

IN THE CIRCUIT COURT OF 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,
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.

TRAILER ESTATES'S MOTION TO DISQUALIFY

Defendant, Trailer Estates Park And Recreation District ("Trailer Estates"), moves, pursuant to Florida Rule of Judicial Administration 2.330, to disqualify Senior Judge Thomas M. Gallen from conducting the trial of this action and, as grounds therefor, states as follows:

1. Trailer Estates is anxious for this action to be finally resolved and for such resolution to be free from doubt or debate.
2. On Friday, September 24, 2010, Trailer Estates learned that Senior Judge Thomas M. Gallen would conduct the October 4, 2010, trial of this action.
3. Trailer Estates fears that it will not receive a fair trial because of prejudice or bias on the part of Senior Judge Gallen arising from his relationship with Trailer Estates.

4. Counsel for Trailer Estates learned this week that the Bradenton law firm formerly known as Miller, Gallen, Kaklis & Venable firm represented Trailer Estates while Senior Judge Gallen was a lawyer with such firm.

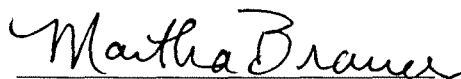
5. Counsel for Trailer Estates also learned this week that Senior Judge Gallen, while a Florida legislator, shepherded through the Legislature the charter for Trailer Estates Park and Recreation District.

6. There have been no previously granted motions to disqualify filed under Florida Rule of Judicial Administration 2.330 in this action.

7. This motion is being filed within 10 days after discovery of the facts which constitute the grounds for this motion.

8. As this is an initial motion to disqualify under Rule 2.330, “[t]he judge ... shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the judge shall immediately enter an order granting disqualification and proceed no further in the action.” Fla. R. Jud. Admin. 2.330(f).

UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING MOTION AND THAT THE FACTS STATED THEREIN ARE TRUE.

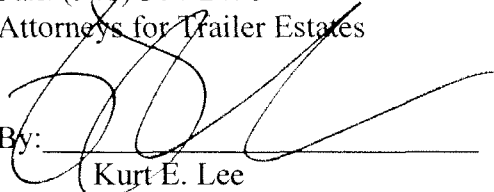


Martha Brauer,
as Chairperson of the Trailer Estates Park and Recreation District Board of Trustees


CERTIFICATION OF GOOD FAITH

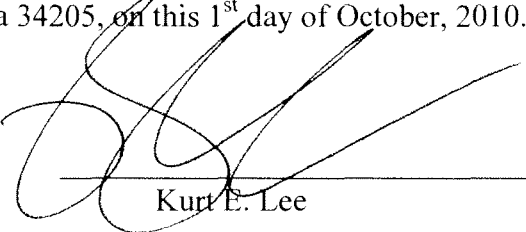
I HEREBY CERTIFY that the foregoing motion and the client's statements are made in good faith.

KIRK • PINKERTON, P.A.
50 Central Avenue, Suite 700
Sarasota, FL 34236
Tel: (941) 364-2400
Fax: (941) 364-2490
Attorneys for Trailer Estates

By: 
Kurt E. Lee
Florida Bar No. 0983276
Zachary L. Ross
Florida Bar No. 0028351

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by fax and U.S. Mail to Kevin S. Hennessy, Esquire, Lewis, Longman & Walker, P.A., 1001 Third Avenue West, Suite 670, Bradenton, Florida 34205; by hand delivery to the Honorable Thomas M. Gallen, ; and by hand delivery to the Honorable Janet Dunnigan, Manatee County Judicial Center, 1051 Manatee Avenue West, Bradenton, Florida 34205, on this 1st day of October, 2010.


Kurt E. Lee