

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

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

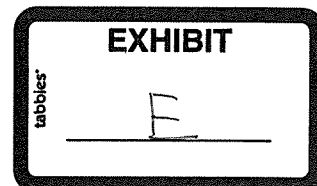
Defendants.

EXCERPT OF PROCEEDINGS
DEPOSITION OF SCOTT RUDACILLE
Pages 1 through 23

Friday, March 19, 2010
Kirk-Pinkerton
1301 6th Avenue West
Bradenton, Florida 34205

Stenographically Reported By:
FRANCES CHIPPENDALE

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



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ALSO PRESENT:

SHARON DENSON
MARY LOU SMITH

Certificate of Oath	22
Certificate of Reporter	23

PLAINTIFF'S EXHIBITS

Number	Description	Page
2	Subpoena For Deposition Duces Tecum	4

1 (The following is an excerpt of these proceedings.)

2 * * * * *

3 DIRECT EXAMINATION

4 MR. HENNESSY: Okay. Let's go ahead and have
5 this marked as Exhibit 2 to the deposition.

6 (Plaintiffs' Exhibit No. 2 was marked for
7 Identification.)

8 BY MR. HENNESSY:

9 Q. I've handed you what's been identified as
10 Exhibit Number 2. It is a Subpoena For Deposition Duces
11 Tecum to Scott Rudacille. Do you see that?

12 A. Yes.

13 Q. Okay. Have you seen this before?

14 A. Yes.

15 Q. Okay. Did you review it in preparation for
16 your deposition here today?

17 A. Yes.

18 Q. Attached to it is a list of documents that you
19 were requested to bring with you here today. Now, I've
20 had some conversation with your attorney and he's
21 indicated that there are some items that you were not
22 able to complete prior to deposition here today, but
23 that you would be bringing the remainder of those
24 documents.

25 So perhaps you can tell me, of the 17 requested

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1 numerical requests, what documents you have brought with
2 you here today?

3 A. I have documents responsive to Number 2.

4 Q. Okay. So any and all calendars from January
5 2006 to the present?

6 A. Yes.

7 Q. Could I see those?

8 A. (Tenders documents.)

9 Q. There's a note on it that says, "I want back to
10 January 2006."

11 A. Uh-huh.

12 Q. Okay.

13 A. It says, "I went back."

14 Q. "I went back to January." So this is your
15 handwriting?

16 A. No.

17 Q. Okay. Who provided these documents for you?

18 A. My assistant, Sheryl Likens.

19 Q. Okay. So she printed out your calendar?

20 A. Yes.

21 Q. And did she also redact information on your
22 calendar?

23 A. Yes.

24 Q. What information did she redact?

25 A. It would have been anything on my calendar

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1 other than what involved the meetings that were
2 depicted.

3 Q. Okay. So anything not to do with Trailer
4 Estates?

5 A. Correct.

6 Q. Okay. What other documents did you bring with
7 you today?

8 A. None.

9 Q. Okay.

10 MR. ROSS: I'd like to state for the record
11 that the responses to Numbers 3, 6, 7, 12 and 15
12 have already been provided to the Plaintiffs
13 previously.

14 The request 1, 4, 5, 8, 9, 10, 11, 13, 14, 16
15 and 17, the District on behalf of Mr. Rudacille is
16 objecting due to the fact that they are a broad and
17 overly -- overly broad and burdensome request, and
18 also contain privileged information.

19 Counsel for the District filed an objection to
20 the subpoena timely after it was served. Initially,
21 our objection was to -- only to privilege; however,
22 once we actually started trying to compile the
23 documents, it became clear that the requests are
24 overly broad and burdensome.

25 MR. HENNESSY: I'm sorry, and that's with

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regard to which requests?

MR. ROSS: One, 4, 5, 8, 9, 10, 11, 13, 14, 16
and 17.

MR. HENNESSY: So the remainder, other than
that you say are already provided or that he
provided a response to?

MR. ROSS: The numbers that I read out.

MR. HENNESSY: Okay. Well, do you have any
categories of other statements you want to make with
regard to the responses -- or the requests?

MR. ROSS: In terms of my objection?

MR. HENNESSY: Yes, if you have other
objections.

MR. ROSS: No.

MR. HENNESSY: Okay.

MR. ROSS: Those are my objections, that they
are overly broad and burdensome and that they also
request for privileged information.

MR. HENNESSY: Mr. Ross, we talked about this
previously and you'd indicated that you were going
through the process of producing these documents,
that you actually had generated, I think you said,
you know, several hundred documents with regard to
e-mails and -- and that you needed more time to --
to do that.

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MR. ROSS: Yeah.

MR. HENNESSY: Do you recall that?

MR. ROSS: Going back, as I said, as we started to compile these documents, it wasn't several hundred, it was several thousand --

MR. HENNESSY: Okay.

MR. ROSS: -- and it became very clear that this request is overly broad and burdensome.

And I'd be happy to discuss with you how we could narrow the requests to make them more efficient, but as of right now, due to the fact that Mr. Rudacille in going back just through e-mails over the last year already had several thousands, to go back even through the other years is a overly burdensome request in that the request is overly broad.

MR. HENNESSY: I --

MR. ROSS: We would be happy to comply with it if it was narrowed down.

MR. HENNESSY: Okay. I'm just trying to verify, you know, when we talked beforehand, my expectation was that you would be producing some documents and the remainder you would produce at a later time and we would have an opportunity to depose him on that. Is that no longer your

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1 position?

2 MR. ROSS: Oh, no, I -- we can -- if we resolve
3 the objections that I have to these other items, we
4 will produce them and you can depose Mr. Rudacille
5 regarding those documents that we have produced at
6 that time.

7 MR. HENNESSY: And you had also indicated that
8 you would be producing a Privilege Log. Are you, in
9 fact, planning on doing that or --

10 MR. ROSS: I -- if -- once we are able to
11 narrow down these requests and we produce documents,
12 if we are going to be asserting that any of the
13 documents that are responsive to the request are
14 privileged, we will provide a Privilege Log.

15 MR. HENNESSY: You've indicated under Number 7
16 that the documents -- and the request is, "Any and
17 all public records sought by the Plaintiffs and/or
18 identified in the Third Party Amended Complaint and
19 Addenda," and you've indicated that your response is
20 that those documents have all already been produced.

21 Is that an accurate statement of your position
22 or are you contending that to the extent that such
23 documents are in your possession or are able to be
24 found by you, that those documents have been
25 produced?

1 MR. ROSS: To the extent that those documents
2 are in the public record, they've either been
3 produced or an exemption has been asserted.

4 For example, I know that you've requested a
5 copy of a Shade Meeting transcript of which we've
6 asserted is exempt from the public record.

7 For example, Number 6, "Any and all documents
8 that claim an exemption to the public records law
9 responsive to any public records requests made by
10 the Plaintiffs," our office has responded to all the
11 public records requests to your office and in --
12 within those responses we have claimed any
13 exemptions to the public records law and you've been
14 provided with those documents.

15 MR. HENNESSY: Okay.

16 MR. ROSS: In response to Number 3, to the
17 extent that there are any documents that were not
18 previously produced in response to the Plaintiffs'
19 December 12, 2008 Request for Production -- well,
20 wait, was that a Request for Production or was that
21 a public records request, I guess is my question?

22 MR. HENNESSY: Which one?

23 MR. ROSS: Number 3.

24 MR. HENNESSY: Request for Production.

25 MR. ROSS: Okay. It was my understanding that

1 it was a public records request, however -- so I did
2 not specifically analyze that because I believe
3 there is a public records request of the same date
4 which we've responded to.

5 MR. HENNESSY: Okay.

6 BY MR. HENNESSY:

7 **Q. Mr. Rudacille, how many District Board meetings**
8 **do you believe you've attended?**

9 A. I don't know.

10 **Q. If I told you that by my count you've attended**
11 **10 Board meetings, do you think that that would be in**
12 **the neighborhood of correct?**

13 A. Yes, that wouldn't surprise me.

14 **Q. Okay.**

15 MR. HENNESSY: Mr. Ross, we've indicated in
16 Request Number 14 that he produce any and all notes,
17 e-mails and documents related to any District Board
18 meeting or District committee meeting he attended.
19 He's indicated he attended one committee meeting and
20 approximately 10 Board meetings and you've objected
21 to that as being overly broad. Is that, in fact,
22 your objection?

23 MR. ROSS: Yes, that's one of my objections.

24 MR. HENNESSY: What would the other objection
25 be?

1 MR. ROSS: The -- that those are -- contain
2 privileged communications because the e-mail
3 communication might have been between Mr. Rudacille
4 and another attorney within our office relating to a
5 meeting he attended, which might be relating to this
6 litigation, and if that is the case, then we are
7 asserting a privilege.

8 MR. HENNESSY: Okay.

9 BY MR. HENNESSY:

10 Q. Have you ever attended a Executive Committee
11 meeting of the Trailer Estates Board of -- or Trailer
12 Estates Park and Recreation District?

13 A. No.

14 Q. Have you ever attended a Trailer Estates
15 Administrative Committee meeting?

16 A. No.

17 Q. Have you ever attended a Trailer Estates
18 Executive Board meeting?

19 A. No.

20 Q. Are you aware of the occurrence of any such
21 meeting?

22 A. No.

23 Q. To your knowledge, has the District ever held
24 an Executive Committee, Administrative Committee or
25 Executive Board meeting?

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1 A. No, not to my knowledge.

2 Q. Okay. Mr. Rudacille, your counsel has
3 indicated that he -- you are not producing documents
4 that would be any and all documents, whether in
5 electronic or written format, relating to the Trailer
6 Estates Park and Recreation District's Executive
7 Committee, Administrative Committee, and/or Executive
8 Board, and he has objected to that based on the request
9 being overly broad and burdensome.

10 Could you explain to me what the burden was on
11 you in terms of trying to produce those documents here
12 today?

13 A. Well, you would have four -- more than four
14 years worth of e-mails and documents and files to go
15 through to determine whether they reference or relate to
16 an Executive Committee, Administrative Committee, and/or
17 Executive Board, to start with. And then you'd have to
18 go back through the documents that were responsive and
19 figure out which ones were exempt or confidential,
20 attorney-client record.

21 Q. So did you attempt to perform that task?

22 A. I started the process on Number 1.

23 Q. Okay. Did you begin a process of producing
24 documents pursuant to any of the other requests in this
25 *Duces Tecum* other than Number 1 or Number 2?

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1 A. Well, there would be a lot of overlap. I mean,
2 I --

3 Q. Well, I'm asking if you specifically looked at
4 one of these requests and determined that you could or
5 could not produce the documents being sought?

6 A. I looked at all of them and the process would
7 be similar.

8 Q. And that process would be what?

9 A. You'd have to go through four years worth of
10 e-mails and documents, you'd have to try and figure out
11 even who to search for in the e-mails just to find the
12 e-mails to begin with, and then go back and, you know,
13 determine by subject matter which ones fit into the
14 request, and then determine if there was any -- if the
15 information was confidential or exempt.

16 Q. Okay. Did you do anything to determine of the
17 Board meetings that you've attended, how many of
18 those -- before today, did you go back and do anything
19 to determine how many Board meetings you've attended?

20 A. No.

21 Q. So it would be fair to say then that you didn't
22 also look to determine how many of those Board meetings
23 that you attended were before the litigation was begun
24 in this case?

25 A. No.

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1 Q. Okay. The e-mails that you were indicating
2 that you would have to search through, where are they
3 kept?

4 A. They're on our -- not on my computer, but on
5 the firm's database.

6 Q. Server?

7 A. Server.

8 Q. Okay. And are your e-mails kept separate from
9 other members of the firm?

10 A. Yes.

11 Q. Okay. And are the Trailer Estates' e-mails or
12 e-mails related to Trailer Estates' business, are they
13 kept separate from other files?

14 A. No.

15 Q. So Kirk-Pinkerton does nothing to segregate its
16 client files from other client files?

17 A. It doesn't segregate the e-mails.

18 Q. Okay. What does it segregate?

19 A. Well, the documents are kept in files.

20 Q. Okay. So you produce hard copies, as well?

21 A. Yes.

22 Q. Do you keep hard copies of your e-mails?

23 A. No.

24 Q. So you don't print out e-mails and put them in
25 correspondence files or --

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1 A. Not generally, no.

2 Q. But you do sometimes?

3 A. Sometimes, yes.

4 Q. Did you go through any process of reviewing
5 your hard files to see what hard copies of documents
6 responsive to these requests exist?

7 A. No.

8 Q. Okay. Do you do anything with regard to your
9 e-mails -- I'm sorry, does Kirk-Pinkerton do anything
10 with regard to their e-mails in terms of segregating
11 e-mails that might relate to a client that is a public
12 body from clients that are not public bodies?

13 MR. ROSS: I want to state for the record that
14 Mr. Rudacille is here to testify on his own behalf
15 and he is not here as a authorized representative of
16 Kirk-Pinkerton.

17 MR. HENNESSY: Okay.

18 A. All of my e-mails are together.

19 Q. With everybody else's in the firms, is that
20 what you're saying, or just they're -- all of your
21 e-mails that you've ever done from your working computer
22 are all kept in one place?

23 A. Correct.

24 Q. Okay. And they're not segregated or organized
25 in any fashion?

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MR. CARROLL: Form.

A. They are organized by date.

Q. Can they be organized by recipient?

A. Yes.

Q. Okay. Did you try to review your e-mails from the standpoint of who had received those e-mails?

A. Yes.

Q. Okay. Can they be organized by sender, your e-mails?

A. Well, I would be the sender.

Q. Well, sometimes you receive e-mails, correct?

A. Yes. I thought that's what we had just talked about, segregating them by who they were received from.

Q. Okay. No, let me -- no, I was -- I think my first question was, can they be organized by recipient, in other words, people you send e-mails to?

A. I'm not sure about that.

Q. Okay. But they can be organized by who sends them to you?

A. Yes.

Q. Do you know what your e-mail system is?

A. Outlook.

Q. Did you look to see if you had any e-mail communications with the Plaintiffs?

A. No.

1 Q. Okay. Do you believe that you've had numerous
2 e-mails with the Plaintiffs?

3 A. No.

4 Q. So to the extent that we've asked for any and
5 all documents related to communications with the
6 Plaintiffs, do you believe that that would be overly
7 difficult for you to produce?

8 A. Well, it depends on what you mean. Which one
9 are we on here?

10 MR. ROSS: Number 8.

11 Q. That would be Number 8.

12 A. Related to the communications with the
13 Plaintiffs, I'm not even sure what that means.

14 Q. How do you find that confusing?

15 A. I don't know what "the communications with the
16 Plaintiffs" means.

17 Q. Okay. Have you advised the District with
18 regard to its newspaper? I think it's often referred to
19 as the Tribune.

20 A. Yes, we have had discussions about it.

21 Q. And have those discussions been in public or
22 through written communications?

23 A. Not that I recall.

24 Q. So they've been verbal?

25 A. Yes.

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1 Q. Do you know why you were unable to respond to
2 producing any and all documents related to the
3 District's newspaper, newsletter or the Tribune?

4 A. Well, that would be a similar analysis as
5 before.

6 Q. What's that?

7 A. I would have to go back through -- I mean, it's
8 the same body of e-mails and files that you have to go
9 through and look at the subject matter of each document
10 to determine whether they met this.

11 Q. Okay. And you didn't do that?

12 A. No.

13 Q. Do you know if you're able to look at your
14 e-mails and determine their subject matter?

15 A. Yes.

16 Q. Can they be organized by subject matter?

17 A. They could be organized by -- I mean, you could
18 search for terms.

19 Q. Okay. Well, is there a category that
20 identifies the -- what's listed as the subject of the
21 e-mail, the regarding section of the e-mail?

22 A. The e-mails are listed by subject.

23 Q. Do you know if you can organize them by that?

24 A. I don't know.

25 Q. Did you attempt to do that?

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1 A. No.

2 Q. Have you ever advised the District, to your
3 knowledge, concerning their television channel or the
4 video club?

5 A. We have had discussions regarding both, yes.

6 Q. Do you know if those subjects were in public or
7 in written communications?

8 A. I don't recall any being in public. The only
9 ones that I remember offhand being written were recently
10 renegotiating the television agreement.

11 Q. And when you say recent, what do you mean by
12 recent?

13 A. Within the last year.

14 Q. Did you go through any process of identifying
15 those documents in your possession that relate to the
16 District's television channel or video club?

17 A. No. It would be the same process.

18 Q. Well, did you not maintain a file concerning
19 this contract that you've been negotiating within the
20 last year?

21 A. No.

22 Q. Did you not maintain the documents concerning
23 the negotiations of the television contract that
24 occurred within the last year?

25 A. I have the documents, yes.

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Q. Have you produced any of those here today?

A. No.

Q. And why not?

A. Well, because I couldn't fulfill the entire request. I didn't want to bring part of it.

Q. Okay. So it's fair to say that you could have fulfilled part of any of these requests, but because you didn't feel you could fulfill the entirety of these requests you instead chose to bring nothing?

A. Yes.

MR. ROSS: Object to form.

MR. CARROLL: Form.

* * * * *

(This concludes this excerpt.)

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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF SARASOTA

I, Frances Chippendale, Certified Shorthand
Reporter, Notary Public, State of Florida, certify
SCOTT RUDACILLE personally appeared before me
on the 19th day of March, 2010, and was duly sworn.

Signed this 12th day of April, 2010.

Frances Chippendale
FRANCES CHIPPENDALE
Notary Public, State of Florida
Commission No.: DD 949137
Commission Expires: 1/14/2014

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF SARASOTA

I, FRANCES CHIPPENDALE, Certified Shorthand Reporter, certify that I was authorized to and did stenographically report this excerpt of the deposition of SCOTT RUDACILLE, pages 1 through 21; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 12th day of April, 2010.



Frances Chippendale
FRANCES CHIPPENDALE

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