

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

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

Plaintiffs,

v.

CASE NO. 2008-CA-11315

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

Defendants.

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MOTION TO STRIKE, MOTION FOR A MORE DEFINITIVE STATEMENT, AND  
MOTION TO CONTINUE

Defendant, JOSEPH SALERNO, an individual, by and  
through his undersigned counsel, hereby moves this Court, in  
the alternative, to either:

Strike Plaintiffs' Complaint; or Alternatively for a  
More Definitive Statement ;or Alternatively to Continue the  
Trial Scheduled for September 2009, and in support of this  
Motion states:

1. In response to a motion filed by the Attorney for  
Defendant Janet Jones seeking to remove open-ended phrases  
from the complaint (i.e. "Including but not limited to") and  
the concern that Plaintiffs intended to offer evidence which

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MANATEE CO. FLORIDA

had not previously been disclosed concerning events that occurred after the date of filing the complaint, this Court ordered a more definite statement.

2. Plaintiffs, on August 24, 2009, filed its new complaint but this new complaint exacerbates the concern raised about open-ended language. Plaintiffs have merely substituted open-ended phrases and included additional open-ended paragraphs. As such, the Plaintiffs have failed to abide by this Court's order and accordingly, the Court should strike both the newly filed complaint of August 24, 2009 and the open-ended phrases found in the prior complaint. Further, all matters occurring after the filing of the initial pleading should be deemed outside the scope of this suit. If the Plaintiffs, desire to raise these subsequent events, they should do so in a new suit.

3. If this Court, in its discretion, chooses to allow the new pleading to stand, then this Defendant seeks an order postponing the trial of this matter to allow Defendants to discover what events, facts and witnesses are lurking behind the vague and open-ended language of the Second Amended Complaint.

Wherefore, Defendant Joseph Salerno, moves this Court to Strike Plaintiffs' Second Amended Complaint: Or Alternatively for a More Definitive Statement; Or Alternatively to Continue

the Trial Scheduled for September 8<sup>th</sup> 2009.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy hereof has been furnished by U.S. first class mail to the addressees listed on the attached Service List this 31<sup>st</sup> day of August, 2009.

ROBERT E. TURFFS

By: 

ROBERT E. TURFFS (363391)  
1444 First Street, Suite B  
Sarasota, Florida 34236  
(941) 953-9009 (Telephone)  
(941) 953-5736 (Facsimile)  
Attorney for Defendant Joseph  
Salerno

SERVICE LIST

Hunter W. Carroll, Esquire  
Matthews, Eastmoore, P.A.  
1777 Main Street, 5th Floor  
Sarasota, Florida 34236  
Attorney for Defendant,  
Janet Jones

Kevin S. Hennessy, Esquire  
Lewis, Longman, Walker, P.A.  
1001 Third Avenue West, Suite 670  
Bradenton, Florida 34205  
Attorney for Plaintiffs

Daniel E. Scott, Esquire  
Daniel E. Scott, P.A.  
2033 Main Street, Suite 408  
Sarasota, Florida 34237  
Attorney for Defendant,  
John Vander Molen

Thomas D. Shults, Esquire  
Kirk, Pinkerton, P.A.  
50 Central Avenue, Suite 700  
Sarasota, Florida 34236  
Attorney for Defendant,  
Trailer Estates Park and  
Recreation District

James D. Dye, Esquire  
Dye, Deitrich, Ptruff, & St. Paul, P.L.  
1111 Third Avenue West, Suite 300  
Bradenton, Florida 34205  
Attorney for Defendant,  
Mary Lou McNulty