

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

CASE NO. 2008-CA-11315

MARY LOU SMITH, an individual,
and SHARON DENSON, an
individual,

Plaintiffs,

vs.

TRAILER ESTATES PARK AND
RECREATION DISTRICT,
an independent special taxing
district, JANET JONES, an
individual, JOHN VANDERMOLEN,
an individual, JOSEPH SALERNO,
an individual, and MARY LOU
MCNULTY, an individual,

Defendants.

CLERK OF CIRCUIT COURT
MANATEE CO., FLORIDA

2009 APR 16 AM 11:23

FILED FOR RECORD
R.B. SHORE

TRANSCRIPT OF EXCERPT OF PROCEEDINGS
(Pages 1 - 11)

HELD BEFORE: THE HONORABLE
JANETTE DUNNIGAN

DATE: March 17, 2009

LOCATION: Manatee County Judicial Center
1051 Manatee Avenue West
Bradenton, Florida 34205

REPORTED BY: Elizabeth A. Nole, Court Reporter
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Bradenton, Florida 34205

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8 Plaintiffs

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14 Appearing on behalf of the
15 Defendant, Trailer Estates

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Appearing on behalf of the Defendant,
Joseph Salerno

EXCERPT OF PROCEEDINGS

1
2 MR. BARNEBEY: Your Honor, if I might, in
3 regard to that issue, I think we can agree that if
4 more than one Board member is to be -- is to
5 participate and be in attendance at a committee
6 meeting, we will not do that.

7 THE COURT: Okay.

8 MR. BARNEBEY: I think that's probably a
9 better way to address that issue.

10 MR. HENNESSY: Thanks.

11 MR. BARNEBEY: In regard to the public
12 records documents, we believe that we've provided
13 all the documents that we have that exist. There
14 are -- they have requested some databases at least
15 as to what we understand do not exist.

16 Some documents -- we think we provided
17 others, and it may be just a communication
18 issue --

19 THE COURT: Okay.

20 MR. BARNEBEY: -- because of the fact that we
21 can't always ask what it is they really want. But
22 to the extent that we can provide them, we will
23 provide them within a timely basis.

24 THE COURT: Okay.

25 MR. HENNESSY: Well, let's do this then, Your

1 Honor. If they will agree that a reasonable time
2 to produce the documents we're seeking, we'll put
3 it in a clear letter. If they can produce it
4 within five days, you know, if they're saying
5 that's a reasonable time, I would think it's more
6 than reasonable --

7 THE COURT: Okay.

8 MR. HENNESSY: -- then I can reach that
9 stipulation.

10 THE COURT: Once again, I don't want to get
11 too far beyond what the Court would consider to be
12 emergency relief --

13 MR. HENNESSY: I understand.

14 THE COURT: -- necessary to prevent continued
15 violations. So I don't want to resolve the
16 case --

17 MR. HENNESSY: I understand.

18 THE COURT: -- in this particular order.
19 I'll take care -- take that as of June 5th. So if
20 you can't agree to the language regarding the
21 production of documents, then whatever has or
22 hasn't been produced by June 5th when we have the
23 hearing, I'll deal with that.

24 MR. HENNESSY: Okay.

25 THE COURT: But I can't read your mind as to

1 what you've already asked for or what they've
2 already produced. So I'm concerned about
3 overstepping my authority here in making that
4 suggestion that you agree to that aspect.

5 So let's just agree that for purposes of not
6 continuing any additional violations --

7 MR. HENNESSY: Uh-huh.

8 THE COURT: -- between now and June the 5th,
9 that there be no executive meetings unless
10 properly noticed and you put the procedure into
11 the order.

12 MR. HENNESSY: Right.

13 THE COURT: And no committee meetings with
14 more than one Board present, one Board member
15 present, unless properly noticed, and you put the
16 procedure in. And that will be without bond.
17 I'll enter that Temporary Injunction without bond.

18 MR. SHULTS: Your Honor, since we're agreeing
19 to this, I would like Your Honor -- I would ask
20 Your Honor to refrain from making a finding that
21 there's a substantial likelihood to prevail on the
22 merits. I don't think --

23 THE COURT: I will make no such finding based
24 on the stipulation based on the scheduling.

25 MR. SHULTS: And, Your Honor, we believe

1 there have been no past violations. Your Honor
2 said, based upon the -- the allegations of
3 violation. Clearly our --

4 THE COURT: The allegations only.

5 MR. SHULTS: -- our position in this, there
6 have been no violations. We're agreeing to this
7 in order to accommodate everyone and be able to
8 have those additional hearing times in June.

9 THE COURT: Okay.

10 MR. SHULTS: Also, the Shade issue, the
11 transcript regarding the Shade issue, that's an
12 issue -- and let me explain what it is. We had,
13 as permitted under the law, a meeting with the
14 Board outside of the Sunshine and -- but they feel
15 that we did not follow all of the procedures in
16 the statute to have that meeting. We believe we
17 did in fact follow all the procedures.

18 They have made a public records request for
19 that transcript, which obviously is all
20 attorney-client communications, litigation
21 strategy, the whole nine yards.

22 We have responded and said, no, that is still
23 not a public record and have claimed that
24 exception. I just want to make it clear that that
25 issue is still unresolved.

1 THE COURT: Okay.

2 MR. SHULTS: We are not agreeing to produce
3 that.

4 THE COURT: Okay. Okay.

5 MR. HENNESSY: I understand from your
6 statements that will be just something that we
7 argue about down the road then, Your Honor.

8 THE COURT: Right. So you may, based on the
9 reading of the bare allegations, you may place in
10 the denial, which is being denied by Trailer
11 Estates, but the Court will then find the
12 Injunction to be appropriate based on the
13 stipulation in order to accommodation more time.

14 And what we'll try to do is get some
15 bigger -- we'll try to get a bigger courtroom so
16 with can get a few more people in for those
17 hearings. So we may not be in 6E next time.

18 MR. GILL: Your Honor, if I can make a point.
19 As I understand it, they're going to have twenty
20 days to file an Amended Complaint, and right now
21 we're told that they are going to add new
22 defendants.

23 What period of time are the existing
24 defendants going to have to respond to the Amended
25 Complaint?

1 THE COURT: What do the rules say, ten days?

2 MR. GILL: Well, if they're going to be
3 adding new defendants whose time begins to run to
4 answer the Amended Complaint when they get
5 served --

6 THE COURT: Well, that would be --

7 MR. GILL: -- we would like to have -- at
8 least my client and I would like to have at least
9 as much time as the new defendants would have to
10 respond to the Amended Complaint.

11 THE COURT: Okay.

12 MR. HENNESSY: We may add a new defendant.

13 THE COURT: Then --

14 MR. HENNESSY: We're not certain we're going
15 to do that.

16 THE COURT: Then let's do this. You will
17 have -- the individual defendants' motions are
18 granted by stipulation with leave to amend within
19 twenty days. And each defendant shall have twenty
20 day within which to file an answer.

21 Now, that may or may not be exactly the same
22 as a new defendant, but a new defendant hasn't had
23 the time from the Original Complaint. So I think
24 that's -- that what we're -- I'll give you twenty
25 days.

1 MR. GILL: That's fine, Your Honor.

2 THE COURT: Okay. Anybody else? On a
3 temporary basis, it isn't necessary --

4 MR. CARROLL: No, I just want to know on June
5 5th what time we're going to start.

6 THE COURT: Thank you. That would be 1:30 on
7 June 5th, and it will be continued if necessary to
8 June 12th at 1:30.

9 So I will ask the plaintiff to notice that
10 hearing June 5th at 1:30 for three hours to be
11 continued if necessary to June 12 at 1:30, and you
12 have another three hours on that date. If you
13 don't need that much time, then please call my
14 judicial assistant and clear that up. Okay?

15 All right. We have at least something in
16 place for a short time. All right. Thank you
17 very much. Have a good day.

18 MR. HENNESSY: Your Honor, do you want us to
19 prepare all the orders, plaintiffs?

20 THE COURT: Yes, I think you should.

21 MR. HENNESSY: Thank you.

22 THE COURT: Thank you.

23 (Whereupon the excerpt concluded.)

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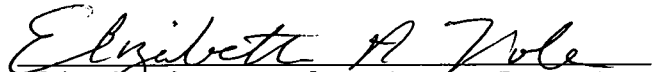
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COURT CERTIFICATE

STATE OF FLORIDA)
COUNTY OF MANATEE)

I, ELIZABETH A. NOLE, Registered Professional
Reporter, certify that I was authorized to and did
stenographically report the foregoing excerpt of
proceedings and that the transcript is a true and complete
record of my stenographic notes.

DATED this 25th day of March, 2009.


Elizabeth A. Nole, Court Reporter
Notary Public - State of Florida