

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

LEON COUNTY, FLORIDA,  
A political subdivision of the  
State of Florida,

CASE NO. 2003 CA 1518

Plaintiff,

vs.

J-II INVESTMENTS, INC. &  
JOHNNY PETRANDIS, II,

Defendant,

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LEON COUNTY  
ATTORNEY'S OFFICE

**ORDER ON REHEARING**

On December 4, 2007, this Court entered an Order granting, in part, Defendants' J-II Investments, Inc. and Johnny Petrandis, II, Motion for Rehearing with respect to the Court's September 19, 2007 "Order Granting Plaintiff's Motion to Enforce Contempt Order and to Impose Fines and Other Sanctions". The Rehearing was limited to consideration "of the financial resources of the Defendant" and their financial burden resulting from the contempt judgment; and "the character and magnitude of the harm threatened by continued contumacy....." The hearing was held over three days in April, concluding April 24, 2008.

This Court has reviewed the file; the Orders of the predecessor Judges in this case; the documentary and testimonial evidence presented at the hearing; and the applicable law. Based upon this, the Court makes the following finding of fact and conclusions of law.

Defendants Johnny Petrandis II and J-II Investments, Inc., or perhaps now another corporation owned and controlled by Johnny Petrandis, II , own an 88± parcel of real property situated in Leon County, Florida m.

Sometime in 2002 or 2003, the Defendants or their agents caused a large scale clearing operation to be conducted on the property consistent with development activities.<sup>1</sup> Vast portions of High Quality Successional Forest (HQSF) land was cleared; ostensible roadways were cut; and these activities resulted in major environmental degradation to more than 50 acres of the property. All these activities were extra-legal; that is, the Defendants conducted all of this without any compliance with Leon County's land regulation and development code. Absolutely no permits were sought by the Defendants from any governmental agency.

In response, Plaintiff, Leon County, filed a complaint in Circuit Court seeking injunctive relief and compliance with the applicable County ordinances and Development Code. After conducting a hearing, Judge L. Ralph Smith entered summary judgment enjoining Defendants from further violation of local laws at the subject property; required Defendants to apply for a Standard Form Environmental Management Permit (EMP) within sixty (60) days; required Defendants to obtain an EMP; and required Defendants to implement and complete the requirements of the EMP and obtain Final Inspection Approval. (See Order entered June 30, 2004) Defendants appealed this Order but it was affirmed by Mandate issued on October 3, 2005 by the First District Court of Appeal.

After little or no effort to comply with the requirements of Judge Smith's Order, Plaintiff sought to enforce the Order by a Motion for Contempt. Upon conducting the contempt hearing on May 9, 2006, Judge Janet E. Ferris by contempt order announced on May 9, 2006 and entered May 31, 2006, found Defendants had not complied with Judge Smith's Order and were in civil contempt

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<sup>1</sup> Mr. Petrandis characterized their clearing as "silva culture" activities. However, few, if any, trees were harvested in this land clearing episode.

of court. Defendants were allowed to purge their contempt by submitting a complete application for a Standard Form Environmental Management Permit within two weeks.

Anticipating the parties might have communications difficulty, Judge Ferris dictated a communications protocol; and gave Defendants an escape hatch of sorts to notice the Court of any “inability to complete the forms”. Defendants never utilized this provision, and continued to do little to demonstrate compliance with either Court order. Judge Ferris further stipulated that failure to purge would result in contempt fines of \$1,000.00 per day commencing with the filing deadline of May 24, 2006 to June 2, 2006. The fines would increase to \$5,000.00 per day on June 3, 2006 to date of purge.

Over the next 12 months, the evidence demonstrates sporadic written correspondence between the parties; however, Defendants made no good faith effort to comply with the contempt order. This lack of compliance resulted in the entry of a civil judgment of aggregated, civil contempt fines in the amount of \$2,335,000.00 on September 19, 2007. It is from this judgment that Defendants seek relief by Motion For Reconsideration filed October 19, 2007 (but served October 1, 2007).

Defendants urge that the civil contempt fine cannot be imposed because the predecessor judge considered no evidence of the contemnors financial ability; the contempt fine bears no reasonable relationship with the environmental harm caused; and the fines are punitive rather than compensatory. This Court agrees that the court file contains no evidence of the financial resources of the Defendants; that such resources were considered when the fines were imposed; or that the amount of the contempt fine was reasonably related to the damages sustained or was compensatory in nature Parisi v. Broward County, 769 So. 2d 359, 366 (FLA 2000).

Moreover, considering the character and magnitude of the harm threatened by the Defendants' continued contumacy; and the probable effectiveness of the contempt fine sanction in enforcing compliance, this Court finds that these sanctions have been wholly inadequate and ineffective. Inasmuch as the sanction of daily contempt fines was not legally imposed and has been ineffective in enforcing compliance with two, otherwise valid Court orders, this Court will rescind the portion of the September 19, 2007 Order which reduced the aggregate contempt fines to civil judgment. However, this Court retains the authority and duty to impose other sanctions and remedies which are appropriate and just in this case.

This Court cannot overlook that Defendants, with total disregard for the law, have caused a massive destruction of a HQSF and native animal habitat, the destruction of wetlands, and the wide scale disturbance of a large tract of environmentally sensitive land. Additionally, the Defendants have utterly failed to comply with clear and unambiguous orders issued by two predecessor judges. The Defendants have been found in contempt of court; and have demonstrated an unwillingness to comply except to a minimal degree, with any of the Court orders entered in this protracted litigation. This Court has no confidence that Mr. Petrandis will ever comply with Court orders to remediate<sup>2</sup> this property he so blatantly and illegally degraded more than six years ago.

However, the Plaintiff Leon County, as representative of the citizens of Leon County, is entitled to a remedy for Defendants' violations. As required by the Supreme Court in Parisi, such remedy must bear a reasonable relationship to the harm sustained; and must take into consideration the financial resources of Defendants Petrandis and J-II.

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<sup>2</sup> He has almost totally disregarded Judge Smith's order to "immediately implement a plan for the remediation and correction of the violations of the subject property," entered in June 2004.

This Court has only a little more confidence in the testimony of Mr. Petrandis concerning his financial position.<sup>3</sup> He claims a personal checking account with Capital City bank with a balance of \$122.00. His last Federal Income Tax return (prepared in 2007) was filed for taxable year 2004. He has not retained his CPA firm to prepare his 2005, 2006, and 2007 returns. He claims he had no jobs in 2006 and 2007 except for "farming and real estate investor".

However, documentary evidence (Plaintiff's exhibit M) demonstrates he is the owner, director, and/or Resident Agent of approximately twenty (20) corporations which own real estate, rental homes, or rental apartments. He owns a home and 100 acres on Buck Lake Road, which he testified was encumbered by a \$900,000.00 mortgage. His 2004 Tax Return shows capital gains of \$64,000.00 and interest payments of \$94,259.00.<sup>4</sup> Plaintiff's Exhibit N shows dozens of real estate transactions or mortgage transactions involving Mr. Petrandis and his affiliated companies over the last number of years.

He further testified that he owns "at least 30 pieces" of real estate, including a 50 acre farm in Gadsden County and 5-10 acres in Cairo, Georgia. Plaintiff's Exhibit P lists in excess of \$100,000.00 in security deposits being held in connection with rental properties owned by Mr. Petrandis or his companies. While Mr. Petrandis has declined to give evidence of his net worth or income over the past, three years, the Court finds the credible evidence in this case supports the conclusion that Mr. Petrandis has the financial ability to pay the compensatory remedy ordered below.

Ordinarily, a violation of the Leon County ordinances regarding real estate development would be remedied by requiring the violator to return the property, as close as practicable, to its prior

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<sup>3</sup> He refused to give his social security number or date of birth in discovery.

<sup>4</sup> The return also shows interest income of \$132,888.00 (Plaintiff's Exhibit L)

condition. Judge Smith in his June 20, 2004 Order attempted to initiate this remedy. When Mr. Petrandis and his corporation failed to make a good faith effort to comply with that Order, Judge Ferris attempted to obtain compliance by exercising the contempt power of the Court. The evidence of Mr. Petrandis' actions in this case over 5 years demonstrates unequivocally that he will not comply with Court orders to remediate the property he so blatantly degraded.

Thus the only available remedy which may accomplish the remediation demanded by the law is a requirement that Defendants pay the reasonable cost of the remediation and the reasonable costs incurred by Leon County in dealing with this violation.

Defendants evidence of mitigation or remediation was presented primarily by Elva Peppers, president of Florida Environmental and Land Services. Plaintiff's evidence of remediation was presented primarily by Andre Barth, Vice President and Senior Consultant of Biological Research Associates (BRA) and Leann Tanis, an Environmental Review Specialist with Leon County. With the exception of those alternatives specifically noted below, the Court finds the Option 2 remediation and restoration plan recommended by (BRA) to be the most reasonable and likely to return the property to its pre-destruction condition - the appropriate and lawful remedy in this case.

However, the Court finds that the Longleaf pine Base Root/3 gallon restoration should be purchased and installed at \$300.00 per acre at an estimated cost of \$15,081.00. The Court further finds that "Wildlife Monitoring and Reporting for 5 years" should be accomplished semi-annually for 5 years (rather than quarterly) at an estimated cost of \$30,000.00. Therefore, the cost of remediation and restoration of the 50+ acres which were destroyed is \$252,351.00. (See Plaintiff's Exhibit A, page 8)

With respect to the destruction of the gopher tortoise population on the site, the evidence clearly shows that tortoise habitat was disturbed and destroyed. The evidence also shows a

likelihood that gopher tortoises were killed. However, it is pure speculation as to the number located on the property before the event, and the number likely killed by the destruction of the property. The Court finds therefore the costs of restoring them to the property to be speculative. Moreover, the Court rejects the "permit cost" and "potential FFWCC fine" approach BRA suggests as the measure of monetary compensation for such loss.

Finally, the Court finds that Plaintiff Leon County has incurred inordinate costs and expenses in dealing with the Defendants reluctance, resistance, and lack of good faith in this matter. Finding both the hours spent, and the hourly rates allocated to its employees to be reasonable in dealing with this major violation, the Court will require the Defendants to recompense the Plaintiff the sum of \$61,717.30 (Plaintiff's Exhibit K). Accordingly, it is

**ORDERED AND ADJUDGED** as follows:

1. As required by law, the Court rescinds the civil judgment of \$2,335,000.00 for the aggregated civil contempt fines entered on September 19, 2007.
2. Defendants Johnny Petrandis, II and J-II Investments, Inc. remain in civil contempt of Court, having failed to comply with the orders of Judge L. Ralph Smith and Janet E. Ferris to remediate and restore the real property in question.
3. Defendant Johnny Petrandis II has the financial resources and ability to pay the sum set forth below.
4. In order that Defendants' contempt of court be purged and its unlawful destruction of the real property be remedied, Defendant Johnny Petrandis, II within thirty (30) days shall pay to the Defendant Leon County the sum of \$314,068.00, for which let execution issue.
5. Leon County shall have a lien on the real property for this amount.

6. For purposes of appeal, this Order is intended as a final order, as all judicial labor has been concluded.

7. The Court reserves jurisdiction to enforce this Order or enter any other Orders which may be appropriate, necessary, or just.

**DONE AND ORDERED** in Chambers at Tallahassee, Leon County, Florida on this 03rd  
day of October, 2008.



**P. KEVIN DAVEY**  
Circuit Judge

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