CARLTON FIELDS
ATTORNEYS AT LAW

Appellate Practice Pointer
Kranias v. Tsiogas

In Kranias v. Tsiogas, No. 2D06-2269, 2006 WL 2923579 (Fla. 2d DCA Oct. 13, 2006), the Second District Court of Appeal held that a discovery order requiring the production of either a privilege log or all documents relied upon to support an allegation in the complaint was overbroad, "[b]ecause it improperly requires the Petitioners to produce documents which potentially pertain to their claim but may not be offered as evidence at trial." Id. at *1.

In reaching its decision, the Second District relied on Bishop v. Polles, 872 So. 2d 272 (Fla. 2d DCA 2004), wherein the Court held that an interrogatory requesting items that "might conceivably" be offered at trial was overbroad because an item that "might" be offered at trial does not fit within the supreme court's definition of "discoverable" items set forth in Northup v. Howard W. Acken, M.D., P.A., 865 So. 2d 1267, 1270 (Fla. 2004) (reiterating that discoverable evidence is evidence a party "reasonably expects or intends to utilize" at trial).

Ultimately, the decision in Kranias provides that the mere possibility that a document supporting a claim could be offered as evidence at trial is not sufficient to defeat the work product privilege of the document and make it discoverable.

For more information, please contact Laura Paquin at (813) 229-4233 or at

lpaquin@carltonfields.com