

1. IN RE: PALMER TRINITY PRIVATE SCHOOL VS.
2 VILLAGE OF PALMETTO BAY

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CASE NO: 08-28977 CA 30
3D09-1587

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APPEARANCES:

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ORIGINAL

16701 S.W. 72 Avenue
Palmetto Bay, Florida,
Monday, 6:30 p.m.,
November 2, 2009.

Ron Williams, Village Manager
Eve Boutsis, Village Attorney
Shelley Stanczyk, District 3, Council Member
Eugene Flinn, Mayor
Howard Tendrich, District 2, Council Member
Brian Pariser, Vice Mayor

1. MR. FLINN: I am calling this meeting
2 to order. It's 6:30.

3 MS. BOUTSIS: Thank you. We are here
4 at the Deering Estate Visitors Center on
5 Monday, November 2nd of 2009.

6 Present tonight, and I will go down the
7 row, is the Vice Mayor, Brian Pariser,
8 Councilman, Howard Tendrich, Mayor Eugene P.
9 Flinn, Councilwoman, Shelley Stanczyk, Eve
10 Boutsis, Village Attorney and Ron Williams
11 Village Manager.

12 The court reporter is here to take down
13 all of the testimony today, so I ask that we
14 not speak over each other, she can only take
15 down one person at a time.

16 I requested this meeting to discuss the
17 pending litigation and the style of Palmer
18 Trinity Private School versus The Village of
19 Palmetto Bay, Circuit Court case number,
20 08-28977 and Palmer Trinity Private School
21 versus The Village of Palmetto Bay,
22 Appellate Court case number 3D09-1587 and
23 any desires advice from the Village Council
24 regarding litigation strategy and/or
25 settlement.

1. The court reporter will take down the
2 testimony and this transcript will be made
3 available at the end of the litigation.

4 MR. FLINN: What was this meeting
5 called for, what was the purpose of
6 tonight's meeting, I am not aware of any
7 offer or any ---

8 MS. BOUTSIS: I had a request from a
9 council person to hold an attorney/client
10 session to give you a brief update.

11 As you are aware, in the appellate
12 matter one party has settled, which is our
13 neighbors to the south from Cutler Bay, that
14 homeowners association has settled. They
15 have signed a Privacy Settlement Agreement
16 so they have not disclosed that information.

17 Palmer Trinity has started doing public
18 records request, as you are aware, relating
19 to the litigation and I have forwarded those
20 requests to you so we are working on that
21 production.

22 I want to advise you that on November
23 12th of 2009 Julian Perez's deposition will
24 be held. Linda Robinson will be December
25 4th, Paul Knightheart will be on December

1. 10th and Rafael De La Arasosa who worked for
2 the Corrodino Group as a traffic consultant
3 is scheduled for December 11th of 2009.

4 MR. FLINN: Can I attend those as a
5 party?

6 MS. BOUTSIS: I don't see why not.

7 MR. FLINN: I may just attend those.

8 MS. BOUTSIS: I will forward the dates
9 to you.

10 There are some objections to some of
11 the production that we have already said are
12 privileged and we are going to be filing a
13 motion in opposition and setting those for
14 hearing.

15 Really, that's the brief updates as of
16 right now.

17 MR. FLINN: Can we file a request for
18 production in regards to all e-mails that
19 they are in possession of relating to us?

20 The reason why I am asking is because I
21 have made a very good faith attempt at
22 discovering any e-mails, and of course I
23 have three or four different e-mail boxes,
24 and as you know I probably have the best
25 record of any council member in regards to

1. trying to separate personal from -- personal
2 I try to use my Eflinn@palmettobay.gov
3 because it all remains on the server. And
4 in the past I have made a cursory search
5 because it's in my best information and
6 belief that everything that had to do
7 involving Palmer Trinity I cc'd to the clerk
8 so it would then be on the Village server
9 and then it would be basically located at
10 that point.

11 I have changed my computer a couple of
12 times and each time that I have, I have
13 attempted to move those files to the new
14 one. I have absolutely no reason to believe
15 that I am not in possession of one hundred
16 percent of my e-mails, yet I am not
17 confident that I do have one hundred percent
18 of my e-mails.

19 I tried to save, because of the
20 tremendous amount of crap, that's a legal
21 term, that I get in terms of e-mails, I do
22 not have my e-mail on auto save. And so I
23 have to hand save the e-mails both in and
24 out where I find them to constitute a
25 nontransitory substantive, a record that

1. should be kept.

2. And why I ask that is because there is
3. absolutely no intent, but there is a
4. possibility that one could be missed.

5. Obviously, I think this is a good faith
6. type standard, but I just bring that up in
7. terms of I'd like to see what they have,
8. because if they come up with an e-mail from
9. a certain date, it may lead me to discovery
10. where there is more at that period of time.

11. MS. BOUTSIS: I will see what I can do.

12. MR. FLINN: The public records request
13. is I assume based upon reasonable time, and
14. the request for production is 30 days unless
15. extended by the Court?

16. MS. BOUTSIS: Correct. And it would be
17. a request for production so it would be
18. approximately 30 days before I can get that.

19. MR. FLINN: And making it a Request for
20. Admissions if they are not in possession or
21. have any reasonable basis to have any
22. knowledge of any e-mails other than that
23. that they provided in the Request for
24. Production.

25. MR. PARISER: Eve, getting back to the

1. it has to say, I just I am really annoyed at
2 the delay and I think it really prejudiced,
3 us, but that's those individuals and their
4 attorneys who did that, and just the council
5 should keep it in mind.

6 MR. FLINN: I don't know what they
7 settled for. It could have been something
8 worth waiting for them, it could not be
9 prejudicial to us, it could be something
10 that's quite beneficial, who knows.

11 MR. PARISER: I think the timing is
12 prejudicial to us.

13 MR. FLINN: And I don't even see the
14 full force and effect of it, because I
15 honestly believe that whatever these people
16 say, you are still going to have people from
17 the Cutler Bay area come out and opposing it
18 and they basically settled with people
19 without a portfolio.

20 MS. BOUTSIS: So discovery is getting
21 pretty strong in the original action now. I
22 think that Palmer Trinity right now is
23 starting to get hot and heavy in this
24 litigation.

25 MR. FLINN: Let's move forward on it.

1. MS. BOUTSIS: So we are.

2 MR. FLINN: Let's get it done. A lot
3 of things are sitting and waiting on this, I
4 don't want this dumped on the next council's
5 lap. I want to get this thing to decision
6 and move forward and everybody has a right
7 to be fully aware of their rights and let's
8 move forward.

9 MR. PARISER: Does the Third DCA know
10 that they have withdrawn and there is no
11 reason for anymore extensions or delays?

12 MS. BOUTSIS: They do know and right
13 after they received it the Third DCA did
14 write an order granting their request to be
15 withdrawn as a party. I got that on Friday
16 and I thought I sent it to you, I apologize.

17 MR. FLINN: I got it.

18 MS. BOUTSIS: At this point I am going
19 to end the attorney/client session, it's 20
20 to seven, unless you have ---

21 MR. FLINN: Well, I was just throwing
22 it out there and I am not making a request
23 for it, but maybe we can all consider it.
24 Last time I checked with the Third DCA with
25 all of the districts there was an appellate

1 fact as well and then they have to come
2 forward with a whole new application that
3 subjects them to a lot of different things.
4 But basically you are looking at 2,200
5 students or zero students and somebody is
6 going to be very unhappy.

7 And by the way, as we all know, a
8 granting with the vesting of rights is
9 permanent but a denial never is.

10 Am I right or wrong?

11 MS. BOUTSIS: You are correct.

12 It sounds like basically I am giving
13 you a status report and at this point we are
14 not going to take any further action on the
15 settlement proposal.

16 Then I am going to end this A/C
17 session, it's now 6:30 and it's the shortest
18 one that we have had in a while. Thank you.

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20 (Whereupon, the deposition was
21 concluded at 6:30 p.m.)

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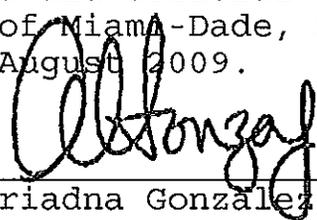
CERTIFICATE OF REPORTER

STATE OF FLORIDA :
 : SS.
COUNTY OF DADE :

I, ADRIADNA GONZALEZ, Court Reporter,
Notary Public in and for the State of Florida at
Large, do hereby certify that I reported the
Attorney/client session of in the above-styled
cause; and that the foregoing pages, numbered 1 to
12 inclusive, constitute a true and correct
transcription of my shorthand report of the
attorney/client session.

I further certify that I am not an
attorney or counsel of any of the parties, nor a
relative or employee of any attorney or counsel
connected with the action, nor financially
interested in the action.

WITNESS my hand and official seal in
the City of Miami, County of Miami-Dade, State of
Florida, this 29th day of August 2009.



Adriadna Gonzalez
Court Reporter
Commission # DD 610641
Expires Nov. 29, 2010