

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

FILED IN OPEN COURT THIS
5/4 20 01
MARYANNE MORSE
Clerk of Circuit Court
Seminole County, Florida
By: S. Clerk
Deputy Clerk

AMANDA GETER and TRUMELLA JAMES,

Plaintiffs,

vs.

CASE NO.: 01-CA-904-16-L

CITY OF SANFORD, FLORIDA and
THE HOUSING AUTHORITY OF THE
CITY OF SANFORD,
and BRADY LESSARD in his
official capacity as Mayor,

Defendants.

RECEIVED

JUN 22 2001

NATIONAL CENTER
ON POVERTY LAW

COPY

PLAINTIFFS TRUMELLA JAMES AND AMANDA
GETER'S MOTION TO DISQUALIFY THE LAW FIRM
OF STENSTROM, MCINTOSH, COLBERT, WHIGHAM & SIMMONS, P.A.
FROM PARTICIPATING AS COUNSEL AND MEMORANDUM IN SUPPORT

Trumella James and Amanda Geter, by and through undersigned counsel, hereby move to disqualify the law firm of Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A. from participating as counsel in this civil cause and in support state:

1. The City of Sanford's attorneys, the law firm of Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A. ("Stenstrom") should be disqualified from participating as counsel because they have a conflict of interest resulting from their dual representation of the City of Sanford and the Housing Authority of the City of Sanford Florida ("SHA"). Mr. Colbert filed an action against the Housing Authority of the City of

Sanford to place the Authority in Receivership. See Plaintiffs' Exhibit "A".

2. Clayton Simmons, also of the Stenstrom firm, has represented the SHA for several years and only very recently withdrew in several cases. On April 19, 2001, however, the Interim Executive Director of the SHA, Richard Moore, rehired the Stenstrom firm to represent the SHA on new matters. Now, Stenstrom represents the City.

3. Consequently, the Stenstrom firm has a clear, undeniable, and irrefutable conflict of interest.

CS acknowledges this ltr of 4/25 to Moore
4. Florida Rule of Professional Conduct 4-1.7 (Conflict of Interest) prohibits a lawyer from representing a client 'if the representation of that client will be directly adverse to another client. . . ." **The same is true with respect to former clients. See, Rule 4-1.9 (Conflict of Interest; Former Client)** prohibiting a lawyer from representing a client whose interests are materially adverse to the interests of a former client. Finally, the comments to Rule 4-1.10 (Imputed Disqualification) provide a lawyer is prohibited from "acting as an advocate against a client the lawyer represents in some other matter, even if the matter is wholly unrelated."

5. Stenstrom's disqualification is justified because the firm has represented the SHA for years. Confidences were disclosed while the Stenstrom firm represented the SHA. The

current litigation would result in representation of the City in the same or substantially related to matters in which Stenstrom is or was representing the Sanford Housing Authority. Their interests are clearly adverse.

6. Further, Stenstrom lawyers ought to be witnesses in this present action because, as the transcript of the April 11, 2001 of Sanford City Commission Public Meeting shows, they were parties to the illegality and as such are material witnesses.

7. Florida Rule of Professional Conduct 4-3.7 (Lawyer as Witness) prohibits a lawyer from acting as an advocate "at a trial in which the lawyer is likely to be a necessary witness on behalf of his client". The rule contains four narrow exceptions: (1) testimony as to an uncontested matter, (2) testimony to a formality and there is reason to believe substantial evidence in opposition will be offered, (3) testimony on fees and costs, and (4) disqualification will work substantial hardship. As explained in the accompanying memorandum, none of these narrow exceptions have application to this case.

8. Permitting Stenstrom to represent the City of Sanford will taint the fundamental fairness of this proceeding.

=

MEMORANDUM IN SUPPORT

I. Governing Legal Standard on Attorney Disqualification

The starting point in any inquiry on disqualification should be the rule that establishes the general prohibition against a lawyer representing two or more clients with adverse interests. Florida, like every other jurisdiction, has such a rule. Fla.R.Pro.C. 4-1.7.

A lawyer shall not represent a client if the representation of that client will be directly adverse to the interests of another client, unless (1) the lawyer reasonably believes the representation will not adversely affect the lawyer's responsibilities to and relationship with the other client; and (2) each client consents after consultation.

Florida also has a general prohibition against a lawyer combining the roles of advocate and witness. Fla. R. Pro. C. 4-3.7. The introductory part of the comments to Rule 4-3.7 succinctly explicate the underlying concern of the rule:

Combining the roles of advocate and witness can prejudice the opposing party and can involve a conflict of interest between the lawyer and client.

The opposing party has proper objection where the combination of roles may prejudice that party's rights in the litigation.

Comment to Rule 4-3.7

At the outset, the plaintiffs note that they are mindful that courts in Florida, as well as across the nation, give close scrutiny when one party attempts to disqualify the other side's

lawyer. *See Singer Island LTD Inc. v. Budget Construction, Inc.*, 714 So.2d 651 (Fla. 4th DCA 1998). Florida state courts consider it an extraordinary remedy, but also uniformly recognize disqualification is appropriate when it is shown there is "an informational advantage in the form of confidences resulting from a conflict of interest." *Vick v. Bailey*, 2000 Fla. App. LEXIS 16580 (2nd DCA)

While mindful of this high standard, the record in this case, and the concerns that inform these rules, clearly warrant disqualification of Stenstrom from participating as counsel in this case. One of the most cogent and thorough statements of how this rule applies was articulated in Florida Supreme Court in *State Farm Mutual Automobile Insurance Co., v. Continental Casualty Company*, 575 So.2d 630 (1991).

The purpose of the requirement that an attorney maintain client confidences is twofold. It advances the interests of the client by encouraging a free flow of information and the development of trust -essential to an attorney-client relationship. Developments in the Law: Conflicts of Interest in the Legal Profession, 94 Harv. L. Rev. 1244, 1316 (1981). However, it also serves a second purpose fundamental to a fair adversary system. Our legal system cannot function fairly or effectively if an attorney has an informational advantage in the form of confidences gained during a former representation of his client's current opponent. *Id.* at 1315-16; *United States v. Ostrer*, 597 F.2d 337, 340 (2d Cir. 1979); *Ford v. Piper Aircraft Corp.*, 436 So.2d at 307-08 (purpose of trial court is to afford parties an impartial forum; trial court may decide that disqualification is mandated

because one party has an unfair advantage over the other) .

II. **STENSTROM SHOULD BE DISQUALIFIED FOR CONFLICT OF INTEREST BECAUSE THEIR DUAL REPRESENTATION CALLS INTO QUESTION THE FAIR ADMINISTRATION OF JUSTICE'**

The Florida Supreme Court has articulated a two-prong test to determine whether a firm should be disqualified for conflict of interests:

In conflict-of-interest cases such as this arising under the former Code of Professional Responsibility, one seeking to disqualify opposing counsel was required to show that (1) an attorney-client relationship existed, thereby giving rise to an irrefutable presumption that confidences were disclosed during the relationship, and (2) the matter in which the law firm subsequently represented the interest adverse to the former client was the same or substantially related to the matter in which it represented the former client.

In the present case the first prong, whether an attorney client relationship existed is satisfied. The Stenstrom firm has represented the Housing Authority of the City of Sanford, Florida in numerous cases including-, *Knigh t v. Hudson*, Case No. 6:97-cv-1225-Orl-19DAB; *Housing Authority of the City of Sanford v. Howard*, Case No. 99-CC-2296-21-C; *Housing Authority of the City of Sanford' v. Bryd*, Case No. 99-0962-CC-21-Z; *Noble v. Tool ey*, 6:00-cv-900-orl-31A; *Housing Authority of the City of Sanford v. Comer*, Case No. 98-2572-CA-05-P, as well as many

While the plaintiffs are not clients or former clients of Stenstrom, they have standing to seek disqualification because the conflict calls into question the fair and efficient administration of justice *Zarc Supply Co. v. Bonnell*, 658 So.2d 151 (Fla.1st DCA 1995).

others. In Clayton Simmons' own words he has 'assisted the Housing Authority through several rocky periods over the years." See Exhibit "B".

William Colbert and the Stenstrom firm have represented the City of Sanford for many years. Stenstrom lists the City of Sanford as one of its clients in both its Martindale Hubble listing as well as on its own web site. See Exhibits "C" & "D". On the Stenstrom's website, Mr. Colbert indicates that he has been the City Attorney for Sanford since 1981. Further, Mr. Colbert is still counsel for the City in the most recent lawsuit filed against the SHA (its former and apparently current client) asking the Court to place the Authority in receivership. See Plaintiffs Exhibit "A".

The second prong of the test, whether the matter was the same or substantially related to the representation of the former client, is best illustrated by Stenstrom's advocacy in several recent suits. On June.6, 2000, a motion for contempt was filed in *Knight v. Hudson*, Case No. 6:97-cv-125-orl-19DAB in the United States District Court in Orlando because the SHA was violating permanent injunctions enjoining policies on unauthorized gatherings and loitering. On behalf of the members of the SHA Board, Mr. Simmons appeared in court to deny that the SHA had engaged in any violations of the court's orders. Mr.

Simmons only recently 'moved to withdraw and his motion was denied. See Plaintiffs' Exhibit "E".

In the pending receivership action, *In Re: Sanford Housing Authority*, Case No. 01-CA-757-16-L, Stenstrom represents the city. The City has made allegations that the SHA neglected its duty and alleged misconduct in office, malfeasance, and inefficiency by the SHA. The City also alleged in its complaint that the Board inappropriately diverted and misappropriated funds, neglected to make necessary repairs, and breached their duties under Florida Statutes Chapter 421. Stenstrom's representation of the City in the receivership action is in direct conflict with its representation of the SHA in *Knight v. Sanford Housing Authority*. In the present case, the interests of the Stenstrom firm's two clients are clearly adverse.

The second prong of the State Farm test is met. The Stenstrom has defended the SHA against allegations of unlawful conduct and neglect. They have only recently "switched sides" against the SHA claiming the SHA has violated its oversight duties. See *Kalamazoo v. Michigan Disposal Service*, 125 F. Supp. 219, 241 (W.D. Mich. 2000). The conflict in the present Sunshine action is glaring, patent and an unacceptable cloud over the fair administration of justice.

III. STENSTROM LAWYERS OUGHT TO BE CALLED AS WITNESSES IN THIS SUIT ON MATERIAL ISSUES

The determinative question under Fla. R. Pro. C. 4-3.7 is not whether the attorney will be called, but whether the attorney ought to be called. *Williams v. Wood*, 475 So.2d 289 (Fla. 5th DCA 1985).

Courts in Florida as well as courts across the nation recognize that, where the question of testimony versus representation arises, doubt should be resolved in favor of the lawyer testifying and against the lawyer continuing as an advocate. See e.g., *Davidson v. First Fed. Savings*, 413 So.2d 1258, 1259, n.1 (Fla. 5th DCA 1982), *MacArthur v. Bank of New York*, 524 F.Supp. 1205, 1208 (S.D.N.Y. 1981). While Florida rules of professional conduct no longer contain an express prohibition against the appearance of impropriety, "Florida law clearly retains this requirement". *McPartland v. ISI Investment Services, Inc.*, 890 F.Supp. 1029, 1030 (M.D. Fla. 1995). As noted earlier, the test applied by courts turns not on whether a party plans to call the lawyer as a witness, but whether he ought to be called. See *Williams v. Wood*, 475 So.2d 289 (Fla. 5th DCA 1985); *In re Doughty*, 51 B.R. 36, 37 (Bankr. M.D. Fla. 1985); *J. P. Foley & Co. v. Vanderbilt*, 523 F.2d 1357, 1359 (2nd Cir. 1975). A necessary witness is one who has crucial information in his possession which must be divulged. *Vanguard Savings and Loan Assoc. v. Banks*, 1994 U.S. Dist. LEXIS 8697 (E.D. Pa. 1994).

It is clear that 'Stenstrom lawyers, William Colbert and Clayton Simmons, ought to be called to testify on matters relevant to the Agreement of April 10, 2001, which the Plaintiffs allege was procured in violation of the Sunshine law. Mayor Brady Lessard, at the April 11, 2001 Special City Commission meeting, stated that the City proceeded in consultation with Mr. Colbert and Mr. Simmons regarding the Agreement of April 10, 2001.² Their testimony is crucial and must be divulged.

IV. CONCLUSION

Based on the foregoing, the plaintiffs respectfully request an order disqualifying the Stenstrom firm.

Respectfully submitted,

By: Treena A. Kaye
Treena A. Kaye, Esquire
Florida Bar #196825
Central Florida Legal Services, Inc.
315 Magnolia Avenue
Sanford, Florida 32771
. 407/322-8983 Phone
407/324-3868 Fax

Robert Hornstein
Florida Bar #0978809
P.O. Box 357534
Gainesville, FL 32635
352/335-3533 Phone

² See Exhibit "A" to Plaintiffs' Memorandum in Support of Their Emergency Motion for Temporary Restraining Order, p. 29, lines 22-25 and p. 30, line 1 (Transcript of April 11, 2001 meeting, previously filed with this court).

352/335-3533 Fax

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiffs' Motion to Disqualify the Law Firm of Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A. from Participating as Counsel and Memorandum in Support has been duly furnished by hand delivery to **CAROLE BARICE**, Esquire, attorney for The Housing Authority of the City of Sanford, Florida, Fowler, Barice, Feeney & O'Quinn, 28 West Central Boulevard, Orlando, Florida 32801; **CLAYTON SIMMONS**, Esquire, attorney for the City of Sanford, Stenstrom, McIntosh, Colbert, Whigham and Simmons, P.A., 200 West First Street, Suite 22, Post Office Box 4848, Sanford, Florida 32772-4848; and **MADONNA H. WHITTAKER**, Attorney at Law, 370 Center Point Circle, Suite 1154, Altamonte Springs, FL 32701, on this 4th day of May 2001.

Dorena Kay
Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

CASE NO. 01-CA-757-6-L

In Re: SANFORD HOUSING AUTHORITY

FILED IN OFFICE
MARYANNE MADRSE
CLERK CIRCUIT COURT
01 APR - 5 AM 9:09
SEMINOLE COUNTY FL

VERIFIED COMPLAINT

City of Sanford, by and through its undersigned attorneys, hereby seeks a declaratory judgment regarding the Sanford Housing Authority, and as grounds therefore would state:

1. This is an action for Declaratory Judgment and the appointment of a receiver.
2. The City of Sanford is a municipal corporation located in Seminole County, Florida.
3. The Sanford Housing Authority is a Housing Authority located in the City of Sanford, Seminole County, Florida.

The purpose of this declaratory judgment action is to effectuate the Mayor of the City of Sanford's right to remove the Sanford Housing Authority Board. An additional purpose is to saw the assets of the Sanford Housing Authority from injury or loss.

The Mayor of the City of Sanford has the right to appoint and to remove members of the Sanford Housing Authority Board, with the concurrence of the City Commission, under Florida Statutes, Section 421.07. The City of Sanford may remove all of the members of the Sanford Housing Authority Board for malfeasance, inefficiency, neglect of duty or misconduct in office, leaving the Sanford Housing Authority without a board to govern it. Exhibit A is an affidavit of the Mayor of the City of Sanford attesting to the facts in this Complaint.

The City Commission has provided notice to the Sanford Housing Authority that it may remove the Sanford Housing Authority Board and the agency will be without a governing body. The City needs to bring this action to obtain a receiver to operate the Sanford Housing Authority, if the Board is removed.

The City Commission notified the Sanford Housing Authority Board that the City intended to remove the Sanford Housing Authority Board en masse, April 11, 2001, and gave them 10 days to show cause under Fla. §421.07 why they should not be removed. If removed on April 11, 2001, there will be no agency head to operate the Sanford Housing Authority.

The City needs to ensure that the Sanford Housing Authority will continue to conduct business and provide safe and sanitary housing for the approximately 1,200 residents of the housing authority's property, until a new governing body can be appointed.

PLAINTIFFS'
EXHIBIT "A"

9. Sanford Housing Authority has refused to permit auditors to examine the books of account relating to the property, which are all in Sanford Housing Authority's possession, and have refused to exhibit to City of Sanford the complete financial records.

10. City of Sanford is informed and believes that the Sanford Housing Authority Board has spent money inappropriately and has diverted and misappropriated funds, all without the knowledge or consent of the City of Sanford.

11. City of Sanford further alleges that the Sanford Housing Authority Board is neglecting to make necessary repairs to the Housing Authority's property and that the property is deteriorating for lack of proper maintenance.

12. Sanford Housing Authority's misconduct constitutes a breach on Sanford Housing Authority's part of obligations under the Florida Statutes Chapter 421 and of Sanford Housing Authority's duties under the law.

13. City of Sanford believes that a receiver experienced in public housing management should be appointed to take over operation and management of the Sanford Housing Authority, for such time as may be fixed by the Court, during which interval the City, in conjunction with the receiver and with the oversight of the Court, can ensure the safe and efficient operating of the Sanford Housing Authority.

14. Continued management by the Sanford Housing Authority Board will result in further waste to the premises from dilapidation and disrepair against which the City of Sanford does not have the resources to protect, and result in diminution in the value of the public housing property, as well as place approximately 4,200 residents in the community in real jeopardy of losing their places of residence.

15. City of Sanford does not have an adequate remedy at law for the following reasons:

a. Sanford Housing Authority is in a state of financial disarray, is under investigation by HUD for the state of its finances, and the condition of the public housing.

b. It is essential that the public housing continue to be operated, repaired, and renovated and that the assets of the Housing Authority be protected until a new Board can be appointed. The very possibility of the dissipation of the Sanford Housing Authority assets presents a danger of the assets being lost, removed, or materially injured.

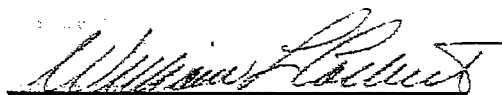
16. The City of Sanford is in doubt about City of Sanford's rights under the law.

WHEREFORE, City of Sanford demands judgment declaring its rights and for supplementary relief, including the appointment of a receiver to take possession of the assets of the Sanford Housing Authority, and to take charge of and manage the property until a new governing board can be appointed.

tinder penalties of perjury, I declare that I have read the foregoing Verified Complaint and the facts stated in it are true to the best of my information and belief.



BRADY LESSARD
Mayor, City of Sanford



William L. Colbert, Esquire
Florida Bar No. 122761
STENSTROM, McINTOSH, COLBERT,
WHIGHAM & SIMMONS, P.A.
200 West First Street, Suite 22
Post Office Box 4848
Telephone (407) 322-2171
(407) 834-5119
Attorney for the City of Sanford

STATE OF FLORIDA
COUNTY OF SEMINOLE

SWORN TO AND SUBSCRIBED before me this 4th day of April, 2001, by BRADY LESSARD who is personally known to me or produced a _____ Florida Drivers license as identification.



Notary Public-State of Florida
Print Name Diane Crews



IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

CASE NO.

CI-CA-757-16 L

In Re: SANFORD HOUSING AUTHORITY

AFFIDAVIT

Mayor, Brady Lessard, being first duly sworn, deposes and states:

FILED IN OFFICE
MARYANNE HENNING
CLERK CIRCUIT COURT
01 APR -5 AM 9:00
SEMINOLE COUNTY

1. Affiant is the Mayor of the City of Sanford, the Plaintiff in the above action, and has personal knowledge of the facts pertinent to the action. This affidavit is filed in support of Plaintiff's Complaint for Declaratory Judgment including the appointment of a Receiver for the property of the Sanford Housing Authority.

2. The Plaintiff has an interest in the Sanford Housing Authority property and assets of Sanford Housing Authority. The Mayor of Sanford is the appointing authority for the Sanford Housing Authority Board, and the removing authority. The entire Board of Sanford Housing Authority may be removed for malfeasance, inefficiency, and neglect of duty in office by majority with the concurrence of the City Sanford City Commission, on April 11, 2001, pursuant to Florida §421.07.

3. The Affiant believes that it is necessary for the protection of Plaintiff's interest and that of the public, that a receiver be appointed to manage and operate the Housing Authority, on April 12, 2001. If the Board is removed, the Sanford Housing Authority, a local government unit, will be without a governing body.

4. The value of the property for which a receiver is sought is for in excess of \$1,000,000.00.

Brady Lessard

BRADY LESSARD
Mayor, City of Sanford

STATE OF FLORIDA
COUNTY OF SEMINOLE

SWORN TO AND SUBSCRIBED before me this 11th day of April, 2001, by BRADY LESSARD who is personally known to me or produced a Florida Drivers license as identification.



DIANE CREWS
COMMISSION # CC 655670
EXPIRES JUN 15, 2001
BONDED THRU
ATLANTIC BONDING CO INC

Diane Crews

Notary Public - State of Florida
Print Name Diane Crews

STENSTROM, McINTOSH, COLBERT, WHIGHAM & SIMMONS, P.A.
ATTORNEYS AND COUNSELLORS AT LAW

SUNTRUST BANK • SUITE 22
200 WEST FIRST STREET
POST OFFICE BOX 4848
SANFORD, FLORIDA 32772-4848
SANFORD (407) 322-2171
ORLANDO (407) 834-5119
FAX (407) 330-2379
HTTP://WWW.STENSTROM.COM

WILLIAM L. COLBERT
FRANK C. WHIGHAM
CLAYTON D. SIMMONS
ROBERT K. MCINTOSH
DONNA L.S. MCINTOSH
WILLIAM E. REISCHMANN, JR.
CATHERINE D. REISCHMANN
JAMES J. PARTLOW
DAWN M. HARRISON

KENNETH W. MCINTOSH
S. KIRBY MCNCRIEF
OF COUNSEL

DOUGLAS STENSTROM
RETIRED

THOMAS E. WHIGHAM
(1952-1988)

January- 15, 2001

Timothy D. Hudson
Executive Director
Sanford Housing Authority
P.O. Box 2359
Sanford, FL 32772-2359

Edward L. Blackshear
Chairman
Sanford Housing Authority
P.O. Box 2359
Sanford, FL 32772-2359

Dear Messrs. Blackshear and Hudson:

This law firm has been honored to represent The Sanford Housing Authority for many years. I believe we have continuously provided professional and efficient legal service throughout that time.

Last fall, without any prior notice to me or anyone else in this firm, I learned, by reading the newspaper, that The Sanford Housing Authority had retained new counsel. After several unsuccessful attempts to call Mr. Hudson and Ms. Whittaker, the new counsel, to discuss this turn of events, I concluded that we had been discharged and filed motions to withdraw as counsel in all pending matters,

Upon receipt of copies of the motions, Mr. Hudson called me and indicated that he did not want us to withdraw from pending matters. Out of a sense of professionalism and loyalty to The Housing Authority, I agreed to continue to serve in those matters and stayed my motions to withdraw as counsel.

Since that time I have not had any conversation with, or correspondence from, Mr. Hudson. Repeated telephone calls to his office have been unreturned and letters and faxes have been ignored. I did receive one telephone message recently in response to one of my calls, advising that I should call Mr. Guy, if I wanted any further information regarding that matter. I cannot effectively represent a client who will not communicate with me.

PLAINTIFFS'
EXHIBIT "B"

Hudson/Blackshear
January 15, 2001
Page 2

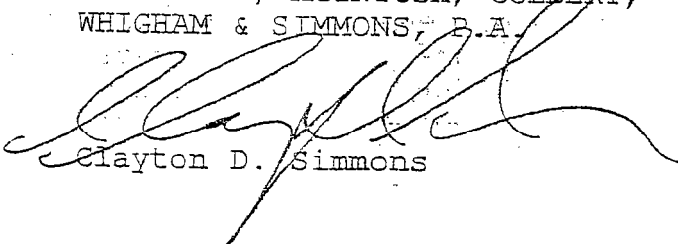
To further exacerbate the matter, my bill for services in a sum over \$10,000 went unpaid last fall until I threatened to charge interest pursuant to Florida Statutes. At present our bill is again delinquent, albeit for a much smaller sum.

I am renewing my motions to withdraw as counsel for The Housing Authority in all pending matters represented by this office. I will copy The Housing Authority with all of the motions and notices, and will ask the courts to grant The Housing Authority at least 30 days in which to secure substitute counsel.

Our firm has assisted The Housing Authority through several rocky periods over the years, and perhaps in the future we can again be of service. In the mean time, please know that it has been a distinct honor to represent The Housing Authority. We wish The Housing Authority and its Commissioners nothing but the best, now and in the future,

Respectfully,

STENSTROM, McINTOSH, COLBERT,
WHIGHAM & SIMMONS, P.A.



Clayton D. Simmons

Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A.

200 West First Street
SunTrust Bank - Suite 22
Sanford, FL 32771

Mailing Address:
P.O. Box 4848
Sanford, FL 32772-4848



Sanford: 407/322-2171
Orlando/Winter Park: 407/834-5119
Deland/DeBary: 407/668-1479
Fax: 407/330-2379
Toll Free: 1/800/247-5225

General Civil Practice in All State and Federal Courts

Governmental, Administrative and Corporate Law

Personal Injury Litigation

Appellate Practice in all State and Federal Courts

Real Property, Land Use and Environmental Law

Eminent Domain and Condemnation

Estate Planning, Trusts, Guardianship and Probate

Marital and Family Law and Adoptions

Bankruptcy - Personal and Business

Mediation - Civil and Family Law

Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A. was established in 1954 and employs nine attorneys and a support staff of sixteen. The firm's offices are conveniently located on the second floor of the SunTrust Bank, 200 West First Street, in Sanford, two blocks from the Seminole County Courthouse.

"The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience."

Let us introduce ourselves:

William L. Colbert
Franklin C. Whigham
Clayton D. Simmons
Robert K. McIntosh

**PLAINTIFFS'
EXHIBIT "C"**

Donna L. Surrat-McIntosh
William E. Reischmann, Jr.
Catherine D. Reischmann
James J. Partlow
Dawn M. Harrison
S. Kirby Moncrief - Of counsel
Kenneth W. McIntosh - Of counsel

O. Douglas Stenstrom - Retired
Thomas E. Whigham - 1952-1988

Representative Clients

William L. Colbert

Mr. Colbert was born in Fort Benning, Georgia, on November 1, 1943. He received a B.S. degree from the University of Florida in 1967 and a J.D. from Florida State University College of Law in 1969. He was admitted to practice before the U.S. Supreme Court in 1973. He served as Staff Counsel for the Florida Public Service Commission from 1970 to 1971; Municipal Judge for the City of Oviedo from 1971 to 1973; Prosecuting Attorney for the City of Altamonte Springs from 1971 to 1976; Chairman of the Seminole County Sheriff's Department Civil Service Board from 1972 to 1988; Chairman of the Grievance Committee for the Eighteenth Judicial Circuit from 1977 to 1979; Interim City Attorney for St. Cloud from 1992 to 1994. He has been City Attorney for Oviedo since 1979, City Attorney for Sanford since 1981, and City Attorney for DeBary since 1994.

Mr. Colbert is a member of the Florida Municipal Attorneys Association (President, 1991-1992; Florida's Outstanding Municipal Attorney of the Year, 1995), Eighteenth Circuit Judicial Nominating Commission Chairman, 1992-1994), Fifth District Court of Appeals Nominating Commission (1994-1997; Chairman, 1995-1996), The Seminole County Bar Association, The Florida Bar, the American Bar Association and Phi Alpha Delta Legal Fraternity.

Areas of Practice: Administrative, Business, Business & Estate Appraisals, Business & Real Estate, Church & State Law, City Attorney, Constitutional Law, Contracts, Corporate/Corporate Counsel, Eminent Domain/Condemnation, Environmental, Estate Planning/Probate, Government/Government Contracts, Guardianship/Conservatorship, Landlord/Tenant, Legislative Lobby, Mechanics' Lien, Municipal/Municipal Finance, Non-Profit Organization, Partnerships, Personal Injury, Product Liability, Ranching/Grazing/Farming, Real Estate/Real Property, Utilities/Utility Easements, Wrongful Death, Zoning
Email address: wcolbert@stenstrom.com

[Back to the top of the list](#)

Franklin C. Whigham

Mr. Whigham was born in Opp, Alabama, on October 19, 1948. He received a B.S. degree from Florida State University in 1971 and a J.D. (with honors) from the Florida State University College of Law in 1974. He was admitted to practice before the U.S. District Court for the Middle District of Florida in 1975 and the U.S. Supreme Court in 1981. He has served on the 18th Judicial Circuit Grievance Committee (1980-1982) and the Seminole County Bar Association Law Week Committee. He has represented the City of Altamonte Springs Health Facilities Authority in Bond Issues since 1982 and the Seminole Community Mental Health Center, Inc. since 1981.

Mr. Whigham is a member of the Seminole County Bar Association, The Florida Bar and the American Bar Association.

Areas of Practice: Bankruptcy, Business, Business & Estate Appraisals, Business & Real Estate, Collections, Commercial, Contracts, Corporate/Corporate Counsel, Creditor's Rights, Debtor & Creditor, Estate Planning/Probate, Finance, Mortgage Loans, Negligence, Personal Injury, Real Estate/Real Property, Secured Transactions Email address: fcwhigham@stenstrom.com

[Back to the top of the list](#)

Clayton D. Simmons

Mr. Simmons was born at Tyndall Air Force Base, Florida, on November 17, 1944. He received a B.S. in Biology from Florida State University in 1966, a M.A. in Counseling/Psychology from Ball State University in 1971 and a J.D. from Nova University College of Law in 1980. He was admitted to the Florida Bar, the U.S. District Court for the Middle District and Southern District of Florida in 1981 and was admitted to practice before the U.S. Supreme Court in 1984. He served as a Captain in the United States Air Force from 1967 to 1973 and retired from the U.S. Air Force Reserves as a Lt. Colonel. He also served as a member of the 18th Judicial Circuit Grievance Committee (Chairman, 1992) and as the Assistant School Board Attorney for Seminole County until 1995. He serves as Attorney for the Sanford Housing Authority and Seminole Community College. He is also a Supreme Court Certified Civil and Family Mediator.

Mr. Simmons is a member of the Seminole County Bar Association (President, 1990), The Florida Bar, Phi Alpha Delta Legal Fraternity, and the Volie A. Williams, Jr. Inn of Court. He is an Adjunct Professor of Law at Seminole Community College and Valencia Community College. He is a commercial seaplane pilot and a certified flight instructor.

Areas of Practice: Adoptions/Family/Support, Appeals, Arbitration/Mediation, Business, Civil Litigation, Commercial, Construction, Contracts, Contractor's Liability, Corporate/Corporate Counsel, Divorce/Mod./Family/Child Support, Education, Eminent Domain/Condemnation, Environmental, Fraud Litigation, General Practice/General Civil, Government/Government Contracts, Insurance/Insurance Defense, Lemon Law, Mechanics' Lien, Mortgage Loans, Negligence, Partnerships, Personal Injury, Prenuptial/Marriage, Occupation Injury/Disease, Product Liability, Wrongful Death, Zoning
Email address: cdsimmons@stenstrom.com

[Back to the top of the list](#)

Robert K. McIntosh

Mr. McIntosh was born in Augsburg, Germany, on October 3, 1955. He received a B.A. degree (cum laude) from Stetson University in 1977 and a J.D. (with honors) from University of Florida College of Law in 1983. While attending law school, he was a legal research, writing and computer research instructor. Upon graduation, he was made a member of Order of the Coif for high attainment in the study of law. He served in the Peace Corps in Guatemala from 1978 to 1980 and speaks Spanish fluently.

Mr. McIntosh is a former board member of Central Florida Legal Services and a volunteer attorney for Habitat for Humanity. He served as attorney for Bay Area Legal Services from 1983 to 1984. He has been an instructor for Junior Achievement since 1993. He is a member of the Seminole County Bar Association and The Florida Bar.

Areas of Practice: Estate Planning/Probate, Guardianship/Conservatorship, Landlord/Tenant, Real Estate/Real Property
Email address: rkmcintosh@stenstrom.com

[Back to the top of the list](#)

Donna L. Surratt-McIntosh

Ms. McIntosh was born in Madison, Wisconsin, on November 1, 1955. She received a B.B.A. degree (cum laude) from Stetson University in 1977 and a J.D. (with honors) from the University of Florida College of Law in 1983. While attending law school, she was an instructor for Appellate Advocacy for the University of Florida College of Law from 1982 to 1983. She serves as City Attorney for the cities of Lake Mary and Casselberry and Assistant City Attorney for the cities of Oviedo, Sanford and DeBary. She speaks Spanish fluently.

Martindale-Hubbell Lawyer Locator

[Last Form](#)[Search Results](#)[Previous Listing](#)[Next Listing](#)

Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A.

200 West First, Suite 22, P.O. Box 4548

Sanford, Florida 32772-4848

(Seminole Co.)

Telephone: 407-322-2171

Fax: 407-330-2379 Orlando/Winterpark Telephone: 407-834-5 119 DeLand/DeBary Telephone: 407-668-1479

Web Site: <http://www.stenstrom.com>

(Main Office)



Bar Register Practice Areas: Civil Trial Practice; Family Law; General Practice; Real Estate Law; Trusts and Estates, Wills and Probate.

Statement of Practice:

General Civil Practice in all State and Federal Courts. Governmental, Administrative and Corporate Law, Personal Injury, Litigation and Appellate Law, Real Property, Zoning, Eminent Domain and Condemnations, Estate Planning, Trusts, Guardianships and Probate, Marital and Family Law, Adoptions, Custody and Child Support, Social Security, EEOC, Civil Rights and Discrimination Cases, Bankruptcy.

Year Established: 1954

Firm Profile:

Established in 1954, Stenstrom, McIntosh, Colbert, Whigham & Simmons, P.A. is Seminole County's oldest and largest full-service law firm. The firm employs eleven attorneys and a support staff of fifteen. The firm's offices are located on the second floor of the Downtown Sun Bank, 200 West First Street, in Sanford. All attorneys and members of the support staff participate in professional education seminars, professional organizations and community affairs.

Firm Size: 11

Clients:

REPRESENTATIVE CLIENTS: City of Sanford; City of Casselberry; City of Oviedo; City of Lake Mary; Seminole Soccer Club, Inc.; Tuskawilla Homeowners' Association; Eagle Creek Homeowners' Association; Sanford Housing Authority; Seminole Community College; Nelson & Co.; South Seminole-North Orange Waste Water Transmission Authority; Hosack Engineering & Development

**PLAINTIFFS'
EXHIBIT "D"**

Organization, Inc.; Central Aluminum Screen Service, Inc.; City of Orange City; City of Palm Coast. APPROVED ATTORNEYS FOR: Attorneys' Title Insurance Fund; Commonwealth Land Title Insurance Co.

Thomas E. Whigham, (1952- 1988).

Douglas Stenstrom, (Member) (Retired).

William L. Colbert, (Member) born Fort Benning, Georgia, November 1, 1943; admitted to bar, 1970, Florida; 1973, U.S. Supreme Court. **Education:** University of Florida (B.S., 1967); Florida State University (J.D., 1969). Phi Alpha Delta. **Staff** Counsel, Florida Public Service Commission, 1970- 1971. Municipal Judge, City of Oviedo, 1971- 1973. Prosecuting Attorney, City of Altamonte Springs, 1971-1976. Chairman, Seminole County Sheriff's Civil Service Board, 1972-1988. Chairman, Grievance Committee, Eighteenth Judicial Circuit, 1977-1979. Chairman, 18th Circuit Judicial Nominating Commission, 1992- 1993. Member, 5th DCA Nominating Committee, 1994- 1995. Attorney: City of Sanford, 1981—; City of Oviedo, 1979—; City of St. Cloud, 1992-1994; City of De Bary, **1994-1999**; City of Palm Coast, **2000**. **Member: Seminole County** and American Bar Associations; The Florida Bar; Florida Municipal Attorneys Association (President, 1991 - 1992). **Practice Areas:** Real Estate; Probate; Eminent Domain. [Send an Email](#).

Franklin C. Whigham, (Member) born Opp, Alabama, October 19, 1948; admitted to bar, 1974, Florida; 1975, U.S. District Court, Middle District of Florida; 1981, U.S. Supreme Court. **Education:** Florida State University (B.S., 1971; J.D., with honors, 1974). Member, 18th Judicial Circuit Grievance Committee, 1980-1982. Attorney, Seminole Community Mental Health Center, Inc., 1981—. Special Bond Counsel, City of Altamonte Springs Health Facilities Authority, 1982—. **Member:** Seminole County (Member, Law Week Committee) and American Bar Associations; The Florida Bar. **Practice Area?:** Corporate; Bankruptcy; Real Estate. [Send an Email](#).

Clayton D. Simmons, (Member) born Tyndall Air Force Base, Florida, November 17, 1944; admitted to bar, 1981, Florida. **Education:** Florida State University (B.S., 1966); Ball State University (M.A., 1971); Nova University (J.D., 1980). Phi Alpha Delta. Chairman, Grievance Committee, 18th Judicial Circuit, 1992. Attorney: Sanford Housing Authority, 1995—; Seminole Community College, 1995—. Certified Family and Civil Mediator. **Member:** Seminole County (President, 1990) Bar Association; The Florida Bar. [Capt., USAF, **1967-1973**; Lt. Col., USAFR]. **Practice Areas:** Personal Injury; Civil Trial; Family Law; Arbitration; Mediation. [Send an Email](#).

Robert K. McIntosh, (Member) born Augsburg, Germany, October 3, 1955; admitted to bar, 1983, Florida. **Education:** Stetson University (B.A., cum laude, 1977); University of Florida (J.D., with honors, 1983). Order of the Coif. Member, Consulting Attorney, Habitat for Humanity. **Member:** Seminole County Bar Association; The Florida Bar. **Languages:** Spanish. **Practice Areas:** Guardianship; Probate; Estate Planning. [Send an Email](#).

Donna L. McIntosh, (Member) born Madison, Wisconsin, November 1, 1955; admitted to bar, 1983, Florida. **Education:** Stetson University (B.B.A., cum laude, 1977); University of Florida (J.D., with honors, 1983). Instructor, Appellate Advocacy, University of Florida College of Law, 1982-1983. Director, Central Florida Legal Services. City Attorney: City of Casselberry, 1996—; Lake Mary, 1995—. **Member:** Seminole County (Director, 1992; Treasurer, 1993) and American Bar Associations; The Florida Bar. **Languages:** Spanish. **Practice Areas:** Governmental; Civil Trial. [Send an Email](#).

William E. Reischmann, Jr., (Member) born St. Petersburg, Florida, August 1, 1958; admitted to bar, 1983, Florida; 1984, U.S. District Court, Middle District of Florida; 1985, U.S. Court of Appeals, Eleventh Circuit. **Education:** University of Florida (B.S., with high honors, 1980; J.D., 1983). Phi Delta Phi; Phi Kappa Phi. Attorney: South Seminole North Orange Wastewater Transmission Authority, 1992—; City of Orange City. **Member:** Seminole County Bar Associations; The Florida Bar. **Practice Areas:** Civil Litigation; Condominium Law; Eminent Domain; Homeowners Association Law. [Send an Email](#).

James J. Partlow, (Member) born Sanford, Florida, April 3, 1970; admitted to bar, 1994, Florida. **Education:** Florida State University (B.S., cum laude, Criminology and Criminal Justice, 1991; Mississippi College of Law (J.D., 1994). Moot Court. National Trial Team. **Member:** Seminole County Bar Association (Member, Family Law Section); The Florida Bar. **Practice Areas:** Family Law; General Practice. [Send an Email](#).

Catherine D. Reischmann, (Associate) born Columbus, Ohio, November 20, 1959; admitted to bar, 1984, Florida. **Education:** Rollins College (B.A., cum laude, 1981); University of Florida (J.D., with honors, 1984). Member, Moot Court Team, 1983-1984. Clerk to Florida Appellate Judge, Fifth District Court of Appeal, 1984-1985. Drafter, Florida Board of Bar Examiners, 1985. **Member:** The Florida Bar. **Practice Areas:** Governmental; Real Estate Litigation; Commercial Litigation. [Send an Email](#).

OF COUNSEL

Kenneth W. McIntosh, (Of Counsel) born Ridgewood, New Jersey, February 1, 1931; admitted to bar, 1957, Florida. **Education:** Stetson University (A.B., 1952; LL.B., 1954). Phi Alpha Delta. Municipal Judge, City of Sanford, 1961-1964. City Attorney, City of Casselberry, 1961—. Prosecuting Attorney, Seminole County, 1965-1971. **Member:** Seminole County (President, 1965) and American Bar Associations; The Florida Bar (Member, Family Law Section); The Association of Trial Lawyers of America. **Practice Areas:** Family Law; Governmental Law; Real Estate.

S. Kirby Moncrief, (Of Counsel) born Orlando, Florida, February 1, 1944; admitted to bar, 1970, Florida and U.S. District Court, Middle District of Florida. **Education:** Mercer University and University of South Florida (B.A., 1967); Florida State University (J.D., 1970). Circuit Court Judge, Seminole County, 1995-1996. **Member:** Seminole County Bar Association (Treasurer, 1973; Vice President, 1974; President, 1975); The Florida Bar. [Sgt., U.S. Army/U.S. Army Reserve, 1967-1973]. **Practice Areas:** Real Estate; Estate Planning; Business. [Send an Email](#).

[Last Form](#)[Search Results](#)[Previous Listing](#)[Next Listing](#)

[FEEDBACK](#)[MARTINDALE-HUBBELL HOME](#)[SITE MAP](#)[TECH SUPPORT](#)[EMAIL](#)

Copyright 2001 Martindale-Hubbell, a division of Reed Elsevier Inc. All rights reserved.

[PRIVACY POLICY](#)

RECEIVED APR 27 2001

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MARGARET KNIGHT and TWINKLE O.
KNIGHT,

Plaintiffs,

-vs-

Case No. 6:97-cv-1225-Orl-19DAB

TIMOTHY HUDSON, in his official
capacity as Executive Director of the
Housing Authority of the City, et al.,

Defendants.

O R D E R

This cause came on for consideration without oral argument on the following motion filed herein:

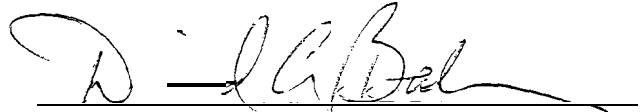
MOTION:	MOTION OF CLAYTON D. SIMMONS AND STENSTROM, McINTOSH, COLBERT, WHIGHAM & SIMMONS, P.A. TO WITHDRAW AS COUNSEL FOR DEFENDANTS TIMOTHY HUDSON AND THE HOUSING AUTHORITY OF THE CITY OF SANFORD (Doc. No. 322)
FILED:	April 19, 2001
THEREON it is ORDERED that the motion is DENIED.	

Sufficient grounds have not been shown for withdrawal of counsel for Defendants. Moreover, this case is closed and there are no pending matters in this Court.

PLAINTIFFS'
EXHIBIT "E"

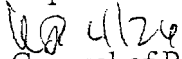
001

DONE and ORDERED in Orlando, Florida this d 25th of April, 2001.



DAVID A. BAKER
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:


Counsel of Record