription records to any other person or entity.

7. Direct the Defendant to provide an Affidavit as to the number of these DVDs his office copied, serial numbers of the computers upon which they were copied, the full name and addresses to whom copies of the Plaintiff's prescription history records, as well as the 3,300 other Volusia County citizens were sent, where all of those discs are now, and if any were destroyed, by whom, when, and where.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by hand delivery to R. J. Larizza, State Attorney, 7th Judicial Circuit, 251 North Ridgewood Avenue, Daytona Beach, Florida, 32114 on this 12th day of June, A.D., 2013.

Respectfully submitted:


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