

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

CIRCUIT CIVIL CASE NO. 2008-CA-11315

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MARY LOU SMITH, an individual, and :
SHARON DENSON, an individual, :
: :
Plaintiffs, :
: DEPOSITION OF
vs. :
: MARY LOU McNULTY
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. :
-----X

TAKEN BY: THE PLAINTIFFS HEREIN

BEFORE: JOANN L. ZECK
Court Reporter
Notary Public
State of Florida at Large

DATE: August 12, 2009
Commencing at 1:05 P.M.

PLACE: Lewis, Longman & Walker, P.A.
1001 Third Avenue West
Suite 670
Bradenton, Florida 34205

APPEARANCES: JENNIFER R. COWAN, Esquire
Lewis, Longman & Walker, P.A.
1001 Third Avenue West
Suite 670
Bradenton, Florida 34205
Appearing on Behalf of the
Plaintiffs

1 Board or -- I can't think of what else we might have
2 met for.

3 **Q Did they meet to approve preliminary budgets?**

4 A No.

5 **Q Did they meet if they had questions for legal**
6 **counsel?**

7 A No.

8 **Q If a Trustee had a question for legal counsel,**
9 **how was that handled?**

10 A If a Trustee had a question for legal counsel,
11 it usually was brought up at a meeting that they wanted
12 something asked of the attorney.

13 At one point a Trustee was allowed to call and
14 ask the question themselves, and at sometime during my
15 point as Chairman I issued a memo saying that a Trustee
16 just couldn't pick up the phone and call legal counsel
17 because it was expensive, and I issued a memo that if
18 they wanted to call the legal counsel, they just had to
19 tell either the Chairman, the First Vice or the Second
20 Vice that they had a problem that they needed to call
21 them.

22 **Q And was that procedure followed?**

23 A It was during my term I believe.

24 **Q So if a Trustee had a question, they would**
25 **come to either the Chairman, the First Vice Chairman or**

1 the Second Vice Chairman and --

2 A Excuse me.

3 Q -- tell them their question?

4 A No.

5 Q Okay.

6 A Just say that --

7 Q Explain to me, please, I'm sorry.

8 A -- that they had a question on something,
9 could they call the attorney.

10 Q And how was it decided whether or not they
11 could call the attorney?

12 A Usually they were just told yes.

13 Q So why was there the process, why didn't they
14 just call the attorney directly?

15 A It was just occurring them picking up the
16 phone and calling without us knowing that we had a bill
17 coming in, that John Doe had called the attorney.

18 Q Would you ever jointly call the attorney; and
19 by, "jointly," I mean you and whoever the Trustee was
20 that had the question?

21 A No.

22 Q Do you recall what prompted you to make the
23 policy where they needed to -- the Trustee needed to
24 come to either the Chairman, First Vice Chairman or
25 Second Vice Chairman regarding a legal question?

1 A I think somebody was calling the attorney and
2 we were getting bills and we didn't know about them.

3 Q Do you recall who?

4 A No.

5 Q Did residents complain about that?

6 A At times residents complained about the cost
7 of attorney bills.

8 Q Anyone suggest this process to you?

9 A I don't think so.

10 Q Okay. Familiar with as part of this suit the
11 Manatee County Easement Encroachment Agreement? And
12 I'll list this as Exhibit Two (handing document).

13 If you could take a look at that, tell me if
14 you're familiar with that document?

15 MR. CARROLL: We need one more down here.

16 MS. COWAN: Oh, sorry.

17 THE DEPONENT: I'm familiar with the case.

18 BY MS. COWAN:

19 Q Okay. By this agreement, Mr. Wayne Hamblen
20 signed this agreement. Did the Board authorize him to
21 sign this agreement?

22 A I believe this was ordered by the Court.

23 Q The Court ordered Mr. Hamblen to sign this
24 agreement?

25 A No, no; that this agreement was ordered by the

1 THE DEPONENT: No.

2 BY MS. COWAN:

3 Q Do you know why Ms. Jones issued this memo?

4 MR. ROSS: Object to form.

5 THE DEPONENT: No.

6 BY MS. COWAN:

7 Q Did you have any conversations with Ms. Jones
8 regarding Exhibit Ten?

9 A No.

10 Q Did you receive this Exhibit Ten from
11 Ms. Jones?

12 A I don't know. I would assume so.

13 MR. DYE: Don't assume.

14 THE DEPONENT: Okay.

15 BY MS. COWAN:

16 Q Did you keep the memorandums that you received
17 from Ms. Jones during your time on the Board?

18 A I kept some.

19 Q And any of those memorandums that you would
20 have kept from Ms. Jones during your time on the Board,
21 you would have produced those in the documents that you
22 provided me this morning?

23 A Yes.

24 Q Previously we have discussed the McNeal case.
25 What was your role in the McNeal case?

1 A I really didn't have much of any role, except
2 I -- I possibly talked to the attorney when we referred
3 it to him.

4 **Q Who would have the attorney been at that time?**

5 A Ruden, McClosky.

6 **Q Okay.**

7 A I think. What -- when was it?

8 **Q One second.**

9 MR. DYE: If you're unsure, say you're unsure;
10 don't -- don't guess.

11 THE DEPONENT: Uh-huh.

12 BY MS. COWAN:

13 **Q Do you recall the McNeal case resulting in a**
14 **mediated Settlement Agreement?**

15 A Yes.

16 **Q Do you recall as a Board member voting to**
17 **accept that mediated Settlement Agreement?**

18 MR. DYE: I'm sorry, could you repeat the
19 question?

20 BY MS. COWAN:

21 **Q Do you recall with regard to the McNeal case**
22 **voting to accept the mediated Settlement Agreement?**

23 A I don't recall the actual voting on it.

24 **Q Do you recall the terms of that Settlement**
25 **Agreement?**

1 A I believe so.

2 **Q Who was the Board's representative in dealing**
3 **with the McNeal -- the McNeal case?**

4 A I think John Vander Molen met with them, the
5 mediation.

6 **Q Did Mr. Vander Molen convey his recommendation**
7 **coming out of the mediation?**

8 MR. DYE: Form.

9 MR. SCOTT: Join.

10 THE DEPONENT: At some point I think we
11 received something that involved the mediation.

12 BY MS. COWAN:

13 **Q Did you receive a copy of the mediated**
14 **settlement?**

15 A Yes.

16 **Q Did Mr. Vander Molen ever call you regarding**
17 **the mediated settlement?**

18 A No.

19 **Q Did TJ Miller ever call you regarding the**
20 **mediated Settlement Agreement?**

21 A No.

22 MR. DYE: Can I ask for a clarification on
23 those two questions? Do you mean up to present, or
24 during the time it was being considered?

25 - - - - -

1 BY MS. COWAN:

2 Q At the time it was being considered?

3 A No.

4 Q Up to the current day?

5 A No.

6 Q Okay. Do you recall a fence issue with
7 DeSears?

8 A Yes.

9 Q What was that issue?

10 A Well, I'm not sure of the whole thing. It
11 involved a broken fence I believe.

12 Q Trailer Estates' broken fence, or DeSears --

13 A I think the fence belonged to DeSears.

14 Q And -- and it --

15 MR. DYE: Let her finish the question before
16 you answer.

17 THE DEPONENT: Okay.

18 BY MS. COWAN:

19 Q DeSears had a broken fence. Did they contact
20 Trailer Estates regarding this?

21 A No, I think Trailer Estates might have
22 contacted them.

23 Q Who on behalf of Trailer Estates would have
24 contacted DeSears?

25 A I don't know at that time.

1 Organizations.

2 Q Did you ever participate in the Video/Computer
3 Club?

4 A No.

5 Q You've previously mentioned Channel 95. Who
6 operates Channel 95?

7 A The Video/Computer Club.

8 Q Where is the equipment kept for that?

9 A In the Activities Center.

10 Q Okay. And who has a key to -- who has access
11 to that room?

12 A I have no idea.

13 Q During the time you were on the Board?

14 A I have no idea.

15 Q Did you ever put anything on Channel 95?

16 A Oh, yes.

17 Q And how did you do that?

18 A There's a form in the office that you fill
19 out, put it in the folder and they pick it up; it was
20 on Tuesdays, I think it's on Wednesdays now.

21 Q "They," being?

22 A Somebody from the Video/Computer Club.

23 Q And did the Video/Computer Club edit what was
24 on that form?

25 A I don't recall them ever editing anything I

1 put. I don't know.

2 Q Who determined -- who determined what went up
3 onto Channel 95?

4 A I don't know.

5 Q Could anybody submit the form that was in the
6 office?

7 A Yes.

8 Q To the Video/Computer Club and they would put
9 it on Channel 95?

10 A I guess so.

11 Q So any resident --

12 A I mean --

13 Q -- could walk in and fill it out and that
14 would go up on Channel 95?

15 A If it was something to do with a club or
16 something going on in the District. You couldn't put
17 just anything up there.

18 Q Did you ever have a situation occur where
19 somebody wanted to put something on there that was just
20 anything?

21 A I don't know of anything.

22 Q Let's talk about The Tribune. During your
23 time on the Board, did you ever provide articles for
24 The Tribune?

25 A Yes.

1 **Q Is it common for Board members to provide**
2 **articles to The Tribune?**

3 A Yes.

4 **Q How are articles submitted to The Tribune?**

5 A You write it up and you turn them in to the
6 office manager.

7 **Q That's TJ Miller?**

8 A Yes.

9 **Q Does TJ edit the content that goes into The**
10 **Tribune?**

11 A I don't believe so.

12 **Q Can anyone turn an article in for The Tribune?**

13 A Cannot turn a personal article in. It has to
14 be District-related; a club meeting or a function going
15 on, a dinner going on, a luncheon going on. Nothing
16 personal.

17 **Q Okay. And who determines whether or not it's**
18 **personal?**

19 A Well, I know there was one time that she had
20 brought something to me that she was a little concerned
21 about going in, and she brought it to me as Chairman at
22 the time. She was a little concerned about it.

23 **Q And what was that?**

24 A What was the article?

25 **Q (Nods head up and down.)**

1 A I have no idea. I just remember her coming to
2 me, and I agreed with her that I didn't think it was
3 appropriate for The Tribune.

4 **Q And so what did she do?**

5 A She didn't put it in.

6 MR. CARROLL: Clarification. "Her," being TJ?

7 THE DEPONENT: Yes.

8 MS. COWAN: What did --

9 MR. CARROLL: Okay.

10 BY MS. COWAN:

11 **Q And did you or TJ contact whoever had**
12 **submitted this article?**

13 A I don't know if she did or not.

14 **Q Did you?**

15 A I didn't, no.

16 **Q Do you remember an article being published in**
17 **The Tribune that was called Privacy, Privacy, Privacy?**
18 **And it discussed the fact that residents who were up**
19 **north, their information could not be provided out to**
20 **just anybody coming in the office and asking for it.**

21 A No, I -- I can picture the words Privacy,
22 Privacy, Privacy, but I don't recall where I saw them.

23 **Q Did you ever author an article like that?**

24 A No.

25 **Q Okay. Does the District maintain a file for**

1 **who submits articles on The Tribune?**

2 A I don't know.

3 **Q But you said that articles are submitted to**
4 **Ms. Miller?**

5 A Yes, she would have a monthly file for what
6 was going to go in that month.

7 **Q Okay.**

8 A I don't know if she saves them or not. Or
9 they might be on disks, I don't know.

10 **Q Okay. Did you ever -- other than the one**
11 **article that you spoke about Ms. Miller had brought to**
12 **you --**

13 A Uh-huh.

14 **Q -- that she was concerned over --**

15 A Yes.

16 **Q -- do you recall any other articles that you**
17 **have said -- denied publication to?**

18 A Yes.

19 **Q What other articles?**

20 A An article in August of '08 that was submitted
21 by the C.E.R.T. Committee.

22 **Q And why did you deny publication of that**
23 **article?**

24 A I left on vacation, and I had told TJ that if
25 the -- if Sharon Denson submitted an article on the

1 Disaster Expo that it shouldn't go in The Tribune,
2 because I had written to her three weeks before I left
3 and asked her to submit a copy of the article -- excuse
4 me, not the article. I had written her an e-mail and
5 asked her if she could give me a list of the names of
6 the people that she was inviting to the Disaster Expo,
7 that I wanted to put an article in the September
8 Tribune, because the Disaster Expo was supposed to be
9 in October.

10 Three weeks, I never heard from Sharon. So
11 when I was leaving for vacation, I told -- I told TJ
12 I didn't think the article should go in The Tribune. I
13 was the Trustee to oversee the Disaster Expo; I felt I
14 should see the article. So I guess I didn't make
15 myself clear to her when I said that.

16 When an article was submitted by the C.E.R.T.
17 Committee which stated that they were looking forward
18 to the Disaster Expo, she wrote back to Sharon and told
19 her that I had told her not to put the article in.
20 Sharon readjusted the article and sent it back without
21 the Disaster Expo information.

22 **Q And was that article published?**

23 **A** The -- the second C.E.R.T. article, yes.

24 **Q Are you familiar with a column, Rants and**
25 **Raves?**

1 A Yes.

2 **Q Do you ever author any material for the**
3 **column, Rants and Waves?**

4 A No.

5 **Q What was the basis for the -- for publication**
6 **of that article?**

7 A It was just --

8 MR. DYE: Form.

9 THE DEPONENT: -- like you said, rants and
10 raves. If you had something you liked about the
11 park, you could write a little note -- you know,
12 they were usually only a couple of lines -- what
13 you liked about the park; if you had something that
14 bugged you, you wrote a little note saying what
15 bugged you.

16 BY MS. COWAN:

17 **Q When articles are submitted to The Tribune,**
18 **are they run only one time or are they run repeatedly?**

19 A Some of them are repeats.

20 **Q Would the same Rants and Raves column be**
21 **repeated?**

22 MR. ROSS: Object to form.

23 MR. DYE: Form.

24 THE DEPONENT: No.

25 - - - - -

1 BY MS. COWAN:

2 Q You said the basis for the Rants and Raves
3 column was if you had something good to say, you
4 submitted it; if you had something bad to say, you
5 would submit it.

6 A Uh-huh, yes.

7 Q So there would be something submitted for any
8 rant that was published or any rave that was published?

9 MR. DYE: Form.

10 THE DEPONENT: People would submit their rants
11 or their raves.

12 BY MS. COWAN:

13 Q If nothing was -- if nothing was submitted for
14 Rants and Raves, would the column be published?

15 A I don't know.

16 Q Was that column published while you were on
17 the Board?

18 A Yes.

19 Q Was that column published while you were
20 Chairman?

21 A Yes.

22 Q Who oversaw the publication of The Tribune in
23 general?

24 A It was really nobody, only TJ; she just got
25 the information together and submitted it to the

1 publisher.

2 Q And then if TJ had an issue, she would bring
3 it to the Chairman?

4 A The Chairman if she had something that she was
5 concerned about.

6 Q Do you know who -- in the Rants and Raves
7 columns, the way I've seen it is there's almost like a
8 little introductory paragraph and then there's whatever
9 the rant or whatever the rave is. Do you know who
10 authored the introductory paragraph?

11 A No.

12 Q Do you -- are you familiar with what I'm
13 describing?

14 A No.

15 Q Okay.

16 A I remember there being something, but I'm not
17 -- I don't know what it said.

18 Q I understand.

19 When we were talking about the Website
20 Committee and you weren't -- you couldn't remember
21 whether or not the website was actually developed by
22 the time that you left the committee; is that correct?

23 A Correct.

24 Q Okay. Was the website developed by the time
25 that you left the Board?

1 A Yes.

2 Q And how was the content for that website
3 determined?

4 A I wasn't on the Board -- on the committee,
5 so --

6 Q Did the committee determine the content of
7 what was on the District's website?

8 A They were to get approval from the Board of
9 what they were to put on there.

10 Q So the Board would vote as to what the content
11 of the website was?

12 A Yes.

13 MR. DYE: Form.

14 MS. COWAN: Okay.

15 MR. ROSS: I'll join his last objection.

16 BY MS. COWAN:

17 Q In the documents that you produced to me this
18 morning, there was a letter from Rob Eschenfelder, an
19 Assistant County Attorney from Manatee County, and to
20 Ron Getman going through Tedd Williams, and it was
21 regarding Trailer Estates. Are you familiar with that
22 letter?

23 A Yes.

24 Q Okay. Do you recall what that letter
25 discusses?

1 MS. COWAN: Okay. I'll mark this then as
2 Exhibit Twelve. That goes to you (handing
3 document).

4 MR. DYE: Is this Twelve?

5 MR. ROSS: Yeah.

6 MS. COWAN: Yes.

7 MR. DYE: Okay, thanks.

8 BY MS. COWAN:

9 Q Do you recall receiving this letter?

10 A No.

11 Q Have you ever seen this letter before?

12 A Yes.

13 Q When have you seen this letter?

14 A Last night was the most recent time.

15 Q Do you know whether or not this letter was
16 ever read at a Board meeting?

17 A No.

18 Q Do you know when you received this letter?

19 A Sometime after October 20th.

20 Q You see in Paragraph Two that it discusses
21 that Minutes characterizing Mr. Eschenfelder's previous
22 memorandum were not accurate?

23 A Uh-huh, yes.

24 Q Do you know whether or not the Trailer Estates
25 District Minutes were ever corrected?

1 A Yes.

2 MR. DYE: Form.

3 BY MS. COWAN:

4 Q The Minutes for -- just so I'm clear, the
5 Minutes that previously Mr. Eschenfelder's letter had
6 been read into were corrected?

7 A Minutes were corrected. And I'd like to
8 clarify something about this first letter. I was not
9 at the meeting so I don't know whether it was read.

10 Q Okay. But you were at a subsequent meeting
11 and know that Minutes from that previous meeting were
12 corrected?

13 A Yes.

14 Q And they were -- do you know what meeting that
15 was at where those Minutes were corrected?

16 A No.

17 MR. DYE: Jennifer, during the pause let me,
18 just for clarification --

19 MS. COWAN: Uh-huh.

20 MR. DYE: -- that Ms. McNulty was referring to
21 Exhibit Eleven when you said the first --

22 THE DEPONENT: Yes.

23 MR. DYE: -- the first letter?

24 THE DEPONENT: Yes. Now that I see the second
25 letter, I can associate the date of this one

1 (indicating), and I believe it was the Minutes of
2 October 16th. Am I correct?

3 BY MS. COWAN:

4 **Q I believe that may be true, but that's not --**

5 A Okay, and I -- I was not at the October 16th
6 meeting so I don't know whether the letter was read in
7 its entirety or not.

8 **Q Okay. And you know the Minutes were**
9 **corrected. Do you -- I'm sorry if you've already**
10 **answered this, but do you know whether or not the**
11 **Exhibit Twelve, which is the October 20th letter from**
12 **Manatee -- from Manatee County Attorney Tedd Williams**
13 **was ever read into the record?**

14 A I don't know.

15 **Q Okay. Do you socialize with any of the**
16 **current Board members?**

17 A Yes.

18 **Q Which Board members?**

19 A The current Board members?

20 **Q Yes, ma'am.**

21 A Margo Cushman, Janet Jones.

22 I've got to see who's on the Board.

23 I think you could say I socialize with them
24 all. What do you mean by, "socialize?" If there's a
25 dinner in the park and we're all there, do you consider