

**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.

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.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION FOR VIEW**

COME NOW, the Plaintiffs' MARY LOU SMITH and SHARON DENSON (hereinafter "Plaintiffs"), and hereby files their Response in Opposition to Defendant's Motion for View and state as follows:

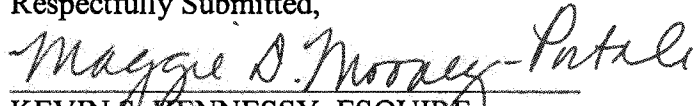
1. On or about August 11, 2010, the Defendant, TRAILER ESTATES PARK AND RECREATION DISTRICT (hereinafter "District") filed a Motion for View, seeking a view of Trailer Estates' large and small halls, bulletin boards, recreation hall, and kitchen during the testimony of T.J. Miller.
2. The Defendant's Motion for View should be denied due to the fact that this is a case concerning public record violations and government in the sunshine violations and a view of the District's meeting rooms, kitchen and recreation facilities will provide no benefit to

the trier of fact. The District's motion does not convey an adequate need for the view, what is to be viewed, or anything regarding the current condition of the location to be viewed.

3. The Defendant's Motion for View should further be denied due to the fact that any information the District wishes to convey through this view can be done through other means such as photos or videos, examples of which are already on trial exhibit lists.
4. The Defendant's Motion for View should be denied because a view itself is not evidence and cannot alone be the basis for a judgment. See *Atlantic Coast Line R. Co. v. Hendry*, 112 Fla. 391, 150 So 598 (1933).
5. The Defendant's Motion for View should be denied due to the fact that the Motion seeks to take evidence and testimony during the view. It has been found that evidence and/or testimony is not to be taken during a view. See *Dempsey-Vanderbilt Hotel v. Huisman*, 153 Fla. 800, 15 So. 2d 903 (1943); *McCollum v. State*, 74 So. 2d 74; and *Washington v. State*, 86 Fla. 533, 98 So 2d 605 (1923).
6. The Defendant's Motion for View should be denied because the proposed view would likely create an opportunity for improper attempts to influence the trier of fact through demonstrations, inappropriate contact or communications. Further should this matter be appealed the Appellate court would not have the ability to review the entire record considered by the Court.

WHEREFORE, for all the above stated reasons, the Plaintiffs, MARY LOU SMITH and SHARON DENSON hereby request this court enter an Order denying the Defendant's Motion for View.

Respectfully Submitted,



KEVIN S. HENNESSY, ESQUIRE

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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, **Kurt E. Lee, Esquire and Zachary Ross, Esquire**, Kirk Pinkerton, P.A., 50 Central Avenue, Suite 700, Sarasota, FL 34236, by *U.S. First Class Mail*, this 20th day of August, 2010.



KEVIN S. HENNESSY, ESQ.