

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

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

Plaintiffs,

vs.

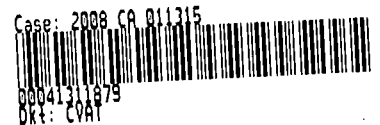
CASE NO.: 2008 CA 11315

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.

FIRST REQUEST FOR PRODUCTION

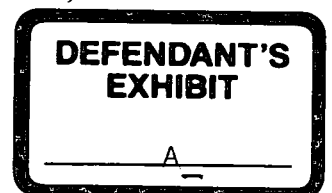
Plaintiffs, MARY LOU SMITH and SHARON DENSON, by and through their undersigned counsel and pursuant to Rule 1.350, *Florida Rules of Civil Procedure*; request the Defendants produce the following documents at the office of the Trailer Estates Park and Recreation District (hereinafter the "District") at 1903 69th Avenue West, Bradenton, FL 34207, for purposes of review and copying within thirty days after service of this Request for Production:



DEFINITIONS

As used herein, the following words shall have the following meanings indicated:

A. The scope of the words "email" or "emails" refers to any printed or electronic version, from whatever source, however produced or reproduced, whether in draft or otherwise, whether sent or received, or neither, including, but not limited to, the original in electronic form, a



copy (if the original is not available), and all non-identical copies (whether different from the original because of notes made on or attached to such copy or otherwise) and all other information where data, metadata, records or compilations, including all underlying, supporting or preparatory material now in your possession, custody or control, or available to you, your counsel, accountants, agents, representatives or associates. "Document" or "documents" specifically includes documents kept by individuals in their desks, at home or elsewhere.

B. "You" or "your" or "District" shall refer to JANET JONES, an individual, JOHN VANDERMOLLEN, an individual, JOSEPH SALERNO, an individual, and MARY LOU MCNULTY, an individual, and TRAILER ESTATES PARK AND RECREATION DISTRICT, an independent special taxing district, its agents, employees, representatives, officers, public officials, council members, city managers, lobbyists, counsels, successors, or assigns, including all other persons acting or purporting to act on its behalf; experts, persons consulted concerning any factual matter or matters of opinion relating to any of the facts or issues involved in this action, unless privileged.

INSTRUCTIONS

A. If any requested email is not presently within your physical custody, possession or control of your agents or attorneys, but you have the legal right to obtain it, then you are requested to take such steps as may be necessary to procure or produce such at the time and place indicated herein. If any such email is contained in computer memory, magnetic tape or similar non-legible storage, you are requested to produce the computer containing the document for inspection and copying.

B. To the extent precise and complete emails cannot be furnished, such emails as are available shall be supplied.

C. If objection is taken to any of the following requests, or if a request is otherwise not answered in full, state the specific grounds therefore, and respond to such request to the extent to which there is no objection. If privilege is alleged as to any of the emails requested, fully identify for each such email:

- (1) Its date;
- (2) The author;
- (3) The recipient; and
- (4) The general subject matter.

D. Emails are to be produced separately in response to each paragraph of these requests.

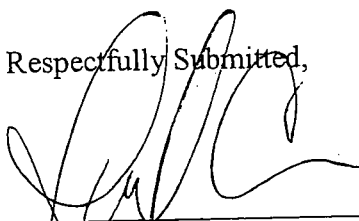
ELECTRONIC DOCUMENTS TO BE PRODUCED

1. Any and all emails sent between District Board of Trustee members and member(s)-elect relating to the District from January 1, 2006, to the present.

2. Any and all emails sent by a District Board of Trustee members and member(s)-elect that carbon copies another District Board of Trustee member(s) relating to the District from January 1, 2006, to the present.

3. Any and all blogs, chat rooms, chalkboards, bulletin boards, instant messages, groups, or other electronic mediums where two or more District Board of Trustee members and member(s)-elect have communicated regarding District issues from January 1, 2006, to the present.

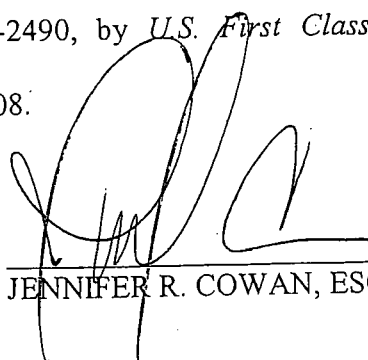
Respectfully Submitted,



KEVIN S. HENNESSY, ESQUIRE
Florida Bar No. 0602558
MAGGIE MOONEY-PORTALE, ESQUIRE
Florida Bar No. 0555924
JENNIFER R. COWAN, ESQUIRE
Florida Bar No. 038081
Lewis, Longman & Walker, P.A.
1001 3rd Avenue West, Suite 670
Telephone (941) 708-4040
Facsimile (941) 708-4024
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to **Janet Jones**, 2216 Pennsylvania Avenue, Bradenton, FL 34207, **John Vandermolen** 6807 Massachusetts Street, Bradenton, FL 34207, **Joseph M. Salerno**, 6604 California Street, Bradenton, FL 34207, **Mary Lou McNulty**, 1806 Ohio Street, Bradenton, FL 34207, by U.S. *First Class Mail*, and **Thomas D. Shults**, Esquire, Kirk Pinkerton, 50 Central Avenue, Suite 700, Sarasota, Florida 34236-5742, (941) 364-2490, by U.S. *First Class Mail and Facsimile Transmission*, this 12 day of December, 2008.



JENNIFER R. COWAN, ESQUIRE

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

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

Plaintiffs,

CASE NO. 08 CA 11315

vs.

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

Defendants.

JOHN VANDER MOLEN RESPONSE TO PLAINTIFF'S
FIRST REQUEST FOR PRODUCTION

Defendant, John Vander Molen, pursuant to Florida Rule of Civil Procedure 1.350(b) responds to the Plaintiff's First Request for Production and states that all documents in his possession which are responsive to the First Request for Production are attached to this response.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Jennifer R. Cowan, Esquire, Lewis, Longman & Walker, P.A., 1001 3rd Ave. W. Suite 670, Bradenton, FL 34205 and to Thomas D. Shults, Esquire, Kirk Pinkerton, P.A., 50 Central Avenue, Suite 700, Sarasota, FL 34236 this 9th day of January, 2009.

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.
1515 Ringling Boulevard, Suite 700
Sarasota, Florida 34236
(941) 316-7600

By: Robert J. Gil
Robert J. Gil, Esquire
FBN 0290785

**DEFENDANT'S
EXHIBIT**

B

-mail message

From: jjvan@juno.com (John C Vander Molen)
Date: Thu, May 4, 2006, 11:29am
To: chalkbd@tampabay.rr.com
Cc: jjobrien1@webtv.net
Subject: Re: Early morning observation

Bill Your suggestions sound great but who is supposed to do all this ? How much more can we residents dump on the load that the volunteer trustees already are carrying ? As the wife of a former trustee I personally know that in reality it becomes a 40 hour plus job in addition to all the criticism and grief you have to take from individuals that have no idea what they are talking about or expecting. We can hardly get people to volunteer for minor stuff much less take on the trustee positions without adding more onto the load they are carrying for the rest of us. Perhaps you might like to take on that job.just my thoughts this morning. Janet

On Thu, 4 May 2006 07:38:07 -0400 "Flo & Bill" <chalkbd@tampabay.rr.com > writes:

John, The following recommendation was sent to the Planning Committee Wed. for consideration

As an early morning observer This issue and the appointment of a replacement for Bob Poor must be placed on the Trustees front burner. Ink ,and a great deal of personnel effort on the part of all Trustees must be instituted now. How It is handled and the perception on the part of the residents will go a long way towards healing our sore spot.

Some how ,the use of the computer club and their equipment must be factored into our TE communication short commings. You and Janet should not be expected to carry the burden of the Trustee responsibilities under Janets (Tom's letter). Bill

A RECOMMENDATION FOR CONSIDERATION

The 2006 Hurricane season is almost upon us . A TE hurricane committee should be activated now and the announcement be officially made to all residents of TE.

In the event that we do not have volunteers to head the 2006 hurricane committee , the Board of Trustees should consider assigning one or more trustees to head A Hurricane Committee during the active season.

The Board should also consider assigning members of the maintenance staff to support and be part of the daily activity.

1 to committee business?

2 A The ARC Committee when I was on that.

3 Q Yes.

4 A I did, yes.

5 Q Okay. Any other committees?

6 A I believe that's the only committee I've
7 been on, ARC.

8 Q Okay.

9 A A member of.

10 Q What about your services as a liaison for
11 the board to those committees, did you utilize your
12 home computer to communicate with committee members
13 or the board regarding those actions?

14 A I don't recall that I did, no. I'm not much
15 of an E-Mailer.

16 Q Okay. What is your practice with regard to
17 saving or preserving E-Mails?

18 A Almost immediate delete.

19 Q Okay.

20 A I have not a saver on the computer.

21 Q Okay. And when you say, you -- you have a
22 practice of deleting E-Mails?

23 A I use the current one is Windows Mail, and
24 if you put it in delete box, when you close that out,
25 it deletes them all, I guess.

**DEFENDANT'S
EXHIBIT**

_____C_____

1 Q Okay. And you do that, what, with regard to
2 E-Mails that you receive?

3 A I receive very few E-Mails.

4 Q Okay. Do you -- do you have a practice of
5 deleting the E-Mails that you receive?

6 A Yes.

7 Q Do you have a practice of deleting the
8 E-Mails that you send?

9 A Yes.

10 Q Do you have a practice of deleting your
11 deleted E-Mails?

12 A I thought the computer did that.

13 Q Okay.

14 A That's why I put it in there.

15 Q Okay. Do you recall receiving direction
16 from your attorney to provide the district office
17 with all documents, correspondents, communications,
18 including E-Mails that deal with district business?

19 MR. SHULTS: What attorney are you referring
20 to?

21 You said, his attorney.

22 MR. HENNESSY: It would be -- no, the
23 board's attorney, the --

24 BY MR. HENNESSY:

25 Q It would be Kirk, Pinkerton. Kirk,

1 Pinkerton?

2 A I'm sure in the office we received -- is
3 that what you are saying, did I receive a document?

4 Q Well, do you recall receiving instructions
5 from Kirk, Pinkerton to provide the district office
6 with any district records that might be in your
7 possession, including E-Mails?

8 A Yes.

9 Q Did you comply with that request?

10 A Yes.

11 Q Did you, in fact, provide them with any
12 documents?

13 A Are you talking about E-Mail documents; is
14 that --

15 Q Well, any documents to begin with?

16 A I did not keep a list of what I provided,
17 it's on record in the office.

18 Q But you provided some documents?

19 A Yes.

20 Q And you say -- when you say, it's on a list,
21 who made a list or did you provide that?

22 A I said, I don't -- I did not keep a list of
23 what I gave the office.

24 Q Okay. But do you believe that the -- the
25 office made a list of what you provided them?

1 A You would have to ask the office. I'm
2 sorry.

3 Q Okay. All right. Did you provide -- in
4 those documents that you provided to the district
5 office, were there any E-Mails included?

6 A I don't remember.

7 Q Okay. You said that you have a practice of
8 deleting E-Mails, is that still your practice today?

9 A Not after I received the letter that said I
10 shouldn't do that, no.

11 Q Okay. Have you then been saving those
12 E-Mails somewhere?

13 A I'd have to say what E-Mails, because I
14 don't get them.

15 Q Okay. All right. So, you don't believe you
16 received any E-Mails since the date you got the
17 letter saying, don't delete E-Mails that may be
18 district related?

19 A Oh, district related, I don't remember
20 getting any district related E-Mails.

21 Q Okay. Okay. I'm going to give you a
22 Composite Exhibit 16.

23 (Thereupon, Exhibit Number 16 was marked
24 for identification by the court reporter.)

25 BY MR. HENNESSY:

1 Q Mr. Vander Molen, I'm giving you a Composite
2 Exhibit 16, which is a group of E-Mails, and it
3 indicates that the E-Mail is to Vander Molen, John,
4 from John Vander Molen, and it has been printed out,
5 and it would indicate by T. J. Miller. My question
6 is, are you aware of an E-Mail group that exists
7 under your name, John Vander Molen at --

8 A An E-Mail group, I'm not sure what --

9 Q It means location where multiple E-Mails
10 exist under a single heading, and in this case it
11 would be -- the heading would be John Vander Molen?

12 A I'm still not clear what you're --

13 Q All right. Well, let me ask you a different
14 question. Do you have -- in addition to your
15 personal E-Mail, do you have an office E-Mail
16 address?

17 A No.

18 Q Okay. So, the district doesn't maintain a
19 separate E-Mail address for you?

20 A No.

21 Q Okay. Then if this document was produced by
22 T. J. Miller, printed out by T. J. Miller, do you
23 know how she would have received it?

24 A No.

25 Q Okay. Do you make a practice of sending

1 yourself E-Mails?

2 A Of sending myself E-Mails?

3 Q Yes, sir.

4 A On my computer that happens --

5 Q Okay.

6 A -- because my wife does probably more
7 computing than I can.

8 Q Well, the first E-Mail says it's a draft of
9 Trailer Estates Park and Recreation District Board of
10 Trustees regular meeting, do you know why you would
11 be receiving draft meeting minutes, and who you would
12 be receiving them from?

13 A Oh, May 5th, 2008. Oh.

14 Q Yes.

15 A Okay. This recollects now what I think this
16 is doing --

17 Q Okay.

18 A -- or was doing. Up until, and I'm not sure
19 of the exact date I stopped, as a service to the
20 community I was taking board minutes -- minutes home,
21 scanning them into my computer, and sending them out
22 to a list of names that my wife maintains when she
23 does the summer newsletter, it was simply a service
24 of -- to the community. And I believe that Trailer
25 Estates, although this to and from confuses me, in

1 fact, I'm not sure I've seen an E-Mail that has the
2 E-Mail address in parens, that -- maybe that -- is
3 that how they come through? I guess I don't -- but
4 as a service to the community we were sending -- and
5 that's quite a massive list that she maintains, and
6 allows me to use, and --

7 Q So, you're sending draft minutes out to a
8 select group of residents in Trailer Estates?

9 A Those that asked for it, yes, that are on
10 her list. I just do her address book, I don't --

11 Q Okay.

12 A These look like board minutes --

13 Q Yes.

14 A -- available as public records in the
15 office.

16 Q Okay. Mr. Vander Molen, do you recall
17 public records requests being made for a data base
18 that was in the possession of the district, initially
19 made by my client as -- in her services on one of the
20 Trailer Estates committees?

21 A I remember at a board meeting a discussion
22 about -- I thought it was from John Wight who was --
23 if that's the future planning committee she is
24 talking about -- that you are referring to, asked
25 that at a board meeting.