

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

CASE NO. 08 CA 11315

DIVISION: B

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, JOHN VANDER MOLEN, an
individual, JOSEPH SALERNO, an
individual, and MARY LOU MCNULTY, an
individual,

Defendants.

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DEPOSITION OF: GAIL OPPER

(Volume I)

DATE: Tuesday, December 1, 2009

TIME: 1:33 p.m. - 6:05 p.m.

LOCATION: Kirk, Pinkerton, P.A.
1301 Sixth Avenue West
Suite 401
Bradenton, Florida 34205

REPORTED BY: NANCY E. PAULSEN, CRR, RPR, FPR
Notary Public
State of Florida at Large
US Legal Support

U.S. Legal Support
(813) 876-4722

1 **Q. Do you save your e-mails?**

2 A. No. I can't. My -- my computer has a program
3 that allows only so much space for e-mails, and it'll
4 blink red, and it will send back e-mails if I have too
5 many e-mails saved. So -- I shouldn't say I don't save
6 e-mails. I save pictures of my granddaughter, I save,
7 you know, but not --

8 **Q. So you frequently go through your computer**
9 **e-mails and delete e-mails?**

10 A. I have to.

11 **Q. Okay.**

12 A. I don't have a choice.

13 **Q. Is that something that you do -- that you've**
14 **done continuously since you've owned the computer?**

15 A. Yeah.

16 **Q. Is that something that you've done in the past**
17 **year?**

18 A. Yeah.

19 **Q. Do you use your computer for personal e-mails?**

20 A. Yeah.

21 **Q. Do you use your computer for e-mails related**
22 **to your work on -- at Trailer Estates?**

23 A. I do -- I type the minutes on my personal
24 computer.

25 **Q. Um-hum (affirmative).**

1 A. And then I send them to the office.

2 Q. Okay.

3 A. And delete them from my personal computer.

4 Q. Okay. Do you use your personal computer as
5 well to e-mail other trustees?

6 A. I can't recall -- most of the trustees don't
7 even have a computer.

8 Q. Okay. Well, there are some that do; correct?

9 A. I don't know if -- I don't know if I've e- --
10 I can't recall whether I e-mailed anyone as a trustee.
11 I have tried to be very careful.

12 Q. Have you made any effort to save e-mails that
13 you have sent to other trustees?

14 A. I don't know what -- what have I -- what
15 e-mails have I written to other trustees? The -- the
16 rule is that if -- if I write a trustee, any -- in any
17 form, it is their responsibility to make it a public
18 record, not mine.

19 Q. The recipient?

20 A. The recipient makes it a public record, not --
21 I don't.

22 Q. So you delete the e-mails that you send to
23 other trustees?

24 A. I don't think I send e-mails to other
25 trustees. I don't recall -- I mean, I'm not saying I

1 trustee, it would have been eons ago. It wasn't
2 anything recently. So I didn't -- you know, why would
3 that be necessary? I don't e-mail people like that.

4 **Q. Okay. Do you save your e-mails?**

5 A. No.

6 **Q. Okay. Do you receive e-mails from other**
7 **trustees?**

8 A. I re- -- let's see. I receive what's called
9 Tom's Café from Janet Vander Molen, it's not from John,
10 but it's from Janet Vander Molen.

11 **Q. Does it talk about Trailer Estates?**

12 A. Yeah. But not the business of the District.
13 It talks about the new shopping center.

14 **Q. Do you save that information?**

15 A. No.

16 **Q. Do you delete it?**

17 A. I have saved one of those, because it talked
18 about my new position in Kentucky, and I thought it was
19 very nice and very well written.

20 But I didn't see where that was -- that was
21 from Janet Vander Molen.

22 **Q. Exhibit 15 is an e-mail in January of this**
23 **year.**

24 A. Okay.

25 **Q. You were a trustee; correct?**

1 A. Okay. Well, I don't remember.

2 Q. You don't know if you were a trustee in
3 January?

4 A. Well, I was a trustee. But this was -- this
5 was not to -- Mary Lou McNulty is not a trustee.

6 Q. Okay.

7 A. She is a resident.

8 Q. Currently. Yes.

9 A. Well, she was a resident on the 12th of
10 January. I was sworn in on the 5th.

11 Q. Did you save this e-mail on your computer?

12 A. No.

13 Q. Did you provide it to us here today?

14 A. Well, how could I provide it if I didn't have
15 it?

16 Q. Okay.

17 A. And why would I provide it? It was from me to
18 a resident.

19 Q. You're aware that Ms. McNulty is a defendant
20 in this lawsuit; correct?

21 A. Yes. She's a resident.

22 Q. She's a former trustee, is she not?

23 A. And I'm not an -- I'm not an attorney. I
24 can't think of all the small things that...

25 Q. Have you been informed by the District counsel

1 MR. HENNESSY: Why don't we take five minutes,
2 and I'll decide if I have anything further. Okay?

3 (Recessed taken from 6:27 p.m. to 6:34 p.m.)

4 MR. HENNESSY: 17? 16?

5 THE COURT REPORTER: 16.

6 (Marked Deposition Exhibit 16.)

7 MR. ROSS: Are we back on the record?

8 MR. HENNESSY: Back on the record, yeah.

9 BY MR. HENNESSY:

10 Q. Ma'am, I've shown you what's Exhibit 16, a
11 subpoena for deposition duces tecum. You've seen this
12 document before?

13 A. Yes, sir.

14 Q. It has attached to it an Exhibit A, which is a
15 list of documents for you to produce today. You looked
16 at this before you came here today?

17 A. I have looked at this since May.

18 Q. Okay. And you've done your best to find
19 documents responsive to this request?

20 A. I think that box looks like I did my very
21 best.

22 Q. In reviewing the documents that you produced,
23 I don't find any e-mails that you sent or received from
24 Janet Jones related to the District from January 1st,
25 2005 to the present.

1 A. And?

2 Q. Do you have any such documents in your
3 possession?

4 A. If I had them, I would have brought them.

5 Q. So, to your knowledge, you don't have those
6 documents?

7 A. If I didn't bring them, I don't have them.

8 Q. Do you know if such documents exist?

9 A. Well, you -- I have one right here
10 (indicating).

11 Q. So you are aware that you have e-mailed Janet
12 Jones in the past?

13 A. Yeah.

14 Q. But you assume, then, that those documents --

15 A. I was a resident.

16 Q. -- are deleted?

17 A. Yes.

18 Q. The same thing is -- number 4, you didn't
19 produce any e-mails from John Vander Molen. Do you not
20 have any of those in your possession?

21 A. If I had them, I would have brought them.

22 Q. Do you believe you deleted e-mails that went
23 to John Vander Molen?

24 A. I -- well, here is one, and I don't have it.

25 Q. Okay. You didn't produce any e-mails

Subj: **Your attorney Jim Dye**
Date: 1/12/2009 7:49:53 A.M. Eastern Standard Time
From: gathur01@windstream.net
To: MaryMTE@aol.com

Hi Mary Lou,

I have been thinking of you a lot. I'm so thankful your surgery is over and all is well. I'm also thankful for the excellent start of your surgical day. I understand you had the world's finest people greeting you at the hospital that day....oh my gosh, what are the chances of that?!!!! How unreal.....we look forward to seeing you up and about again.

I just want you to know that I checked into your attorney and law firm. My daughter and son-in-law have always said that the determination of a good lawyer is the law school from which he graduated. In this case, Jim Dye went to FSU, ranked only 55th among the nation's law schools. I wish that could be better. The good news, though, is that it appears his father started the law practice so he learned a lot just living in his dad's home. Also, it appears he specializes in property and government law, which is good. I would urge you if you stay with him to have him and only him represent you. I'm actually anxious to see how he does if you hire him because I absolutely do not like Barnebey. After the lawsuit is settled, I'm going to request we get a different attorney.

Have a great day....this should be a very interesting board meeting!!!!

Gail

DEFENDANT'S
PIF EXHIBIT #
G. Opperdo 15
70 12/1/09

