

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

Case No. 08-CA11315

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 VANDERMOLEN, an individual, JOSEPH)
SALERNO, an individual, and MARY LOU)
MCNULTY, an individual,)

Defendants.)

DEPOSITION OF JOSEPH SALERNO, TAKEN
BY TELEPHONE, in behalf of the Plaintiffs,
pursuant to the applicable provisions of the
Rules of Civil Procedure, before Sandra A.
Viera, Court Reporter and Notary Public within
and for the State of Massachusetts, at the Law
Offices of Lang, Xifaras & Bullard, 115
Orchard Street, New Bedford, Massachusetts, on
Wednesday, August 19, 2009, commencing at 2:00
p.m.

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1 Q. Okay. Did you have a prior
2 conversation with Mr. Vandermolen about the
3 merits of Pickle Ball before you brought it to
4 the attention to the Board --

5 A. No.

6 Q. -- as a whole?

7 A. No.

8 Q. Okay. Well do you think discussing,
9 uhm, the Annual Distribution of Financial
10 Reports and the District Budget would be a
11 matter of Board business?

12 MR. TURFFS: Object to form.

13 MR. ROSS: Joined, Zach Ross.

14 Examination by Mr. Hennessy:

15 Q. Well let me ask you a different
16 question, Mr. Salerno.

17 Do you think that discussing
18 with another Trustee, uhm, the Annual
19 Distribution of Financial Reports would be a
20 discussion of Board business?

21 MR. TURFFS: Object to form.

22 MR. CARROLL: Hunter Carroll,
23 joined.

24 MR. ROSS: Joined, Zach Ross.

1 MR. SCOTT: Dan Scott, joined.

2 MR. DYE: Joined, Jim Dye.

3 MR. HENNESSY: Don't want to be
4 left out there, Mr. Dye. Uhm, you get to
5 answer the question Mr. Salerno.

6 A. If it's a budget and it's at a Board
7 meeting, that's fine; and that what I would
8 do.

9 Examination by Mr. Hennessy:

10 Q. Okay. So the discussion of the
11 Annual Distribution of Financial Reports would
12 be a matter that should be discussed in a
13 public meeting?

14 A. Yes.

15 Q. Okay. Do you believe that the
16 discussion of the District Budget is a matter
17 that should be discussed in a public meeting?

18 A. Yes.

19 Q. Okay. And so then a discussion
20 concerning the Distribution of Financial
21 Reports is not a discussion Trustees should
22 have outside of a public meeting?

23 A. Yes.

24 Q. Okay. And a discussion of the

1 **District Budget is not a matter that District**
2 **Trustees should have outside of a public**
3 **meeting?**

4 A. Yes.

5 Q. Okay. Do you think that discussing,
6 uhm, a questionnaire to go to the residents
7 about how the District should formulate its
8 budget is a matter that a should be discussed
9 by the Board in a public meeting?

10 A. Yes.

11 MR. TURFFS: Object to form.
12 Examination by Mr. Hennessy:

13 Q. Okay. If two Trustees or more had a
14 conversation about a questionnaire that would
15 go to the residents concerning budget
16 priorities outside of a public meeting, do you
17 think that that would be proper or improper?

18 A. Improper.

19 MR. TURFFS: Bob Turffs, object
20 to form again.

21 MR. ROSS: Zach Ross, joined.

22 MR. DYE: Joined, Jim Dye.

23 MR. CARROLL: Joined, Hunter
24 Carroll.

1 MR. SCOTT: Joined, Dan Scott.

2 Examination by Mr. Hennessy:

3 Q. And, Mr. Salerno, I believe you
4 answered the question that it would be
5 improper?

6 A. Yes, improper.

7 Q. Okay. Do you know if the District
8 has ever developed such a Budget
9 Questionnaire?

10 A. Yes.

11 Q. Okay. Did you assist in the
12 development of that Budget Questionnaire?

13 A. No, I didn't.

14 MR. TURFFS: Did you answer
15 that question?

16 THE WITNESS: Yes. I said,
17 "No, I didn't."

18 Examination by Mr. Hennessy:

19 Q. Okay. Do you know who -- who on
20 behalf of the District prepared that Budget
21 Questionnaire?

22 A. My understanding it was Martha
23 Brauer.

24 Q. Do you recall if she had any

1 assistance from any other Board members?

2 A. I don't know that.

3 Q. Okay. Do you recall discussing that
4 questionnaire at the District Offices with
5 another Board member?

6 A. Not a Board member, no.

7 Q. Do you recall discussing it with
8 someone who was not a Board member?

9 A. Yes.

10 Q. Can you tell me about that
11 discussion?

12 A. It was Marcia Brauer prior to her
13 being elected as a Trustee. She just asked me
14 a question on it and I said, "The Future
15 Planning is doing something very similar to
16 this."

17 Q. Do you know when that conversation
18 occurred?

19 A. Uhm, no, I don't. All I know is she
20 wasn't an elected Trustee --

21 Q. Okay.

22 A. -- or I would not have talked to her.

23 Q. Do you know if she was running to be
24 a Trustee?

1 A. Yes, she was running.

2 Q. Okay. She was a candidate?

3 A. Yes, she was.

4 Q. Okay. Uhm, so you believe that was
5 sometime in 2008?

6 A. Uhm, yes.

7 Q. Okay. Do you recall having a
8 conversation in January of 2009, at the
9 District Office, with John Vandermolen, uhm,
10 concerning the, uhm, the District Budget
11 Questionnaire?

12 A. I don't recall that.

13 Q. Okay. Do you recall having a
14 conversation in January of 2009 with John
15 Vandermolen at the District Office where you
16 discussed the results of the questionnaire,
17 uhm, regarding the budget?

18 A. No.

19 Q. Okay. Do you recall in January of
20 2009 having a conversation at the District
21 Offices with John Vandermolen where you were
22 discussing Martha Brauer's performance in
23 handling that Budget Survey and Questionnaire?

24 A. No.

1 Q. Okay. Have you ever seen Mary Lou
2 Smith in the District Offices?

3 A. Yes.

4 Q. Do you recall seeing her in the
5 District Offices sometime in January of 2009?

6 A. I can't tell you the date. I'm not
7 sure.

8 Q. Okay. Do you recall seeing Mary Lou
9 Smith in the District Offices, uhm, at a time
10 when you were speaking to John Vandermolen?

11 A. No.

12 Q. Have you been told that Mary Lou
13 Smith has indicated that she witnessed you and
14 John Vandermolen speaking, uhm, and heard you
15 speaking concerning the District
16 Questionnaire, Budget Questionnaire and
17 Survey?

18 A. No.

19 Q. You haven't been previously told
20 that?

21 A. I don't -- I don't -- no, I don't
22 think so.

23 Q. Okay. Do you have any reason to
24 believe that Mary Lou Smith was incorrect in

1 Management. It should be a two-page letter.

2 Could you mark that Exhibit 2
3 and show it to Mr. Salerno.

4 (Document marked Exhibit No. 2)

5 THE WITNESS: I have it in
6 front of me.

7 Examination by Mr. Hennessy:

8 Q. Okay. Mr. Salerno, if you would look
9 at Exhibit 2, and uhm, you know, read it and
10 tell me if you know what it's about.

11 A. Yes, I do.

12 Q. Okay. What is Exhibit 2 about?

13 A. Well the Board was considering a
14 documentation piece of equipment to have
15 records put into it so every time a record
16 came in, you would put it into the system and
17 you would have that record for ever. It would
18 be easier to get the information when you
19 needed it.

20 So I -- and I'm in -- I'm in
21 Massachusetts now and that had been discussed
22 prior to me coming to Massachusetts, and I
23 myself wasn't kind of in favor of that; and I
24 tried to let the Board know my reasons. So I

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1 sent them a letter to be read at a Board
2 meeting.

3 And if you want me to read it,
4 I can read it.

5 Q. I don't want you to read it out loud.
6 I just want to make sure you had read it and
7 you knew what it was about.

8 A. I understand it.

9 Q. Okay. Who uhm -- uhm, did you, uhm,
10 tell somebody at the Board that you were
11 sending this letter?

12 A. No, I did not.

13 Q. Did you ask someone at the Board to
14 read this letter at a Board meeting?

15 A. I sent it to the Board.

16 Q. Okay. Well did you tell somebody you
17 wanted it read at a Board meeting?

18 A. Well I'm going to say that I'm
19 assuming that it would have been read.

20 Q. Okay. You're assuming, but you --
21 you didn't request it to be read?

22 A. I have to think about that -- yes, I
23 would think I said to T.J., "I would like it
24 read."

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1 Q. Okay. And how do you know T.J.
2 received this letter or do you know if she
3 received it?

4 A. Yes, I called to make sure that it
5 was received from where I faxed it from.

6 Q. Okay. Did you prepare this letter
7 yourself?

8 A. I dictated it to one of my sons'
9 employees.

10 Q. Okay. And that person typed it up
11 and faxed it for you?

12 A. No. I took it out and faxed it
13 myself.

14 Q. Okay. But that person prepared it?

15 A. Yes.

16 Q. Okay. But you signed it?

17 A. Yes, I did.

18 Q. And that's your signature on
19 Exhibit 2?

20 A. Yes, it is.

21 Q. All right. You say that you've
22 interviewed three office employees who
23 together have 30 years of service?

24 A. Yes. That's what they told me.

1 Q. Okay, uhm, Mr. Salerno --

2 A. Yes.

3 Q. -- uhm, do you have any involvement
4 with the Tribune?

5 A. No.

6 Q. Do you know who is responsible for
7 the Tribune?

8 A. Uhm, well I think T.J. -- T.J. Miller
9 does a lot of that work.

10 Q. Okay. Do you know which Trustee's
11 responsible for the Tribune?

12 A. Uhm, the -- I think the secretary.

13 Q. Who is the secretary?

14 A. Gail Opper.

15 Q. Do you know if any other Trustee
16 assists on the Tribune?

17 A. No, I don't know that.

18 Q. You personally have never had any
19 involvement?

20 A. No.

21 Q. Okay. Uhm, are you familiar with
22 Channel 95 at the District?

23 A. Yes, I am.

24 Q. Do you have any involvement with

1 **Channel 95?**

2 A. Yes, I do.

3 **Q. What is your involvement?**

4 A. Well I post all the, uhm, all the
5 dances for the coming -- of the year -- I give
6 Channel 5 a schedule. So they do the dances.
7 They do Show Time. Uhm -- uhm, special
8 events, like New Year's Eve party coming up,
9 the Christmas party coming up -- uhm, a
10 special dance may come up -- "Come and play
11 pickle ball. We'd like to have you down. Try
12 that Chair Volleyball, it's great."

13 Uhm, "Won't you try" --

14 **Q. All right. Who do you give the**
15 **notices to?**

16 A. Uhm, there's two gals -- two gals
17 that work on Channel 95 and you give it to
18 them; but you put it in the office. There's a
19 procedure.

20 You put it into the office by a
21 certain day and you fill out a form and the
22 form gets to those two individuals or they
23 pick it up maybe before twelve o'clock on a
24 Tuesday and then that gets on Channel 95 for

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1 that week or many weeks, depending how many
2 weeks you want to put it on.

3 Q. So there's some box for these forms
4 at the District Office that you deliver them
5 to?

6 A. Yes -- or anybody who wants to put on
7 Channel 95 -- not just me.

8 Q. Is there any Trustee or several
9 Trustees that are responsible for reviewing
10 the contents that you're asking to be put on
11 Channel 95?

12 A. Not that I know of, no. I think it's
13 just in a folder and the individuals come and
14 pick it up.

15 Q. You personally haven't been involved
16 in that?

17 A. To do what?

18 Q. In terms of deciding what content can
19 go on the --

20 A. No.

21 Q. -- channel?

22 A. No.

23 Q. Okay. And I believe you stated
24 earlier that you're not involved in the web

1 **site?**

2 A. I'm not.

3 **Q. Okay. So you don't know how the**
4 **material gets on the web site?**

5 A. No, I don't.

6 **Q. Okay. Do you recall if you've ever**
7 **cast any votes concerning whether or not**
8 **content should be put on the web site?**

9 A. Cast --

10 **Q. I'm sorry?**

11 A. -- I'm trying to think -- cast a
12 vote?

13 **Q. Uh-huh.**

14 A. For what goes on the web site?

15 **Q. Yes. Do you recall if anybody's ever**
16 **given you a document and said, "We're**
17 **considering putting this on the web site,**
18 **would you vote yes or no as to whether or not**
19 **you want to put it on the web site"?**

20 A. I don't get none of that, no.

21 **Q. Is that something you would consider**
22 **would be done during a Board meeting?**

23 A. Uhm, if it's going to become before
24 the Board -- if it's coming before the Board,

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1 the residents should know about it. Yeah, it
2 probably should come before the Board, but I
3 really don't know.

4 I can't give you a really good
5 answer for that.

6 **Q. Well if somebody's asking for your**
7 **vote as a Trustee on something, is that**
8 **something you believe needs to be done at a**
9 **public meeting?**

10 MR. ROSS: Object to form, Zach
11 Ross.

12 A. I would probably tell them it would
13 have to come before the Board at open meeting.
14 Examination by Mr. Hennessy:

15 **Q. Okay. Otherwise, based on your**
16 **understanding of the Sunshine Law, you think**
17 **that that would be a violation?**

18 MR. ROSS: Object to form, Zach
19 Ross.

20 A. Uhm, I don't know how to -- kind of a
21 gray area. I don't know how to answer that.

22 **Q. Well I'm asking you if somebody asked**
23 **you to cast your vote as a Trustee on contents**
24 **that would go before or go on the District web**

1 site, do you believe that that would be
2 something that would need to be done in a
3 public meeting or it would be a violation of
4 the Sunshine Law based on your understanding?

5 MR. ROSS: Object.

6 MR. CARROLL: Object to form,
7 Hunter Carroll.

8 MR. SCOTT: Joined, Dan Scott.

9 MR. DYE: Joined, Jim Dye.

10 Examination by Mr. Hennessy:

11 Q. Sir, do you have an answer?

12 A. Yeah. My understanding is if it came
13 before the Board, in my vote, I wouldn't give
14 a vote. I'd be in the Board meeting, if it
15 came before the Board. Then I would kind of
16 vote one way or the other, depending on how I
17 felt the material was or whatever.

18 Q. But my question is do you believe
19 that that vote that you cast needs to be done
20 at a public meeting?

21 A. Yes.

22 MR. ROSS: Object to form, Zach
23 Ross.

24 MR. CARROLL: Joined, Hunter

1 Carroll.

2 MR. TURFFS: And Bob Turfffs.

3 MR. DYE: Jim Dye, joined.

4 MR. SCOTT: Dan Scott joined.

5 Examination by Mr. Hennessy:

6 Q. Do you understand the question, sir?

7 A. Yes. I said "yes."

8 Q. Okay, thank you. Uhm, are you
9 familiar with an Administrative or Executive
10 Committee of the Board of Trustees?

11 A. I -- only from what I hear.

12 Q. Okay. Have you ever participated in
13 an Administrative or an Executive Committee
14 meeting?

15 A. No, I haven't.

16 Q. What is it that you hear about those
17 committees or committee?

18 A. They had a meeting. They had a
19 meeting of people.

20 Q. I'm sorry?

21 A. They had a meeting of people.

22 Q. What do you mean?

23 A. Well people were at a meeting and
24 they called it --



D, Miller

Joe Salerno
P.O.Box 1510
Onset, MA 02558

To: Board of Trustees
From: Joe Salerno
Subject: Documentation Management

I have seen two presentations of the documentation management program and I was not impressed by either one. I know there has been more discussion on this matter but I would like you to know my feelings.

I have interviewed three office employees, who together have 30 years of service, Yvonne Poirier, Ellie Miller and T.J. Miller. In 30 years they had to make available approximately 7 records.

T.J. said in the last 2 years the additional payroll to make records available has been minimal.

We now have available to us:

1-Office computer with quick books and the information is off site.

2-We have just authorized the purchase of a lap top computer that will have all the same information now on the office computer. With an oncoming disaster this lap top will be taken off site.

3-The new web site is working well, the information will cut down the request for records in the future.

4-We now pay for storage of records, which is very close to our office. We should also consider what records we have to save and what can be discarded.

5-I see no labor savings in the office, we would still need a full time and part-time

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**Joe Salerno
P.O.Box 1510
Onset, MA 02558**

The cost of \$8,000.00 to \$10,000.00 and maybe more plus a service contract of \$1,500.00 per year, in my opinion does not benefit our property owners. I would hope the board would not take any action on this until the fall. I want you to know if I was present and a vote was taken, I would not vote for this program.

Have a great summer, if you're up in Mass, I'll treat you to some great pizzas. I'm looking forward to a busy year.



Joe Salerno