

**IN THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY, FLORIDA  
CIVIL DIVISION**

MARY LOU SMITH  
an individual, and  
SHARON DENSON,  
an individual

Plaintiffs,

vs.

FILED IN OPEN COURT,  
THIS 5 DAY OF Mar 2010  
R.B. SHORE, CLERK  
BY *BSO2/mek* DC

CASE NO.: 08 CA 11315  
Division: B

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.

**ORDER ON PLAINTIFFS' MOTION TO COMPEL**

THIS CAUSE, having come to be heard on Plaintiffs', Mary Lou Smith's and Sharon Denson's Motion to Compel regarding the production of documents indentified in the Trailer Estates Park and Recreation District's ("District") privilege log and the Court having heard argument of counsel on February 24, 2010, and being otherwise advised in the Premises, ORDERS AND ADJUDGES that:

- 1) Plaintiffs' Motion to Compel is granted in part. The Defendant, District, is ordered to produce its items 9 and 10 of its privilege log.
- 2) Plaintiffs' Motion to Compel is denied in part finding the District had not waived privilege by the delay and incomplete privilege log submitted. Specifically, the Plaintiffs'

Motion to Compel is denied as to items 1-7 based on attorney client privilege, 8 and 11 based on attorney client and work product privileges, 55-66 and 77 based on mediation privilege. Plaintiffs' Motion to Compel is denied as to items 12-14, 16, 21, 33, 45-46, 52-54, and 75-76 of the District's privilege log. Further, based on the District's counsel's representation that all underlying documents to items 47-51 have been provided to the Plaintiff, the Court denies the Plaintiffs' Motion to Compel as to those items of the District's privilege log.

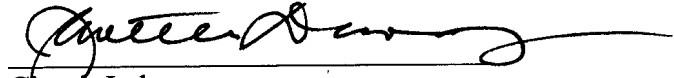
3) The Court denies Plaintiffs' request that the Court perform an in-camera inspection of the documents listed on the privilege log to determine that the claimed privileges apply.

4) The Court orders the Defendant to amend its privilege log within 5 days from the date of the Court hearing to assert its shade meeting transcripts as privileged. Should the District fail to comply with this Court's order, then the District is deemed to have waived its privilege to any shade transcript not contained in the privilege log and will have to produce the shade transcript to the Plaintiffs.

5) The Court does not find waiver. However, the Court orders that the District must file an affidavit of Martha Brauer, the District Representative, supporting the District's counsel's representation to the Court, that items 15, 17-20, 22-32, 34-44, 67-74, and 78 were compiled and created pursuant to the District's counsel's instructions and in furtherance of the District's counsel's request for work product. To the extent that the affidavit does not demonstrate the listed documents are work product, they must be provided. The Court reserves ruling on Plaintiffs' right to depose Ms. Brauer on her affidavit.

DONE AND ORDERED in Chambers, in Manatee County, Florida this 5 day of March,  
2010.

HONORABLE JUDGE JANETTE DUNNIGAN

  
\_\_\_\_\_  
Circuit Judge

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