

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

Case No.: 9:18-cv-80771-RLR

ROBERT W. OTTO, PH.D., LMFT,
individually ,and on behalf of his patients,
JULIE H. HAMILTON, PH.D., LMFT,
individually and on behalf of her patients,

Plaintiffs,

v.

CITY OF BOCA RATON, FLORIDA, and
COUNTY OF PALM BEACH, FLORIDA,

Defendants.

**DEFENDANT PALM BEACH COUNTY'S
MOTION FOR PERMISSION TO FILE DVDS**

COMES NOW the Defendant, Palm Beach County (“the County”), by and through undersigned counsel, and respectfully requests this Court for permission to file physical, digital versatile discs (“DVDs”) with the Clerk’s Office and as grounds therefore states:

1. The DVDs contain true and accurate video recordings of portions of the following two meetings of the Board of County Commissioners: (a) the December 5, 2017 meeting regarding conversion therapy on minors, and (b) the December 19, 2017 meeting regarding conversion therapy on minors. The County sent a copy of these DVDs to the parties on July 19, 2018.

2. The County keeps and produces video records of public workshops and meetings of the Board of County Commissioners pursuant to the Florida Sunshine Law. An affidavit certifying the authenticity of the DVDs will be filed along with the DVDs. The County has also filed certified transcripts for each of these meetings.

3. The County’s request for judicial notice is made pursuant to Federal Rule of Evidence 201, *Day v. Taylor*, 400 F.3d 1272, 1276 (11th Cir. 2005) (district court properly considered a standard form dealership contract between U-haul and its independent dealers when ruling on, and granting, a motion to dismiss where the contract was central to plaintiffs’ claim; affirmed on appeal), and *Stahl v. U.S. Dep’t of Agric.*, 327 F.3d 697, 700 (8th Cir. 2003) (“The

district court may take judicial notice of public records and may thus consider them on a motion to dismiss.”). The Court may take judicial notice of the DVDs when considering the motion to dismiss without converting it into a motion for summary judgment because the DVDs are (a) true and accurate copies of public records, *see* Fed. R. Evid. 201, *Stahl*, 327 F.3d at 700, and (b) central to Plaintiffs’ claim, *see Day*, 400 F.3d at 1276.

4. The undersigned has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion. Plaintiff’s attorney, Horatio Mihet, Esq., and Boca Raton’s attorney, Anne Flanigan, Esq., have indicated that they do not have an objection to the filing of the physical DVDs.

WHEREFORE, the County requests that the Court grant this motion and allow the County to file with the Clerk’s Office physical DVDs.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send an electronic notice to the authorized CM/ECF filers. Additionally, I certify that I have sent a copy of the DVDs discussed herein to the parties on July 19, 2018.

/s/ Rachel Fahey
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