

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

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

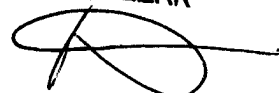
Plaintiffs,

v.

CASE NO. 2008 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.

FILED IN OPEN COURT
THIS 11 DAY OF OCT. 20 10
R.B. SHORE, CLERK
BY  DC

REQUEST FOR JUDICIAL NOTICE

Defendant, Trailer Estates Park and Recreation District, pursuant to §§90.202(6) and 90.203, Fla. Stat. (2010), requests that this Court take judicial notice of the following:

1. The Complaint, date of commencement, and date of final resolution of the case: *Trailer Estates Park & Recreation District v. Robert W. McNeil and Barbara M. McNeil*, 2006-CA-001678, Manatee County, Florida. A copy of the Complaint and docket are attached.

WHEREFORE, Defendant, Trailer Estates Park and Recreation District requests that this Honorable Court take judicial notice of the matters set forth above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing, along with a copy of all the referenced exhibits, was hand delivered to Kevin S. Hennessy, Esquire, Lewis, Longman & Walker, P.A., 1001 Third Avenue West, Suite 670, Bradenton, Florida 34205, on this 11th day of October, 2010.

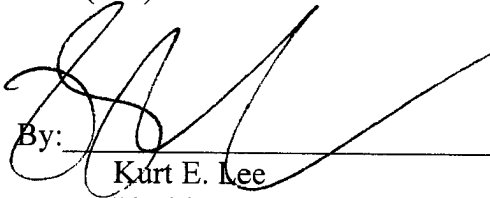
KIRK ■ PINKERTON, P.A.

50 Central Avenue, Suite 700

Sarasota, FL 34236

Tel: (941) 364-2400

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By: 

Kurt E. Lee

Florida Bar No. 0983276

Zachary L. Ross

Florida Bar No. 0028351

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

TRAILER ESTATES PARK &
RECREATION DISTRICT,

Plaintiff,

vs.

2006-CA-001678

Case No.

ROBERT W. McNEIL and
BARBARA M. McNEIL,

Defendants.

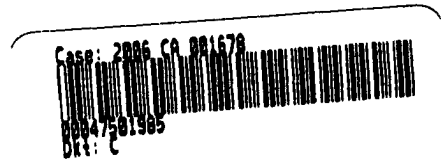
FILED FOR RECORD
R.B. SHORE
CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

2006 APR -3 PM 1:56

COMPLAINT

Plaintiff, TRAILER ESTATES PARK & RECREATION DISTRICT
("TRAILER ESTATES"), sues Defendants, ROBERT W. McNEIL and BARBARA M.
McNEIL (collectively "McNEIL"), and alleges:

1. This is an action for a mandatory permanent injunction to enforce a deed restriction relating to real property located in Manatee County, Florida. (Specific Performance).
2. This Court's jurisdiction is invoked by § 26.012(2)(c), Florida Statutes.
3. TRAILER ESTATES is a mobile home subdivision chartered by the State of Florida and sanctioned by special referendum of the electors in the District as a special park and recreation district which is governed by an elected board of trustees with authority to enforce deed restrictions.
4. During March, 1955, Gulf Development Corporation, the predecessor to TRAILER ESTATES, owned that tract of land which is now Trailer Estates Subdivision.



Gulf Development Corporation subdivided Trailer Estates by filing a subdivision plat which contained certain deed restrictions recorded in Plat Book 8, Page 138.

5. Gulf Development Corporation inserted the Deed Restrictions in each and all of the conveyances and contracts of sale in Trailer Estates Subdivision for the purpose of creating uniform deed restrictions for the benefit of all subsequent owners and purchasers at Trailer Estates Subdivision. Thereafter, Plaintiff became and is now the appropriate body to enforce the deed restrictions, covenants and conditions contained in the above-referenced plat books.

6. On or about December 17, 1999, a majority of the record property owners of Trailer Estates Subdivision adopted the Amended and Restated Deed Restrictions for Trailer Estates Subdivision, which Restrictions were then recorded on December 27, 1999, in the Public Records of Manatee County, Florida, at O.R. Book 1619, Page 5906 (the "Restrictions"). A copy of the Restrictions is attached hereto as **Exhibit "A"**.

7. Pursuant to paragraph 2 of the Restrictions no improvement or portion thereof shall be placed on any lot, block or parcel unless the same shall meet the minimum set-back requirements established in Exhibit "A" to the Restrictions. The established set-backs are, when viewing the property from the street fronting the narrow side of any lot, two feet eight inches (2' 8") from the right property line; four feet (4') from the left property line; and five feet (5') from the front and rear property lines.

8. McNEIL owns certain real property located at 6626 New Jersey Street, Bradenton, Florida 34281, together with a mobile home situated thereon (the "Subject Property"). The Subject Property is located within original subdivision of Trailer Estates, and is designated as Block 22, Lots 22 and 24.

9. Prior to December 8, 2005, McNEIL erected or caused to be erected a fence on the Subject Property (hereafter the "Subject Fence"). The Subject Fence improperly encroaches upon the required set-backs.

10. On December 8, 2005, McNEIL completed a building request application pursuant to the Restrictions and submitted the same to the Architectural Review Committee for TRAILER ESTATES for the approval of the Subject Fence as built. (hereafter the "Building Request").

11. TRAILER ESTATES approved the Building Request on December 13, 2005, subject to the condition that McNEIL relocate the Subject Fence to comply with the set-back requirements of the Restrictions.

12. As built by McNEIL, the fence encroaches the set-back requirements, in violation of the Restrictions.

13. McNEIL has been notified of the violation but has failed to correct the same.

14. TRAILER ESTATES has the clear legal right to enforce the Restrictions and is the appropriate body to enforce the same.

15. McNEIL's violation of the Restrictions causes TRAILER ESTATES and its residents irreparable injury.

16. TRAILER ESTATES has no adequate remedy at law for the McNEIL's violation of the Restrictions as the damages are impossible to determine and of a character that cannot be remedied by money.

17. This action is brought by TRAILER ESTATES on behalf of itself and on behalf of all other owners of dwelling units at TRAILER ESTATES who are aggrieved by the ongoing violation of the Restrictions.

18. All conditions precedent to the commencement of this action have been satisfied, performed or waived.

19. TRAILER ESTATES has retained the undersigned attorneys to represent it in this action. TRAILER ESTATES is entitled to the recovery of its attorneys fees in this action pursuant to the Restrictions.

WHEREFORE, Plaintiff, TRAILER ESTATES PARK & RECREATION DISTRICT, demands a judgment which permanently enjoins McNEIL from violating the Restrictions and to cure the encroachment of the required set-backs, together with an award of it attorneys fees and costs against the Defendants, and such other and further relief as this Court deems just and proper.

Dated: March 31, 2006

Respectfully submitted,

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.
Attorneys for Plaintiff
1515 Ringling Boulevard, Suite 700
Sarasota, Florida 34236
(941) 316-7600
Fax: (941) 316-7936

By: 

Louis M. Ursini III, Esq.
Florida Bar No. 0355940
Jason T. Gaskill, Esq.
Florida Bar No. 0839051

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AMENDED AND RESTATED DEED RESTRICTIONS FOR
TRAILER ESTATES SUBDIVISION,
as per plat thereof recorded in
Plat Book 8, page 138,
of the Public Records of Manatee County, Florida.

THESE AMENDED DEED RESTRICTIONS for Trailer Estates Subdivision, as per plat thereof recorded in Plat Book 8, page 138, of the Public Records of Manatee County, Florida, are hereby recorded pursuant to the amendment provisions contained in "Deed Restrictions for TRAILER ESTATES SUBDIVISION" recorded in Deed Book 329, page 63, of the Public Records of Manatee County, Florida.

WITNESS THAT:

WHEREAS, the Deed Restrictions for TRAILER ESTATES SUBDIVISION, were recorded at Deed Book 329, page 63, of the Public Records of Manatee County, Florida, and

WHEREAS, said Deed Restrictions were to run with the lands described in the subdivision plat hereinabove referred to until January 1, 2000, at which time said covenants were to be automatically extended for successive periods of ten (10) years unless, by virtue of a vote of a majority of the then-owners of the lots, the covenants were changed, in whole or in part, or terminated, and

WHEREAS, by a majority vote of the owners of the lots, as well as a vote of the owners of a majority of the lots, a change in said covenants has been approved, which changes are hereinafter set forth in the form of a Restatement of the said Deed Restrictions, and

WHEREAS, the lands encumbered by these restrictions, together with the lands within additional plats with similar restrictions, constitute an area within Manatee County, Florida, known as "Trailer Estates". Said area has been, pursuant to the laws of the State of Florida, designated a Special Taxing District known as Trailer Estates Park and Recreation District. The Trailer Estates Park and Recreation District (the "District") is governed by an elected Board of Trustees. The District is, further, the owner of certain lands within the District including a recreation hall, swimming pool, shuffleboard area, storage yards and other areas held for the use of owners and/or residents of lands in the District, and is the successor to Gulf Development Corporation of its rights, duties and obligations under the Deed Restrictions.

NOW, THEREFORE, the undersigned, TRAILER ESTATES PARK AND

C:\My Documents\Rel\Trailer Est Deed Res (orig sub).doc

1



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RECREATION DISTRICT, the successor to the rights of GULF DEVELOPMENT CORPORATION under the aforementioned Deed Restrictions does hereby execute and record the following Amended and Restated Deed Restrictions encumbering all of the lots, blocks, and other parcels of land included in the plat of TRAILER ESTATES SUBDIVISION, as per plat thereof recorded in Plat Book 8, page 138, of the Public Records of Manatee County, Florida, effective commencing January 1, 2000.

1. No building exterior, fence, exterior wall or other structure, and no addition to or alteration or change to the exterior of any existing building, fence, exterior wall or structure shall be commenced, erected or maintained on any lot, block or parcel within the subdivision until the plans and specifications showing the nature, kind, shape, height, materials, color and location of such building, fence, wall or structure shall have been submitted to and approved in writing by an Architectural Review Committee (ARC) appointed by the Board of Trustees of the Trailer Estates Park and Recreation District. Failure of the ARC to approve or disapprove such nature, kind, shape, height, materials, color, and location within thirty (30) days after the plans and specifications have been submitted shall be deemed to be an approval of the plans and specifications as submitted. Any construction improvements on any lot, block or parcel without approval by the ARC shall be deemed a violation of these restrictions, and shall entitle the Board of Trustees of the District or any other person benefited by the adoption of these restrictions to bring an action for injunctive relief or for damages.

Without prejudice to the right of the ARC to review and evaluate other matters appearing on the plans and specifications, no approval by the ARC shall be given to plans and specifications which do not require that (1) all mobile homes be skirted, (2) that all new or remodeled homes shall have adequate parking space within the lot lines for one vehicle (20-foot minimum), (3) that air conditioning units on new mobile homes be located at the rear of the mobile home, (4) that any replacement mobile home moved onto a lot be a new (not used) home, and (5) that not more than one mobile home shall be placed on a single lot. The term "mobile home" shall include two or more units designed by the manufacturer thereof to be joined together to form a single unit.

2. No improvement or portion thereof shall be placed on any lot, block or parcel unless same shall meet the following minimum set-back requirements:

SEE EXHIBIT "A" ATTACHED HERETO.

3. The use of any and all lots, blocks or parcels SAVE AND EXCEPT those owned by Trailer Estates Park and Recreation District, its successors or assigns, shall be limited to single-family residential use.

4. No signs or advertisements shall be displayed on any lot, block or parcel, or

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on any right-of-way SAVE AND EXCEPT one sign of reasonable size, offering the property for sale, may be placed on or in the window of any mobile home thereon, or on any vacant lot, block or parcel.

5. There shall be no well or septic tank constructed on any lot, block or parcel without the express written consent of the Board of Trustees of the District.

6. No boat, boat trailer, travel trailer, motor home or similar property shall be stored on or about any lot, block or parcel unless in an enclosed structure or completely underneath a carport structure, SAVE AND EXCEPT upon a parcel designated for storage of such property by the Board of Trustees of the District.

7. The Board of Trustees of the District shall have the right, through its agents or employees, to enter upon all lots, blocks or parcels to care for same, to cut grass, to remove rubbish, and to keep such lots, block or parcels from creating an unsightly appearance, and the further right to charge the owner of said lot(s), block(s), or parcel(s) for the actual cost for alleviating such unsightly appearance plus a twenty-five (25%) percent administrative cost. Any such charge shall constitute a lien upon the property so improved, and shall be enforceable in like manner as provided under the Mechanic's Lien Law of the State of Florida. The prevailing party in any action to foreclose the lien or to recover such cost, at law or in equity, shall have the right to recover all reasonable costs incurred therein, including reasonable attorneys' fees.

8. All laundry to be dried must be hung in an area designated by the Board of Trustees of the District or upon a folding rack placed on the rear of the lot, block or parcel of the owner of the laundry.

9. No television or radio antennae or tower may be erected on any lot, block or parcel [except Blocks A, B and C as shown on the plat of TRAILER ESTATES SUBDIVISION, Plat Book 8, page 138, of the Public Records of Manatee County, Florida, or on any lot, block, or parcel hereinafter designated by the Board of Trustees of the District.] In the event this provision is deemed inapplicable to any particular type of television or radio antennae by any court of competent jurisdiction, this provision shall continue in effect as to any and all other types of television or radio antennae. Further, any radio or television antennae or tower permitted by law or court decision shall be subject to reasonable rules and regulations established by the Board of Trustees.

10. No livestock, chickens, farm animals, dogs, cats, birds or other animal or pet shall be permitted on any lot, block or parcel of the subdivision [SAVE AND EXCEPT that household pets consisting of not more than two dogs, or two cats, or two caged birds, or any number of fish shall be permitted within Blocks 21, 22 and 23, TRAILER ESTATES SUBDIVISION, Plat Book 8, page 138, of the Public Records of Manatee County, Florida.]

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11. Trailer Estates Park and Recreation District is a community intended and operated as "housing for older persons" within the meaning of the Fair Housing Amendments Act of 1988, 42 U.S.C. Sections 3601, et seq. Occupancy of dwelling units on lots in Trailer Estates Subdivision or in any of its Platted Additions or in American Park Subdivision or on any of the parcels within the lands described in the subdivision plat described in the preamble hereto, shall not be permitted unless at least one person in such dwelling unit shall be fifty-five (55) years of age or older, provided, however, all other occupants (excluding "guests" as defined below) of the dwelling unit must be at least forty-five years of age. In the event that all of the occupants of a dwelling unit who are fifty-five (55) years of age or older shall die or otherwise discontinue occupancy of the dwelling unit, then the Board of Trustees of Trailer Estates Park and Recreation District is hereby granted and otherwise reserves the right to terminate the occupancy of the dwelling unit by all persons under fifty-five (55) years of age, if continued occupancy would result in less than eighty (80%) percent of the dwelling units in the community being occupied by at least one person fifty-five (55) years of age or older. Reasonable exceptions to the foregoing restrictions shall be permitted to allow occupancy of a dwelling unit by a caregiver engaged to provide care for a lot or parcel owner who is otherwise unable to maintain occupancy of the dwelling unit for health reasons. A "guest" of a lot or parcel owner, without restriction due to age shall be permitted to stay in a lot or parcel owner's dwelling unit provided such stay does not exceed a total of thirty (30) days in any year.

12. In order to maintain a community of congenial residents who are agreeable to abide by the "housing for older persons" restrictions contained in the Deed Restrictions and the provisions of the Charter of Trailer Estates Park and Recreation District (hereinafter collectively "Restrictions"), the transfer of lots or parcels by any owner shall be subject to the conditions hereinafter set forth as long as said Restrictions shall remain in force and effect: It shall be necessary for the Board of Trustees of the Trailer Estates Park and Recreation District, or its duly authorized officers, agents or committee, to approve in writing all sales, transfers of title, leases or subleases of a lot or parcel, or occupation of a dwelling unit on a lot or parcel, before such sale, transfer, lease, sublease or occupation shall be valid and effective. Written application for such approval shall contain such information as may be reasonably required by application forms promulgated by the Board of Trustees and shall be accompanied by a transfer fee as required by resolution of the Board, provided, however, such fee shall not exceed Fifty (\$50.00) Dollars.

13. In the event of any violation of any of the covenants herein, the Board of Trustees or any owner of any lot, block or parcel in Trailer Estates Park and Recreation District may bring action at law or in equity, either for injunction, action for damages or other such remedy as may be available and recover all costs and reasonable attorney's fees in addition to other appropriate relief should the trustees or any owner be the prevailing party in any litigation, and in any appellate proceedings, involving the enforcement of this act

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and/or the deed restrictions as filed in the Manatee County public records.

14. The failure of any land owner or the Board of Trustees to enforce any restrictions, conditions, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause of action against the Board of Trustees or such land owner.

15. The covenants herein contained, shall run with the land and, shall bind all persons in interest, all owners of lots, blocks or parcels and their heirs, legal representatives, successors and assigns PROVIDED, these covenants may be terminated or modified at any time by mutual agreement between the Board of Trustees of the District (or their successors or assigns) and the owners of a majority in number of the lots in the subdivision. Such amendments, changes or termination shall be evidenced by the recording of an instrument executed by the Board of Trustees of the District, reciting that, in a vote of the lot-owners of a majority of the lots, a majority voted in favor of the termination, changes or amendments contained in the instrument.

16. In any election for amendment or termination of these Deed Restrictions, execution by owners of a majority of the lots of a written consent to the amendment or termination in question over a period of ninety (90) days shall constitute a majority vote in favor of such termination or amendment.

IN WITNESS WHEREOF, we have hereunto set our hands this 17 day of December, 1999.

TRAILER ESTATES PARK AND RECREATION DISTRICT, a Special Taxing District created under the Laws of the State of Florida

By: Its Board of Trustees

By: Russell M. Paul
Trustee

By: Pat Wilcox
Trustee

By: A Wayne Hamblen
Trustee

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By: Doris Waddell
Trustee

By: Paul Vauld Mah
Trustee

By: Joseph Auer
Trustee

By: Mary E. McNulty
Trustee

By: Vernabell Moran
Trustee

By: Janet Gatti
Trustee

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STATE OF FLORIDA

COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 17th day of December, 1999 by:

- RUSS REED, as Chairman;
- PAT WILCOX, as First Vice Chairman and Maintenance;
- WAYNE HAMBLIN, as Second Vice Chairman and Public Relations;
- JOHN VANDER MOLEN, as Treasurer;
- DORIS WADDELL, as Secretary;
- JOE SALERNO, as Seasonal Recreation;
- MARY LOU MCNULTY, as Continuing Recreation & Future Planning;
- VERNABELLE MORAN, as Public Relations;
- JANET GATTI, as Health & Welfare;

N/A who are personally known to me or who have produced as identification and who did not take an oath.

Thelma Jo Miller
NOTARY PUBLIC
(Print Notary Public Name)

MY COMMISSION EXPIRES:

(SEAL)



Thelma Jo Miller
MY COMMISSION # CCB42435 EXPIRES
April 26, 2001
BONDED THRU TROY FAIR INSURANCE INC.

EXHIBIT "A"

(ORIGINAL SUBDISIVION)

When viewed from the street fronting the narrow side of any lot

Two feet eight inches (2' 8") from the right property line.

Four feet (4') from the left property line.

Five feet (5') from the rear lot line.

Five feet (5') from the front lot line.

PROVIDED, where a property owner owns more than one contiguous lot, block or parcel and intends to place a single mobile home dwelling unit thereon, the minimum set-back shall be four feet (4') from each of the left and right and five feet (5') from each of the front and rear perimeter lines of such combined parcel of land.

FURTHER PROVIDED these set-back provisions shall NOT apply to lots in or portions of Blocks A, B and C of the Subdivision.

**BK 1619 PG 5913 FILED AND RECEIVED 12/27/99 4:02:24 PM 8 OF 8
P.B. SHORE CLERK OF CIRCUIT COURT IN/WHITE COUNTY FL.**

Case Information

Case Number: 41 2006 CA 001678	File Date: 4/3/2006
Case Type: Circuit Civil	Case Status: Closed
Case Action Code: OTHER CIRCUIT CIVIL	Judge: PAUL E LOGAN

Parties

	Party Type	Name	Gender	Race	DOB
1	Plaintiff	TRAILER ESTATES PARK & RECREATION DISTRICT <i>ATTORNEY: GASKILL, JASON T</i>			
2	Defendant	MCNEIL, ROBERT W <i>ATTORNEY: SPANOLIOS, JAMES J</i>			
3	Defendant	MCNEIL, BARBARA M <i>ATTORNEY: SPANOLIOS, JAMES J</i>			

Dockets

Image	Date	Description
1	04/03/2006	CIVIL COVER SHEET
2	04/03/2006	SUMMONS ISSUED EACH DEFENDANT - HANDED TO PROCESS SERVER
3	04/03/2006	COMPLAINT
4	04/03/2006	CIRCUIT COURT FILING FEE ASSESSED Receipt: 31228479 Date: 04/03/2006
5	04/11/2006	SUMMONS SERVED TO ROBERT W MCNEIL 4-8-06
6	04/11/2006	SUMMONS SERVED TO BARBARA M MCNEIL 4-8-06
7	04/21/2006	ANSWER AND AFFIRMATIVE DEFENSES (ROBERT W MCNEIL AND BARBARA M MCNEIL)
8	05/04/2006	PLAINTIFFS FIRST REQUEST FOR PRODUCTION
9	05/04/2006	REPLY
10	05/26/2006	NOTICE OF TAKING DEPOSITION
11	05/26/2006	NOTICE OF TAKING DEPOSITION
12	06/19/2006	RESPONSE TO REQUEST FOR PRODUCTION
13	06/22/2006	AMENDED NOTICE OF TAKING DEPOSITION
14	06/22/2006	AMENDED NOTICE OF TAKING DEPOSITION
15	06/22/2006	AMENDED RESPONSE TO REQUEST FOR PRODUCTION
16	10/10/2006	NOTICE OF TAKING DEPOSITION
17	10/26/2006	SECOND AMENDED NOTICE OF TAKING DEPOSITION
18	10/30/2006	NOTICE OF SERVICE OF FIRST SET OF INTERROGATORIES TO ROBERT W MCNEIL
19	12/15/2006	MOTION TO COMPEL DISCOVERY RESPONSES
20	01/08/2007	NOTICE OF HEARING
21	01/16/2007	NOTICE OF CANCELLATION OF HEARING
22	03/01/2007	NOTICE FOR TRIAL (COPY TO JUDGES OFFICE)
23	03/07/2007	ORDER SETTING CASE MANAGEMENT CONFERENCE
24	03/14/2007	NOTICE OF SERVING ANSWERS TO INTERROGATORIES
25	04/13/2007	TRIAL STIPULATION
26	04/13/2007	ORDER OF REFERRAL TO MEDIATION
27	04/13/2007	ORDER SETTING NON-JURY TRIAL
28	04/23/2007	STIPULATION TO CERTIFIED MEDIATOR
29	04/25/2007	NOTICE OF MEDIATION CONFERENCE 05-24-07 AT 9:00AM
30	06/12/2007	MEDIATION RESULTS REPORT NOTICE OF FULL SETTLEMENT
31	08/01/2007	STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE / ORDER OF DISMISSAL WITH PREJUDICE - RECORDED

Disposition

Status	Status Date	Disposition Code	Disp Date	Judge
1 Closed	04/03/2006	DISMISSED AFTER A HEARING	08/01/2007	LOGAN , PAUL E

Financial Summary

Docket Application	Owed	Paid	Dismissed	Due

1	FILING FEE	\$255.00	\$255.00	\$0.00	\$0.00
	Total	\$255.00	\$255.00	\$0.00	\$0.00

Receipts

	Date	Receipt	Received From	Payment Amount	Applied Amount	Change Returned
1	04/03/2006	31228479	RUDEN MCCLOSKEY	\$255.00	\$255.00	\$0.00