

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.

DEPOSITION OF ROBERT MARK YAWBERG
Volume I of I
Pages 1 through 118

Wednesday, January 6, 2010
1:05 p.m. to 3:44 p.m.
Kirk-Pinkerton
First Bank Building
1301 6th Avenue West
Bradenton, Florida 34206

Stenographically Reported By:
FRANCES CHIPPENDALE

1 of the park?

2 A. Yes.

3 Q. Do you have to respond, then, to any requests
4 from any resident concerning maintenance of those
5 facilities?

6 A. Yes, I respond to any request best I can.

7 Q. But, I mean, can any resident come up to you
8 and say, "Hey, you know, we need new bocce balls"?

9 A. They could say that to me, yes.

10 Q. But do you take an assignment from them or do
11 you tell them they need to go through the Maintenance
12 Trustee or some other way?

13 A. It would depend on their request.

14 Q. Do you have any responsibility for park
15 security?

16 A. Yes.

17 Q. In what way?

18 A. I oversee the people that lock up the buildings
19 at night and on the weekends, and I would be responsible
20 to see that broken locks, things like that, are
21 repaired.

22 Q. Any other security responsibilities?

23 A. I program in the code for the office security
24 alarm.

25 Q. The office security system, is that a new

1 A. No, but there was a real concern, you know,
2 that they might be, and so, this was in preparation or
3 to be prepared that that wouldn't happen.

4 Q. When the records were kept in the attic in
5 Building 2, was it part of your responsibility to
6 retrieve those documents?

7 A. Yes.

8 Q. Was that a difficult job?

9 A. Not particularly. I mean, it all depends. For
10 me it wasn't, no.

11 Q. Was it a job you had to perform with any
12 regularity?

13 A. No. There was very few records up there.

14 Q. I'm sorry?

15 A. There was very few records, just a few boxes.
16 Most things were in the office.

17 Q. Do you know what types of records were kept up
18 in the attic?

19 A. No.

20 Q. Do you recall being involved in a dispute
21 concerning a fence on New Jersey Avenue involving a
22 resident by the name of McNeil?

23 A. No.

24 Q. Do you recall there being a lawsuit at the
25 District about that?

1 A. I don't recall. I knew that there was talk
2 about problems up at the North, that fence, but I don't
3 have any other recollection as far as details or
4 anything, no.

5 **Q. Do you recall being involved in an issue**
6 **concerning a fence involving property owned by DeSears**
7 **or a boundary shared with DeSears?**

8 A. I was aware residents wanted to have DeSears do
9 something about that fence, that was my only
10 involvement.

11 **Q. Well, do you recall meeting with the Trustees**
12 **concerning that issue?**

13 A. No, not that particular issue.

14 **Q. Are you familiar --**

15 A. Now --

16 **Q. I'm sorry.**

17 A. -- there was a fence, what we used to call the
18 children's park, that the park put in. Part of it went
19 along DeSears and the rest of it bordered another
20 property. I was involved in getting bids for that.

21 **Q. Do you know when that was?**

22 A. Within the last five years. I don't have an
23 exact date, I'm sorry.

24 **Q. Were there any Trustees that you were -- you**
25 **worked with on that?**

1 A. I'm not -- I believe Wayne Hamblen, but I --
2 would have been the one.

3 Q. Okay. So that I understand correctly, you, on
4 a daily basis, are in the District office building you
5 identified as Building 1 on Exhibit 2?

6 A. Yes.

7 Q. Okay.

8 A. What about that building?

9 Q. You're in that building on a daily basis?

10 A. Yes.

11 Q. At the times that you're in that building, have
12 you observed Trustees meeting?

13 A. Define meeting.

14 Q. Trustees, one or more Trustees of the District
15 gathered in talking?

16 A. Talking?

17 Q. Yes, sir.

18 A. Yes.

19 Q. Okay.

20 MR. CARROLL: Kevin, can we take a break,
21 please?

22 MR. HENNESSY: Sure. We'll go off the record.

23 (A recess was taken from 2:54 p.m to 3:03 p.m.)

24 MR. HENNESSY: Back on the record.

25 BY MR. HENNESSY:

1 Q. Mr. Yawberg, we were just starting to talk
2 about times when you would go into the District offices
3 and you would see Trustees talking to one another. And
4 my question was going to be, do you recall specific
5 conversations that the Trustees were discussing in your
6 presence?

7 A. Not specific conversations, no.

8 Q. Is this a frequent occurrence when you visit
9 the office, that you'll see Trustees there?

10 A. Yes.

11 Q. Is it a frequent occurrence that when you visit
12 the office you'll see Trustees there talking to each
13 other?

14 A. Yes.

15 Q. Can you recall specific conversations that you
16 have participated in or overheard between Trustees?

17 A. Oh, it was things like, how did the dance go
18 last night. It was, how many came to the dance, type
19 thing, things like that or personal, you know, things.

20 Q. Can you recall any instances where you've
21 either participated in or overheard discussions by
22 Trustees concerning matters that were going to go before
23 the Board of Trustees?

24 MR. ROSS: Form.

25 MR. CARROLL: Join.

1 A. I can't recall, no.

2 Q. Do you recall being present in the office when
3 my client, Sharon Denson, was present and was in a
4 meeting with Mike Neal and Wayne Hamblen, who were both
5 Trustees at that time?

6 A. I don't recall, no. I'm sorry.

7 Q. Okay. Is Martha Brauer, the Chairman of the
8 District, someone that you have regular contact with?

9 A. Similar to all the Board members, uh-huh.

10 Q. In what way?

11 A. If they have something that they want to speak
12 to me about, they speak to me about it.

13 Q. You're aware that Martha Brauer has been out of
14 the state for a while now?

15 A. Yes.

16 Q. When she wants to contact you while she's been
17 out-of-state, how has she done that?

18 A. She called once about a meeting or something, I
19 don't remember, on the telephone.

20 Q. Does she ever have her messages delivered to
21 you through another Trustee?

22 A. Not that I can recall.

23 Q. When we were talking about the stove before,
24 the stoves that were removed --

25 A. Uh-huh.

1 have been in the office on a daily basis or not
2 depending on that particular --

3 A. Yes.

4 Q. -- Trustee's habits --

5 A. Yes.

6 Q. -- is that correct?

7 A. Correct.

8 Q So you weren't always in the office on a daily
9 basis, it depended on which trustee was the Maintenance
10 Trustee in connection with you?

11 Bad question? Confused you?

12 A. Yes.

13 Q. All right. If a Maintenance Trustee was one
14 that you had to track down at the shuffle court, you
15 wouldn't necessarily be in the office talking to that
16 Trustee, correct?

17 A. That's correct.

18 Q. All right. And I think you testified that
19 those times that you did see Trustees speaking to each
20 other, you could not overhear what the conversation
21 was --

22 A. That's right.

23 Q. -- is that correct?

24 A. Yeah, or there was just -- for instance, I
25 think I believe I said something about talking about the