

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

MARY LOU SMITH, et al,

Plaintiff

vs

Case No. 2008-CA-11315

TRAILER ESTATES PARK AND RECREATION
DISTRICT, et al

Defendants _____/

**DEFENDANT MARY LOU MCNULTY'S
NOTICE OF JOINDER AND MOTION TO DISMISS**

COMES NOW, Defendant, **MARY LOU MCNULTY** (“Defendant McNulty”), by and through her undersigned counsel, and gives notice of her joinder in Co-Defendant, Trailer Estates Park and Recreation District’s, Motion to Strike or Dismiss Plaintiffs’ Second Amended Complaint for Failure to Comply with Order Permitting Amendment and Motion to Dismiss or Motion for More Definite Statement.

Joinder

Defendant McNulty joins in Co-Defendant Trailer Estates’ Response to the Second Amended Complaint. In addition, Defendant McNulty notes that she is the only named individual in this lawsuit who is not an elected official. Her tenure as an elected official ended on December 31, 2008. As a consequence, the vague allegations contained in the Second Amended Complaint are even more difficult for her to respond to as the new allegations in the Second Amended Complaint do not have time frames associated with them. Additionally, paragraphs 37(i),(bb),(cc),(ee), and (ff) allege that “board members” and “trustees” have violated the

Sunshine Law in unknown and unnamed ways. These allegations do not state which board members or trustees allegedly violated the Sunshine Law. Since Defendant McNulty has not been a board member for all of 2009, it is impossible for her to respond to these allegations.

Motion to Strike & Motion to Dismiss

As additional grounds for striking the Second Amended Complaint, it is the position of Defendant McNulty that the Second Amended Complaint is in fact more in the line of a supplemental pleading, as it appears to set forth transactions, occurrences, or events which have happened since the date of the First Amended Complaint. Supplemental pleadings are to receive approval of the court prior to being filed. Rule 1.190(d), Florida Rules Civil Procedure; *Florida Power and Light Company v. System Counsel U-4 of the International Brotherhood of Electrical Workers, AFL-CIO*, 307 So. 2d 189 (Fla. 4th DCA 1975). Since the Second Amended Complaint was not approved as a supplemental pleading, it should be stricken or in the alternative, dismissed.

Respectfully submitted this 31st day of August 31, 2009.

s/James D. Dye
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August , 2009, a true and correct copy of the foregoing Defendant Marylou McNulty's Notice of Joinder and Motion to Dismiss has been provided via first class U.S. mail and email to:

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