

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

**ANTHONY LORENZO,**

**Plaintiff,**

**v.**

**CASE NO.: 2008 CA 8108 SC**

**CITY OF VENICE, et al.,**

**Defendants.**

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**ORDER ON EMERGENCY MOTION TO PRESERVE  
EVIDENCE AND ALLOW INSPECTION OF PUBLIC RECORDS**

This matter came on for hearing on June 11, 2008 on the Emergency Motion to Preserve Evidence and Allow Inspection of Public Records (the "Motion") filed by the Plaintiff, Anthony Lorenzo. The Court has considered the Motion, the Response in Opposition (the "Response") filed by Defendants, City of Venice (the "City"); Ed Martin; Suzanne Lang and John Simmonds, the evidence and testimony presented at the hearing, and the arguments of counsel.

The Court finds that Lorenzo has met his burden of showing the essential elements necessary for the issuance of a temporary injunction, namely, "a clear legal right or interest in the subject matter of the suit, the likelihood of irreparable harm because of the unavailability of an adequate remedy at law, and a substantial likelihood of success of the merits." Platinum Coast Fin. Co. v. Farino's Inc., 662 So. 2d 724 (Fla. 2d DCA 1998); Town of Palm Beach v. Gradison, 296 So. 2d 473 (Fla. 1974); Publishing Co. v. Williams, 222 So. 2d 470 (Fla. 2d DCA 1969).

Accordingly, it is hereby **ORDERED**:

1. The Motion is **GRANTED**.
2. Simmonds, Martin and Moore are hereby directed not to alter, reconfigure or dispose of any computer component or system which has been utilized to send or receive any electronic communication or other form of public record relating to public business of the City of Venice, Florida.<sup>1</sup>
3. Simmonds, Martin and Moore<sup>2</sup> shall immediately cease using their home and/or personal computers (the "Personal Computers") and deliver them to the City Clerk of the City of Venice. A computer forensic expert of the Lorenzo's selection (the "Expert") shall be permitted, for the sole purpose of finding data related to City business, to examine the Personal Computers and extract data related to City Business (the "Exam"). Prior to the Exam, the City Manager, or his designee, in the presence of the Expert, shall make one back-up CD (or other similar medium) of all of the information on the Personal Computers and, without making any additional copies, give those back-up CDs directly to the owner of the Computer (Simmonds, Martin or Moore). During the Exam, the Expert may make two copies of data on the Personal Computers that relates to City Business. The Expert shall perform the Exam at a place and time designated by the City Manager. The Expert's Exam shall be overseen by the City Manager, or his designee, to the extent necessary to ensure that no personal information is disseminated and that no damage to the Personal Computers will result. The Exam shall be completed within thirty (30) days of the date of this Order and the City Manager shall use his best efforts to accommodate the Expert. The Court will be the arbiter of what is a public record; therefore, if

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<sup>1</sup> This prohibition is intended to encompass both public and personal computers.

<sup>2</sup> Martin and Moore are subject to exception as discussed in paragraph 3.

the parties cannot decide whether certain data is public or private in nature, the matter should be referred to the Court for in camera review.

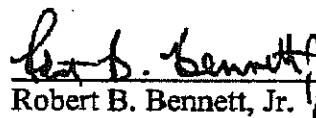
4. Moore and Martin may be excepted from paragraph 2 of this Order provided: (1) they submit affidavits regarding the use of their Personal Computers for City business to counsel for Lorenzo; and (2), after receipt of the affidavits, Lorenzo agrees to except them from paragraph 2 of this Order. In the event that Lorenzo does not agree to except Moore and/or Martin, after receipt of the affidavits regarding their use of their Personal Computers for City business, he may depose either or both of them. The court will, if necessary, and only after the submission of the affidavits and the taking of the depositions of Moore and/or Martin, resolve any remaining issue regarding whether their personal computers shall be subject to the Exam.

5. Plaintiff shall not be required to post bond.

6. The court reserves jurisdiction to address the entitlement of the parties to receive reimbursement, and the amount, if any, to be awarded, with regard to the costs of conducting the Exam.

7. Any person or entity responsible for the release of any personal information retrieved from the Personal Computers shall be subject to contempt of Court.

**ORDERED** in Chambers in Venice, Sarasota County, Florida this 13 day of June 2008.

  
Robert B. Bennett, Jr.  
Circuit Judge

**CERTIFICATE OF SERVICE**

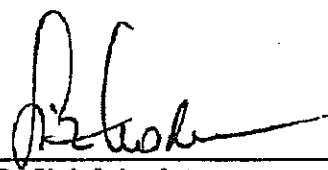
I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been forwarded this 13 day of JUNE, 2008 via U.S. Mail to:

Jeffery A. Boone, Esq.  
Boone, Boone, Boone, Koda & Froom, P.A.  
1001 Avenida Del Circo  
Post Office Box 1596  
Venice, FL 34284

Michael Roper, Esq.  
Dale Scott, Esq.  
Bell, Roper & Kohlmyer, P.A.  
2707 East Jefferson Street  
Orlando, FL 32803

Robert Anderson, Esq.  
Hall & Anderson  
1314 E Venice Ave Ste E  
Venice, FL 34285

Andrea Flynn Mogenson, Esq.  
The Law Office of Andrea Flynn Mogenson, P.A.  
200 S Washington Blvd  
Sarasota, FL 34236

  
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Judicial Assistant