

RECEIVED  
SUPREME COURT OF APPEALS  
CLERK'S OFFICE

2019 SEP 17 P 4: 12

STACEY PECTOL, CLERK

**IN THE ARKANSAS SUPREME COURT**

**STATE OF ARKANSAS; ARKANSAS  
DEPARTMENT OF FINANCE AND  
ADMINISTRATION; ARKANSAS  
ALCOHOLIC BEVERAGE CONTROL  
ADMINISTRATION; AND ARKANSAS  
MEDICAL MARIJUANA COMMISSION**



**PETITIONERS**

v.

Case No. CV-19-727

**CARPENTER FARMS MEDICAL GROUP, LLC**

**RESPONDENT**

**EMERGENCY PETITION FOR WRIT OF MANDAMUS, WRIT OF  
PROHIBITION, WRIT OF CERTIORARI, SUPERVISORY WRIT,  
AND/OR STAY OF PROCEEDINGS BEFORE THE CIRCUIT COURT  
AND REQUEST FOR EXPEDITED RESPONSE**

Petitioners the State of Arkansas, the Arkansas Department of Finance and Administration (“DFA”), the Arkansas Alcoholic Beverage Control Administration (“ABC”), and the Arkansas Medical Marijuana Commission (“MMC”), for their Emergency Petition for Writ of Mandamus, Writ of Prohibition, Writ of Certiorari, Supervisory Writ, and/or Stay of Proceedings before the Circuit Court of Pulaski County, Arkansas, Fifth Division, Hon. Wendell L. Griffen, and Request for Expedited Response, state:

1. This Petition arises from an administrative appeal brought by Respondent Carpenter Farms Medical Group, LLC (“Carpenter Farms”) pursuant

to the Arkansas Administrative Procedures Act, Ark. Code Ann. §§ 25-15-207 and 25-15-212(B) (“APA”), on December 18, 2019. Like the plaintiff in the related case *Arkansas Department of Finance and Administration v. Naturalis Health, LLC*, 2018 Ark. 224, 549 S.W.3d 901, Carpenter Farms applied for but was not granted a license to operate a medical marijuana cultivation facility and filed a lawsuit in the Circuit Court of Pulaski County, Arkansas, appealing MMC’s administrative licensing decisions under the APA. Like in *Naturalis Health*, the case was assigned to Circuit Judge Wendell L. Griffen. Carpenter Farms requested various forms of declaratory and injunctive relief that would, in effect, control the lawful administrative actions of the MMC in violation of Article 5, section 20 of the Arkansas Constitution.

2. Petitioners moved to dismiss the lawsuit based on sovereign immunity and lack of standing (subject-matter jurisdiction), but the circuit court denied the motion from the bench at a hearing held on September 13, 2019. The circuit court also denied Petitioners’ motion for protective order from the bench and ordered Petitioners to respond to pending requests for authentication and admission within 10 calendar days, by September 23, 2019. True and correct copies of the relevant pleadings and filings are contained in the partial certified record being filed herewith pursuant to Rule 6-1(a)(2) of the Rules of the Supreme Court. As of the filing of this Petition, Judge Griffen has not yet entered

formal written orders on the motions to dismiss and for protective order as required by Ark. R. Civ. P. 58.

3. This Petition seeks two types of relief: (1) a supervisory writ vacating Judge Griffen's bench discovery ruling; and (2) an order removing Judge Griffen from this case and all other civil cases involving the Attorney General's Office. Additionally, given the imminent nature of Judge Griffen's unlawful discovery order, this Petition requests that the Court shorten any response time to 48 hours from the filing of this Petition and provide at least temporary relief from that order until the Court can decide this Petition on the merits.

4. *First*, Petitioners seek a supervisory writ under Supreme Court Rule 6-1 vacating Judge Griffen's bench ruling denying the State Defendants' motion for a protective order and ordering MMC to respond to requests for authentication and admission by next Monday, September 23, 2019. That ruling deprives DFA, ABC, and MMC of their absolute sovereign immunity from both liability and suit under Article 5, section 20, and was a manifest abuse of discretion. *See Bd. of Trs. of the Univ. of Ark. v. Andrews*, 2018 Ark. 12, at 4, 535 S.W.3d 616, 619 (reaffirming that "[s]overeign immunity is jurisdictional immunity from suit"); *see also Terry v. White*, 374 Ark. 366, 288 S.W.3d 194 (2008) (affirming civil contempt order for intentional and willful violation of a