

PUBLISH

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 96-4810

(District Court No. 94-8672-CV-KLR)

WARREN SECKLER, WARSEC, INC.,
a Florida Corporation,

Plaintiffs-Appellants,

versus

STAR ENTERPRISE, a New York partnership,

Defendant-Appellee.

No. 96-4988

(District Court No. 94-8672-CV-KLR)

WARREN SECKLER, WARSEC, INC.,
a Florida Corporation,

Plaintiffs-Appellees,

versus

STAR ENTERPRISE,
a New York Partnership,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida,

(December 4, 1997)
ON PETITION FOR CLARIFICATION

(Opinion October 21, 1997, 11th Cir. 1997)

Before EDMONDSON, Circuit Judge, and KRAVITCH and WOOD*, Senior Circuit Judges.

PER CURIAM:

Star's Petition for Clarification is GRANTED to the extent that we specifically confirm that we did not rule on the merits of Star's Motion to Dismiss the state law claims on any grounds other than preemption. The slip opinion, Seckler v. Star, Oct. 21, 1997, 11th Cir., should be amended as follows: On page 137, right column, line 32, the sentence reading "We hold that Seckler may proceed with his state law claims against Star." should be deleted. In its place it should read as follows, "Since the district court dismissed Seckler's claims on preemption grounds, it did not consider Star's alternative argument that Seckler's Amended Complaint failed to state a claim upon which relief could be granted under state law. We do not consider that argument on appeal; instead, this issue is remanded to the district court for consideration on the merits."

*Honorable Harlington Wood, Jr., Senior U.S. Circuit Judge for the Seventh Circuit, sitting by designation.