

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

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

v.

CASE NO. 08 CA 11315

TRAILER ESTATES PARK AND  
RECREATION DISTRICT,  
et al.,

Defendants.

NOTICE OF FILING

Defendant, Trailer Estates Park and Recreation District, by and through its undersigned attorneys, hereby files a copy of the Affidavit of Scott E. Rudacille for use at the hearing on April 14, 2010.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via Facsimile and U.S. Mail to Kevin S. Hennessy, Esquire, Lewis, Longman & Walker, P.A., 1001 Third Avenue West, Suite 670, Bradenton, Florida 34205, (941) 708-4024, Daniel E. Scott, Esquire, Daniel E. Scott, P.A., 2033 Main Street, Suite 408, Sarasota, FL 34237, (941) 366-6303, Robert E. Turffs, P.A. 1444 First Street, Suite B, Sarasota, Florida 34236, (941) 953-5736, James D. Dye, Esquire, Dye Deitrich, Petruff & St. Paul, P.L., 1111 3rd Avenue W., Bradenton, FL 34205-7834, (941) 748-1573, and Hunter W. Carroll, Esquire, Matthews, Eastmoore, Hardy, Crauwels & Garcia, P.A., 1777 Main Street, Suite 500, Sarasota, FL 34236, (941) 954-7777, on this 13<sup>th</sup> day of April, 2010.

**KIRK ■ PINKERTON, P.A.**

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By: 

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IN AND FOR MANATEE COUNTY, FLORIDA

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

Plaintiffs,

v.

CASE NO. 08 CA 11315

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.

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AFFIDAVIT

Personally appeared, Scott E. Rudacille, who being duly sworn says:

1. I am at least eighteen (18) years of age and make the statements contained in this affidavit based upon my personal knowledge.
2. I am an attorney with Kirk Pinkerton, P.A. We were retained as general counsel for the Trailer Estates Park and Recreation District in October 2006.
3. On or about February 26, 2010, I was served with a subpoena for deposition duces tecum.
4. The subpoena duces tecum listed 17 different requests for the production of documents at my deposition.
5. In a good faith effort to comply with the subpoena duces tecum, I began to compile the documents that were responsive to the requests.

6. As I began to compile the emails requested pursuant to request #1 of the subpoena duces tecum, it became evident that responding to this request would be more burdensome than I originally thought.

7. I began by printing out the emails I received from Martha Brauer, going from the present back to January 1, 2006. After going back through March of 2009, I had already printed off hundreds of emails, many with attachments, from Ms. Brauer. This number does not include outgoing email correspondence from me. It does not include email correspondence with other Trustees or District Office staff. It does not include other methods of correspondence, such as notes, letters, or faxes, of which there are many files and boxes. We have also received from the District copies of all of the records that have been copied by the Plaintiffs and their attorneys throughout the course of their public records inspections. There are thousands and thousands of such documents, which would have to be individually reviewed to determine whether they fell within any of the requested areas. Each responsive document, email or piece of correspondence created since this litigation started in December 2008, would then have to be reviewed to determine if it was privileged under Chapter 119, Florida Statutes, which in many cases would require research into why the document was created, and who requested that it be prepared.

8. Upon realizing the extent of the burden it would take to respond to the subpoena duces tecum, I informed Zachary Ross from my office that I would not be able to print out or pull out all of the documents, review them for responsiveness to the Plaintiffs' requests, and then review them to determine whether or not the document was privileged, prior to my scheduled deposition. Mr. Ross then communicated this fact to Plaintiffs' counsel.

9. The Plaintiffs' request #1 of their subpoena duces tecum to me requires me to produce "any and all letters, memos, telephone messages, facsimiles, or emails between you and any

employee, previous or current member of the Board of Trustees for Trailer Estates Park and Recreation District ("District"), whether in electronic or written format, from January 1, 2006 to the present."

10. As I previously stated, just the emails I received from Martha Brauer from March 2009 to the present number in the hundreds, with attachments. Those numbers do not include letters, memos, or facsimiles, nor do they include communications between me and any other employee or member of the Board of Trustees.

11. The Plaintiffs suggest that I could simply print off every email between me and the employees or Trustees of Trailer Estates; however, this fails to account for the time required for me to review the documents for privileged information. Furthermore, the subject of the email does not necessarily reveal whether it reflects "communications with the Plaintiffs" (request #8), relates "to the District's newspaper, newsletter, or the Tribune" (request #9), relates to "the District's television channel or video club" (request #10), relates "to the Sunshine Law" (request #17) or whether it may be responsive to any of the other requests made by the Plaintiffs in their subpoena duces tecum.

12. To comply with the Plaintiffs request, I would be required to print out hundreds and hundreds of emails, compile them along with thousands and thousands of other documents, review the thousands of documents individually to see if they respond to the Plaintiffs' request, and then review all of the responsive documents to determine privilege. This process would be extremely time consuming and expensive.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Scott E. Rudacille, Affiant

STATE OF FLORIDA

MANATEE  
COUNTY OF SARASOTA

Sworn to and subscribed before me this 13<sup>TH</sup> day of April, 2010, by Scott E. Rudacille,  
who is personally known to me or who has produced \_\_\_\_\_ as  
identification.

Sign



Print

CHERYL LYCANS

Notary Public, State of Florida

