

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

CIRCUIT CIVIL CASE NO. 08-CA-11315

- - - - - X
 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, JOSEPH SALERNO, an)
 individual, and MARY LOU MCNULTY,)
 an individual,)
)
 Defendants.)
 - - - - - X

DEPOSITION OF JOHN VANDER MOLEN

TAKEN BY: THE PLAINTIFFS HEREIN

 BEFORE: DIANE GULDIN-TEMPLETON
 Court Reporter
 Notary Public
 State of Florida at Large

 DATE: April 16, 2009
 Commencing at 1:03 P.M.

 PLACE: Vincent M. Lucente & Associates
 526 Twelfth Street West
 Bradenton, Florida

1 **lawsuit, executive session meaning -- meaning a**
2 **session that was closed to the public?**

3 A I believe Mr. -- the firm of Kirk, Pinkerton
4 called a shade meeting; is that what you are
5 referring to?

6 Q **Yes, sir. In January of 2009. Did you**
7 **attend that shade meeting?**

8 A Yes.

9 Q **Okay. Do you have a personal computer?**

10 A Yes.

11 Q **Where do you maintain that computer?**

12 A In my home.

13 Q **Okay. And do you use that computer to**
14 **E-Mail other board members?**

15 A No.

16 Q **Do you use that computer to do board**
17 **business?**

18 A I might type some of my own memos.

19 Q **Okay. Do you, in fact, utilize E-Mail from**
20 **that computer?**

21 A Yes.

22 Q **Okay. What is your E-Mail address?**

23 A Jjvan@tampabay.rr.com.

24 Q **Do you use that E-Mail address to**
25 **communicate with fellow committee members with regard**

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.

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 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