

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

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

Plaintiffs,

vs.

CASE NO.: 2008 CA 011315

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.

**PLAINTIFF, MARY LOU SMITH'S RESPONSES
TO THE DISTRICT'S REQUEST FOR PRODUCTION OF DOCUMENTS**

COMES NOW, Plaintiff, MARY LOU SMITH, by and through undersigned counsel and hereby files her responses to Defendant, TRAILER ESTATES PARK AND RECREATION DISTRICT's Request for Production served on or about February 3, 2010.

GENERAL OBJECTIONS

(a) Plaintiff specifically objects to each production request to the extent that it calls for information protected from disclosure and discovery by the attorney-client privilege, the attorney work product doctrine, or any other judicially recognized protections or privileges which make such answer or information not subject to discovery under Rule 1.280(b)(1), *Florida Rules of Civil Procedure* (or Rule 26(b)(1) Federal). To the extent that any privileged or otherwise protected documents are inadvertently disclosed or answered, such disclosure shall not be deemed to constitute a waiver of any such privilege or answer.

(b) Plaintiff specifically objects to each production request to the extent that it is overly broad, vague, ambiguous, unduly burdensome, and/or irrelevant or not reasonably calculated to lead to the discovery of admissible evidence.

ANSWERS

1. All public records requests made by the Plaintiffs or on behalf of the Plaintiffs.

Response: Objection: This request is overly broad, vague, ambiguous, and extends beyond the scope of discovery to matters that are irrelevant and are not reasonably calculated to lead to the discovery of admissible evidence. Additionally, any public records request made by the Plaintiffs or their counsel to the District would be in the possession of the District and exists as a public record.

2. All documents referenced in paragraph numbers 346, 347, 348, 349, 351, 353, 355, 356, 416, 418, 419, 420, 422, 423, 425, 427, and 429 through 465 of Plaintiffs' Exhibit List for Trial Scheduled to Begin March 15, 2010 dated January 29, 2010.

In response to the District's request for all documents referenced in paragraphs 346, 347, 348, 349, 351, 353, 356, 416, 418, 419, 420, 422, 423, 425, 427, and 429, the documents requested were provided to the Plaintiffs by the District as public records and are therefore in possession of the District. Furthermore, based on information and belief, the District retains a set of copies of all documents it provides to Plaintiffs.

In response to the District's request for all documents referenced in paragraph 355, to date the Plaintiffs have not been provided these documents as they were never produced by the District.

In response to the District's request for all documents referenced in paragraph 433, these documents were produced by the District's counsel and, are therefore in the possession of the District or its counsel.

In response to the District's request for all documents referenced in paragraph 434, these documents were produced from the District's office by the District's Records Custodian and are therefore in the possession of the District.

In response to the District's request for all documents referenced in paragraphs 436-450, these recordings in the Plaintiffs' possession are recordings of District Board meetings and such recordings are also in the possession of the District.

In response to the District's request for all documents referenced in paragraphs 451-465, Board meeting minutes are the District's public records and are in the possession of the District.

3. Any document reflecting a communication occurring at any time between any of the parties to this action.

Response: Objection: This request is overly broad, vague, and unduly burdensome. Additionally, this request asks for attorney-client privilege and work-product privileged documents. Further, documents responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff will make documents responsive to this request that have not been previously produced, except those which are privileged documents, available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time. A privilege log will account for the privileged documents.

4. Any document reflecting the occurrence of any Sunshine Law violation alleged in your Complaint and amendments thereto.

Response: Objection: This request asks for attorney-client and work product privileged documents. Further, documents responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff will make documents responsive to this request that have not been previously produced, except those attorney-client and work product privileged documents, available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time. A privilege log will account for the privileged documents.

5. Any document reflecting the occurrence of any public records law violation alleged in your Complaint and amendments thereto.

Response: Objection: This request asks for attorney-client privilege documents. Further, documents responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff will make documents responsive to this request, that have not been previously produced, except those attorney-client privilege documents, available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time. A privilege log will account for the privileged documents.

6. Any document which discusses, describes, or makes mention of any of the alleged Sunshine Law violations described in the Complaint and amendments thereto. This request includes, but is not limited to, all diaries, e-mails, letters to parties or nonparties, memorandums or notes, whether or not disseminated to any other person.

Response: Objection: This request asks for attorney-client and work product privileged documents. Further, documents responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff will make documents responsive to this request that have not been previously produced, except those privileged documents, available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time. A privilege log will account for the privileged documents.

7. Any document which discusses, describes, or makes mention of any of the alleged public records law violations described in the Complaint and amendments thereto. This request includes, but is not limited to, all diaries, emails, letters to parties or non-parties, memorandums or notes, whether or not disseminated to any other person.

Response: Objection: This request asks for attorney-client and work product privileged documents. Further, documents responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff will make documents responsive to this request, that have not been previously produced, except those privileged documents, available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time. A privilege log will account for the privileged documents.

8. Any audio tape or recording of the voice of any defendant in this action, or any Trustee or former Trustee of the District.

Response: Objection: This request asks for work product privileged documents. Further, all recordings responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Any recordings Plaintiff possesses are of District Board meetings which are also in the District's possession, and as such, need not be produced. The Plaintiff does not possess any audio tapes responsive to this request. A privilege log will account for privileged documents.

9. All photographs or videotapes of the exterior or interior of the Trailer Estates Park and Recreation District office.

Response: Objection: This request asks for work product privileged documents. Further, documents responsive to this request, which were not privileged documents, were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff will make photographs responsive to this request that have not been previously produced, except for privileged documents, available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time. The Plaintiff does not possess any video tapes responsive to this request. A privilege log will account for privileged photographs.

10. All documents reflecting the incurrence of any cost or fee for which you are seeking reimbursement in this action.

Response: Objection: This asks for work product and attorney client privileged documents. Further, this request is unduly burdensome, ambiguous and overly broad as it could potentially include each and every document contained in Plaintiffs' counsel's files. Additionally, the court determined the issue of fees and costs was not relevant until a determination of entitlement to fees and/or costs has been made.

11. Any document reflecting a communication between any of the parties in this action and Mike Neal or Tom Featheringill.

Response: Objection: This request is overly broad, vague, ambiguous, and extends beyond the scope of discovery to matters that are not relevant and could not be reasonably calculated to lead to discovery of admissible evidence. Mary Lou Smith is a nurse and thus may have documents concerning the medical conditions of herself, Mike Neal or Tom Featheringill and/or their spouses. Furthermore, this request in its current form would allow the release of completely irrelevant information that is private/confidential information of Ms. Smith, Mr. Neal, and/or Mr. Featheringill to be released to any member of the public, and only serves to annoy, embarrass, and unduly burden the Plaintiffs, Mr. Neal and/or Mr. Featheringill. Further, documents responsive to this request which were not privileged documents were made available for inspection and copying on April 21, 2009.

Without waiving said objections, Plaintiff will make relevant documents responsive to this request that have not been previously produced and that relate to District business and issues raised in the Complaint available for inspection and copying at Plaintiffs' counsel's office and at a mutually agreeable time.

12. Any audio tape or recording of the voice of Mike Neal or Tom Featheringill.

Response: Objection: This request is overly broad, vague, ambiguous, and extends beyond the scope of discovery to matters that are not relevant and could not be reasonably calculated to lead to discovery of admissible evidence. Without waiving said objections, the Plaintiff does not possess any audio tapes responsive to this request. Any recordings Plaintiff possesses are of District Board meetings which are also in the District's possession, and as such, need not be produced.

13. If you have been a party to any lawsuit or criminal proceeding at any time, all papers, depositions, orders and judgments relating to or filed in such proceedings.

Response: Objection. Not relevant or reasonably calculated to lead admissible evidence. Further, this request only serves to annoy, embarrass, and harass the Plaintiff. Further, documents responsive to this request which were not privileged documents were made available for inspection and copying on April 21, 2009. Without waiving said objections, Plaintiff is unaware of any document responsive to this request other than those documents provided on April 21, 2009.

14. If you were ever a candidate for any office with the Trailer Estates Park and Recreation District any document reflecting a communication between you and anyone and relating to your candidacy. This request includes, but is not limited to, campaign materials disseminated to others, documents reflecting campaign strategies or goals, documents reflecting the outcome of the election concerning your candidacy, and documents reflecting an opinion or assessment concerning the outcome of that election.

Response: Objection. Not relevant or reasonably calculated to lead admissible evidence without waiving said objections, the Plaintiff has never been a candidate for any office with the District.

15. Any document reflecting a communication occurring at any time between anyone and describing or mentioning your candidacy for office at the Trailer Estates Park and Recreation District.

Response: Objection. Not relevant or reasonably calculated to lead admissible evidence without waiving said objections, the Plaintiff has never been a candidate for any office with the District.

16. Sharon Denson testified regarding the existence of "lists" during her deposition which would depict the public records requests she has made thus far. Denson volunteered to produce such lists. The District requests production of all such lists prepared by either Plaintiff before or after that deposition.

Response: This request asks for attorney-client and work product privileged documents. A privilege log will account for the privileged documents.

17. The fee agreement or contract with the Lewis Longman firm.

Response: Objection: This request asks for attorney-client and work-product privileged documents. A privilege log will account for the privileged documents.

18. All notes, memoranda, timesheets, e-mails or any other document reflecting the activities, events or conditions described in the Melanie A. Marken Affidavit dated January 29, 2010, attached hereto.

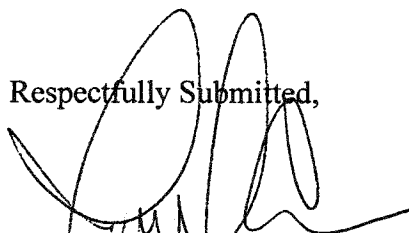
Response: Objection: This request asks for attorney-client and work product privileged documents. A privilege log will account for the privileged documents.

19. All notes, memoranda, calendars, timesheets, e-mails or any other document reflecting:

- a. Visits by Melanie A. Marken to the District office;
- b. Conversations between Melanie A. Marken and any District employee or Trustee or former Trustee or statements made by such persons;
- c. The request, production or inspection of public records by Melanie A. Marken; and
- d. The observations or opinions based on such observations of Melanie A. Marken during any visit to the District office or during any request, production or inspection of public records.

Response: Objection: This request asks for attorney-client and work product privileged documents. A privilege log will account for the privileged documents.

Respectfully Submitted,



KEVIN S. HENNESSY, ESQUIRE
Florida Bar No. 0602558
MAGGIE MOONEY-PORTALE, ESQUIRE
Florida Bar No. 0555924
JENNIFER R. COWAN, ESQUIRE
Florida Bar No. 038081
Lewis, Longman & Walker, P.A.
1001 3rd Avenue West, Suite 670
Telephone (941) 708-4040
Facsimile (941) 708-4024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to **Hunter Carroll, Esquire**, Matthews, Eastmoore, Hardy, Crauwels & Garcia, P.A., 1777 Main Street, Suite 500, Sarasota, FL 34236, **James D. Dye, Esquire**, Dye, Deitrich, Petruff, & St. Paul, 1111 Third Ave. West, Suite 300, Bradenton, FL 34205, **Robert E. Turffs, Esquire**, 1444 First Street, Suite B, Sarasota, FL 34236, **Daniel E. Scott, Esquire**, Daniel E. Scott, P.A., 2033 Main Street, Suite 408, Sarasota, FL 34237, **Thomas D. Shults, Esquire**, Kirk Pinkerton, P.A., 50 Central Avenue, Suite 700, Sarasota, FL 34236, by *U.S. Mail*, this 19th day of March, 2010.



JENNIFER R. COWAN, ESQUIRE