

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. 08 CA 11315

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.

**MOTION TO DETERMINE PUBLIC RECORDS STATUS
OF DOCUMENT PRODUCED DURING DISCOVERY**

COMES NOW, Defendant, Trailer Estates Park and Recreation District, by and through undersigned counsel, and hereby files the above-referenced Motion, and as grounds thereof states as follows:

1. During the course of discovery, the Plaintiffs produced to the District a document Bates-stamped by the Plaintiff as 1300-03 (hereinafter described as “the document”). Documents produced by the parties in this case are maintained by the District’s counsel in this action. As such, the District believes that the document is a public record as defined by F.S. 119.011(12).

2. Subsequent to the production of the document, Plaintiffs requested that all copies of the document in the District’s records be removed and returned to Plaintiffs’

counsel's office because the Plaintiffs claim that the document is an attorney-client communication.

3. The District has been unable to locate an exemption contained in Florida Public Records Law which would permit the District to remove the document from its public records. The District has, however, sequestered copies of the document in its records in an abundance of caution, until such time as it can be determined whether an exemption from the Public Records Law exists. Under the circumstances, however, the District believes the Public Records Law requires that it must permit a member of the public to inspect the document or obtain a copy of the document if requested.

4. This Motion does not address whether the document is subject to the attorney-client privilege, and if so whether that privilege has been waived or the document is otherwise admissible. The District reserves all rights to argue that the document is admissible in evidence regardless of the Court's determination of this Motion.

WHEREFORE, the District respectfully requests this Court to determine whether the document is a public record and to authorize the District to act accordingly depending upon the Court's ruling.

CERTIFICATE OF SERVICE ON FOLLOWING PAGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U.S. Mail and facsimile to Kevin S. Hennessy, Esquire, Lewis, Longman & Walker, P.A., 1001 Third Avenue West, Suite 670, Bradenton, Florida 34205, (941) 708-4024, Daniel E. Scott, Esquire, Daniel E. Scott, P.A., 2033 Main Street, Suite 408, Sarasota, Florida 34237, (941) 366-6303, Robert E. Turffs, P.A. 1444 First Street, Suite B, Sarasota, Florida 34236, (941) 953-5736, James D. Dye, Esquire, Dye Deitrich, Petruff & St. Paul, P.L., 1111 3rd Avenue W., Bradenton, Florida 34205-7834, (941) 748-1573 and Hunter W. Carroll, Esquire, Matthews, Eastmoore, Hardy, Crauwels & Garcia, P.A., 1777 Main Street, Suite 500, Sarasota, Florida 34236, (941) 954-7777, on this 30 day of October, 2009.

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