

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 TRAILER ESTATES, etc., et al.,

Defendants.

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**TRAILER ESTATES'S MOTION FOR ATTORNEYS' FEES  
PURSUANT TO FLORIDA STATUTE, §286.011(4)**

Defendant, Trailer Estates Park and Recreation District, moves this Court, pursuant to Florida Rule of Civil Procedure 1.525 and Florida Statute, §286.011(4), to enter an order taxing its attorneys' fees against Plaintiffs, Sharon Denson and Mary Lou Smith, jointly and severally, and alleges:

***Trailer Estates Is Entitled To Recover Its Attorneys' Fees  
Pursuant To Florida Statute, §286.011(4)***

1. Trailer Estates specifically pleaded its entitlement to recover attorneys' fees from Plaintiffs based upon Florida's Sunshine Law. Trailer Estates pleaded in its answer to the Third Amended Complaint that it was entitled "to an award of attorney's fees under various provisions of law including, but not limited to, the provisions of F.S. 286.011(4) because the Plaintiffs have filed this action in bad faith and/or the action is frivolous."

2. Trailer Estates was the prevailing party on all of Plaintiffs' Sunshine Law claims. Some of Plaintiffs' claims were dismissed via summary judgment motions, some were dismissed

through the motion to dismiss at the conclusion of Plaintiffs' case-in-chief, and the remainder of Plaintiffs' Sunshine Law claims were dismissed in the Final Judgment.

***All Of Plaintiffs' Sunshine Law Claims Were Brought In Bad Faith***

3. Plaintiffs' Sunshine Law claims against Trailer Estates were brought in bad faith.

4. Plaintiffs filed their original action on November 26, 2008, a few days before the December 2, 2008, election of Trailer Estates Trustees. In December 2008, Sharon Denson was, for a second time, seeking election to the Trailer Estates Board of Trustees. The filing of the action against Trailer Estates and the individual Trustees was reported in the Bradenton Herald on the day of the election and prior to the suit being served on Trailer Estates. (*See Exhibit "A"*)

5. After the residents of Trailer Estates again voted not to elect Ms. Denson as a Trustee (*See Exhibit "B"*), Plaintiffs and their counsel bombarded Trailer Estates with public records requests in an attempt to find potential Sunshine Law violations, regardless of when the alleged violations occurred, whether they had any impact on Plaintiffs, and whether they had become moot by the passage of time. As Ms. Smith noted at the time in an e-mail to Plaintiffs' attorneys, it was "happy hunting." (*See Exhibit "C"*) When Plaintiffs found records that reflected any suggestion of a Sunshine Law violation, they added these claims to their pleadings, increasing the cost of defense to the District and raising the specter of a potential attorneys' fees award against the District. Plaintiffs' multiplication of their Sunshine Law claims is readily demonstrated by a comparison of the claims in the initial Complaint to those in the Third Amended Complaint and Addendum.

6. It was obvious from Plaintiffs' trial testimony and presentation that Plaintiffs did not agree with a number of policies of the District. Plaintiffs made much of the increase in storage park rates, the establishment of the marina fees, lease of dock spaces, and the ability of

Trailer Estates to impose user fees. While these issues are at the root of Plaintiffs' objections and while Plaintiffs' counsel issued written opinions that Trailer Estates was incorrect in regard to these issues, Plaintiffs chose not to bring those issues directly before the Court for resolution because such a lawsuit would not have permitted them to seek recovery of their attorneys' fees from Trailer Estates. Instead, Plaintiffs sought, and continue to seek, to use the judicial system and the threat of an exorbitant attorneys' fees award against Trailer Estates to gain the political leverage they have heretofore been unable to obtain through the ballot box. Plaintiffs' Sunshine Law claims reflect Plaintiffs' malicious motive in bringing this action to further their political aims within Trailer Estates.

*Some Of Plaintiffs' Sunshine Law Claims Were Frivolous*

7. Many of Plaintiffs' Sunshine Law claims against Trailer Estates were frivolous and without a scintilla of evidence.

8. Plaintiffs' frivolous claims are those which were resolved through summary judgment motions. (*See* Plaintiffs' Third Amended Complaint and Addendum, paragraphs 37(aa), 37(ee), 37(ss), 37(bbb), 37(ggg), 37(bbbb), 37(gggg), 37(hhhh), 37(qqqq), 37(rrrr)(i), 37(rrrr)(iv), 37(rrrr)(v), 37(rrrr)(vi), 37(rrrr)(vii), 37(rrrr)(xi), 37(rrrr)(xii), 37(rrrr)(xiii), 37(rrrr)(xvi), 37(rrrr)(xviii), 37(rrrr)(xix), 37(rrrr)(xx), 37(z))

9. Plaintiffs' frivolous claims are those which were resolved through the motion to dismiss at trial. (*See* Plaintiffs' Third Amended Complaint and Addendum, paragraphs 37(j), 37(k), 37(m), 37(t), 37(y), 37(cc), 37(ff), 37(gg), 37(hh), 37(ii), 37(jj), 37(kk), 37(ll), 37(aaa), 37(mmm), 37(uuu), 37(vvv), 37(zzz), 37(aaaa), 37(kkkk), and 44(iii))

10. Copies of Trailer Estates's attorneys' fees Invoices are attached as Composite Exhibit "D."

WHEREFORE, Defendant, Trailers Estates Park and Recreation District, respectfully requests that this Court enter judgment in its favor and against Plaintiffs, Sharon Denson and Mary Lou Smith, jointly and severally, for Trailer Estates's attorneys' fees incurred in the defense of Plaintiffs' bad faith and frivolous Sunshine Law claims and for such further and additional relief as this cause and justice may require.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U.S. Mail to Kevin S. Hennessy, Esquire, Lewis, Longman & Walker, P.A., 1001 Third Avenue West, Suite 670, Bradenton, Florida 34205, on this 1<sup>st</sup> day of December, 2010.

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