

IN THE DISTRICT COURT OF APPEAL
FOR THE SECOND DISTRICT
STATE OF FLORIDA

CLAY G. COLSON,

Petitioner,

Case No.:
L.T. No.: 21-005793-CI

v.

JUDGE PATRICIA ANN MUSCARELLA
and THE CITY OF TARPON SPRINGS,
FLORIDA,

Respondents. /

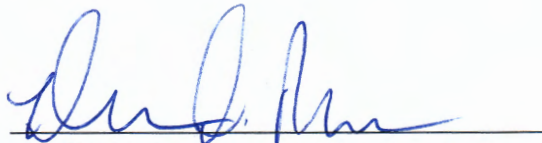
APPENDIX OF PETITIONER, THERESA D. RUBALCAVA

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this petition has been served by U.S. Mail to Andrew J. Salzman, Esq. of Unice Salzman Jenson, P.A. at 1815 Little Rd., Second Floor in Trinity, FL 34655; to Shane T. Costello, Ed Armstrong, and A. Evan Dix of Hill, Ward & Henderson, P.A. at at 600 Cleveland St., Suite 800 in Clearwater, FL 33755; to Judge Patricia Ann Muscarella at 315 Court St., Room 423 in Clearwater, FL 33756; and to the Honorable Anthony Rondolino, Chief Judge of the Sixth Judicial Circuit at 545 1st Ave. N., Suite 400 in St. Petersburg, FL 33701 on this 21 day of June 2023.



THERESA D. RUBALCAVA
319 Lebeau St.
Clearwater, FL 33755
727-418-7125

Appendix 1


AFFIDAVIT OF CATHY TURILLE

I, CATHY TURILLE, depose and state:

1. I am over eighteen years of age, and I am competent to make this affidavit.
2. This affidavit is made on my personal knowledge.
3. On May 8, 2023, I sent a letter to Stephen Thompson, the Public Information Officer for the Sixth Judicial Circuit, requesting permission to film proceedings in Case No. 21-005793-CI, a true and correct copy of which is attached and marked as Exhibit A.
4. To date, I have not received any response to my request from Stephen Thompson or any other person with the Public Information Office for the Sixth Judicial Circuit.
5. I have been informed and believe that the Sixth Judicial Circuit prohibits citizen journalists from filming all court proceedings in order to keep the public in the dark and shield members of the court from public scrutiny for their actions.

Further affiant sayeth naught.

Under penalties of perjury, I declare that I have read the foregoing affidavit and the facts stated in it are true.

 6-19-2023
CATHY TURILLE (Date)

Cathy Turille
1932 Sky Drive
Clearwater, Florida 33755

May 8, 2023

Stephen Thompson
Public Information Officer
Sixth Judicial Circuit
14250 49th St. North, Suite 2000
Clearwater, FL 33762

Request to Film Proceedings in Case No. 21-005793-CI

Dear Mr. Thompson:

I have recently started covering proceedings in Case No. 21-005793-CI, and although I have the right to film such proceedings, I have been informed that I have to ask you to ask the judge to get permission to exercise my First Amendment right to gather news by filming court proceedings.

Please confirm that the court will respect the First Amendment and Florida law and allow me to film court proceedings in Case No. 21-005793-CI.

If I don't receive a written confirmation that I will be allowed to film court proceedings in Case No. 21-005793-CI from your office or the presiding judge by May 15, 2023, I will assume that the presiding judge continues to represent that filming court proceedings is not allowed and has denied my request, and I will take appropriate action.

Thanks,

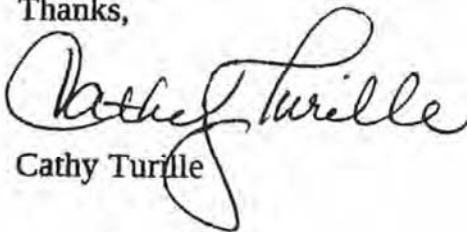

Cathy Turille

Exhibit A

U.S. POSTAL SERVICE

CERTIFICATE OF MAILING

MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER

Affix fee here in stamps or meter postage and post mark. Inquire of Postmaster for current fee.

Received From:

Cathy Turille

1932 Sky Dr.

Clearwater FL 33755

One piece of ordinary mail addressed to:

Stephen Thompson

Public information officer

14250 49th St North # 2000

Clearwater, FL 33762



Appendix 2

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

CLAY G. COLSON,

CASE NO.: 21-005793-CI

Plaintiff,

v.

THE CITY OF TARPON SPRINGS, FLORIDA,

Defendant.

**THERESA RUBALCAVA'S EMERGENCY MOTION
TO ALLOW FILMING OF THESE PROCEEDINGS AS REQUIRED BY LAW**

Pursuant to Florida Rule of General Practice and Judicial Administration 2.450 and controlling precedent, THERESA DEWALD RUBALCAVA requests to be allowed to film all proceedings in this action showing:

1. Florida Rule of General Practice and Judicial Administration 2.450(b)(1) states, "At least 1 portable television camera, operated by not more than 1 camera person, shall be permitted in any trial or appellate court proceeding." (Emphasis added.)
2. "Freedom of the press is not, and has never been a private property right granted to those who own the news media. It is a cherished and almost sacred right of each citizen..." State ex rel. Miami Herald Publishing Co. v. McIntosh, 340 So.2d 904, 910 (Fla. 1977).
3. "News delayed is news denied. To be useful to the public, news events must be reported when they occur. Whatever happens in any courtroom directly or indirectly affects all the public. To prevent star-chamber injustice the public should generally have unrestricted access to all proceedings." Id.
4. "[T]he public and press have a right to know what goes on in a courtroom whether the proceeding be criminal or civil." Id. At 908.

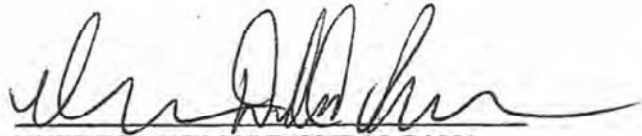
5. "A trial is a public event, and there is no special prerequisite of the judiciary which enables it to suppress, edit or censor events which transpire in proceedings before it...." Id. at 908-909. (Emphasis added.)
6. Prior to closing proceedings to press coverage, the court must notify the local news media that a motion for closure has been filed, the time at which it will be heard, and that the media have the right to be heard at the hearing on closure. Miami Herald Publishing Co. v. Lewis, 426 So.2d 1, 7 (Fla. 1982).
7. "In determining this question, an evidentiary hearing should be held and findings of fact should be recorded by the judge in his order granting or refusing closure." Id. at 7-8.
8. "This court is enjoined to follow controlling decisions of the Florida Supreme Court; indeed, the court is powerless to do otherwise." Regan v. ITT Industrial Credit Co., 469 So.2d 1387, 1390 (Fla. 1st DCA 1984) approved, 487 So.2d 1047 (Fla.1986) citing Hoffman v. Jones, 280 So.2d 431 (Fla.1973).
9. Any person is allowed to exercise the First Amendment right to gather news, and "without some protection for seeking out the news, freedom of the press could be eviscerated." Branzburg v. Hayes, 408 U.S. 665, 681, 92 S.Ct. 2646, 33 L.Ed.2d 626 (1972).
10. A local rule cannot overrule the rules of procedure adopted by the Florida Supreme Court. See, e.g., Polland v. Visual Graphics, Corp., 240 So.2d 835, 836 (Fla. 3d DCA 1970).
10. Likewise, an administrative order that adds terms and conditions to the rules of procedure adopted by the Florida Supreme Court is invalid. See, e.g., Hatcher v. Davis, 798 So.2d 765, 766 (Fla. 2d DCA 2001).

11. Pursuant to Florida Statutes § 90.201(1), please take judicial notice of Florida Rule of General Practice and Judicial Administration 2.450 and the aforementioned controlling precedent.
12. In spite of the foregoing, the Sixth Judicial Circuit's Administrative Order No. 2008-076 PA/PI-CIR requires any person who desires to exercise the right to film court proceedings to request permission from the Public Information Officer of Sixth Judicial Circuit who will then request permission from the presiding judge.
13. On April 28, 2023, Cathy Turille filmed the undersigned's deposition taken by counsel for the Defendants as allowed by Florida Rule of Civil Procedure 1.310(b)(4) and controlling precedent.
14. On May 8, 2023, Cathy Turille attempted to obtain permission to film court proceedings in this action by complying with the Sixth Judicial Circuit's Administrative Order No. 2008-076 PA/PI-CIR by sending a request to Stephen Thompson, the Public Information Officer for the Sixth Judicial Circuit. However, as anticipated by the late great Clay G. Colson in his petition to Florida's Second District Court of Appeals to try to make this Court respect the First Amendment right to gather news and follow the rule of law, there has been no response to her request to date.
15. The record in this action shows that no motion has been made to close these proceedings, that no notice of any hearing concerning closure of these proceedings has been made to the local news media, that no hearing has been held concerning the closure of any proceedings in this action, and that no order has been entered closing these proceedings to the press.

WHEREFORE, pursuant to Florida Rule of General Practice and Judicial Administration 2.450 and controlling precedent, the Court must grant this Emergency Motion to allow filming of all proceedings in this case and allow the hearing scheduled in this case for Monday, May 22, 2023 to be filmed.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion has been served by hand delivery or U.S. Mail to Andrew J. Salzman, Esq. of Unice Salzman Jenson, P.A. at 1815 Little Rd., Second Floor in Trinity, FL 34655; to Shane T. Costello, Ed Armstrong, and A. Evan Dix of Hill, Ward & Henderson, P.A. at at 600 Cleveland St., Suite 800 in Clearwater, FL 33755; and to and to Judge Patricia Ann Muscarella at 315 Court St., Room 423 in Clearwater, FL 33756 on this 19 day of May, 2023.



THERESA DEWALD RUBALCAVA
319 Lebeau St.
Clearwater, FL 33755
727-418-7125

Appendix 3

Honorable Patricia A. Muscarella
May 22, 2023

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

CLAY G. COLSON,

Plaintiff,

v.

Case No. 21-005793-CI

THE CITY OF TARPON SPRINGS,
FLORIDA,

Defendant.

EVIDENTIARY HEARING
BEFORE THE HONORABLE PATRICIA A. MUSCARELLA
(Pages 1 through 49)

Monday, May 22, 2023
11:08 a.m. - 12:06 p.m.

Clearwater Courthouse
315 Court Street
Courtroom C
Clearwater, Florida 33756

Stenographically Reported By:
Lori K. Ash, RPR, FPR
Notary Public, State of Florida
U.S. Legal Support, Inc.
(813) 876-4722

U.S. Legal Support | www.uslegalsupport.com

ELECTRONICALLY FILED 6/1/2023 2:40:27 PM KEN BURKE, CLERK OF THE CIRCUIT COURT, PINELLAS COUNTY

1 APPEARANCES:

2
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4 teldata319@yahoo.com

5 Movant, Pro Se

6
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10 Attorney for Defendant
11 The City of Tarpon Springs, Florida

12
13 SCOTT A. McLAREN, ESQUIRE
SHANE T. COSTELLO, ESQUIRE
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18 Attorneys for Morgan Group Development,
19 LLC

20
21 ALSO PRESENT:

22 Cathy Turille
Peter Delacos
23 Bailiff Davis
Bailiff Manley
24
25

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1 The following proceedings were held before
2 the HONORABLE PATRICIA A. MUSCARELLA on Monday,
3 May 22, 2023, commencing at 11:08 a.m. at the
4 Clearwater Courthouse, 315 Court Street, Courtroom
5 C, Tampa, Florida 33602. Said proceedings were
6 reported by Lori K. Ash, RPR, FPR, Notary Public,
7 State of Florida.

8 - - - - -

9 THE BAILIFF: All rise. Circuit Court in
10 and for Pinellas County is now in session. The
11 Honorable Judge Patricia Muscarella, Circuit
12 Court Judge, presiding.

13 THE COURT: Thank you, Deputy.

14 Good morning, everyone. Please be seated.
15 Thank you. Okay. I'd like to know who's here.
16 We're going to go on the record in Case Number
17 21-5793, Clay G. Colson versus The City of
18 Tarpon Springs.

19 Who is here on behalf of Clay G. Colson?

20 MS. RUBALCAVA: I am. Theresa Rubalcava.
21 I filed a motion for substitution of appellant.

22 THE COURT: Thank you. And who is with
23 you at your table?

24 MS. RUBALCAVA: Cathy Turille.

25 THE COURT: Turille or Grille?

1 MS. RUBALCAVA: Turille, T-u-r-i-l-l-e.

2 THE COURT: Thank you.

3 And for the defense?

4 MR. SALZMAN: Andrew Salzman on behalf of
5 The City of Tarpon Springs, Your Honor.

6 THE COURT: Thank you.

7 MR. McLAREN: Your Honor, Scott McLaren,
8 Ed Armstrong, and Shane Costello here on behalf
9 of the party appellee, Morgan Group.

10 THE COURT: Thank you.

11 Okay. The first matter would be the
12 emergency motion. I've reviewed everything,
13 and I'm denying the motion based on the Rules
14 of Judicial Administration of 2.450 and the
15 Local Administrative Order 2008.076.

16 The next thing we are going to hear about
17 is my charge from the Second DCA to determine
18 whether the transfer is authenticated or --
19 that's not the right word -- let me look at the
20 order -- and also determine whether I believe
21 that it should be transferred to the new
22 plaintiff who filed that motion with the
23 Second DCA.

24 Is that everyone's understanding?

25 MR. McLAREN: Your Honor, our

1 understanding is that -- and I'm not sure I
2 heard the second part of what the Court said.
3 I'm sorry. Sometimes I'm having a hard time
4 hearing. My understanding of the issue,
5 Your Honor -- and, again, Scott McLaren -- is
6 that we're here to determine whether or not
7 Ms. Rubalcava can meet her burden of proving
8 that the transfer with the assignment document
9 is authentic.

10 THE COURT: And there's a second part of
11 that, the charge from the DCA -- that's one of
12 it, and then the rest is whether it should be
13 transferred, as I read the --

14 MR. McLAREN: I think that's the second --
15 you're correct, Your Honor. The second part of
16 what the DCA ordered, as I understand it, is a
17 recommended order from this Court to the
18 Second DCA concerning that issue.

19 THE COURT: Is it all a recommendation,
20 though? The way that's reading, it's my
21 finding of fact on these issues. It's not a
22 ruling per se. It's a finding of fact like a
23 general magistrate would do based on what the
24 evidence is today. Is that your understanding?

25 MR. McLAREN: That's my understanding.

1 Very unusual posture, obviously, but that's my
2 understanding.

3 THE COURT: Okay. That's how I read it.
4 So that's how we're going to proceed.

5 Okay. Who is going first?

6 MR. McLAREN: Your Honor, if I may, I've
7 got some materials that I think might assist
8 the Court. I provided them to counsel for all
9 parties concerning this proceeding, and if I
10 might provide them to the Court.

11 THE COURT: Yes. You may hand it to the
12 deputy.

13 MR. McLAREN: And on behalf -- whatever
14 the Court would like on behalf of the
15 intervenor appellee, we would like the
16 opportunity to make very brief opening
17 comments, if appropriate.

18 THE COURT: Okay. So first -- and I hope
19 I say your name right -- Rubalcava?

20 MS. RUBALCAVA: Rubalcava.

21 THE COURT: Rubalcava. Thank you.

22 MS. RUBALCAVA: More fun backwards.

23 THE COURT: I'm sorry?

24 MS. RUBALCAVA: More fun backwards.

25 THE COURT: Okay. So would you like to --

1 have you prepared an opening statement for
2 this?

3 MS. RUBALCAVA: Yes. Your Honor, as you
4 can see from the cases cited in our motion for
5 substitution of appellant and the responses to
6 it, it's clear under Florida law that parties
7 can assign causes of action. For example,
8 opposing counsel couldn't even find a case to
9 cite that prohibited the transfer of a cause of
10 an action, and the case that we cite is one in
11 which the appellate court reversed the lower
12 tribunal for denying leave after the transfer
13 of interest.

14 A copy of the document transferring
15 Clay Colson's interest in this action to me is
16 attached as Exhibit A of my motion. Last week,
17 I filed and served Chris Hrabovsky's affidavit
18 which shows why Clay Colson executed the
19 transfer of interest and gave it to Chris in
20 the event that anything happened to him. And I
21 move that Mr. Hrabovsky's affidavit be accepted
22 in evidence. Therefore, I respectfully request
23 that you approve my motion for substitution.

24 THE COURT: Thank you.

25 Response, Mr. McLaren?

1 MR. McLAREN: Yes, Your Honor. May I
2 approach the lectern?

3 THE COURT: Yes, you may.

4 MR. McLAREN: So, Your Honor, again, we're
5 here on behalf of the party appellee as
6 recognized by the Second District. We'd like
7 to make sure that the rule of sequestration has
8 been invoked, if appropriate.

9 THE COURT: Okay. If there's anybody that
10 is going to testify or might testify today, you
11 may just step out in the hallway.

12 THE BAILIFF: Anyone a witness?

13 THE COURT: Okay.

14 MR. McLAREN: Thanks, Judge.

15 Your Honor, this dispute is a relatively
16 high profile dispute involving an apartment
17 rezoning on U.S. 19 in Tarpon Springs. It's --
18 the site was formerly zoned for a Walmart
19 Supercenter, and the City of Tarpon Springs has
20 approved a 404-unit apartment complex on the
21 site.

22 This lawsuit is the second lawsuit filed
23 challenging the rezoning. The first one was
24 filed by a neighborhood group Concerns Citizens
25 of Tarpon Springs. That was heard by

1 Judges Ramsberger, Campbell, and Berlin, and
2 Morgan prevailed in that case via a denial of
3 the Petitioner's writ of certiorari. So this
4 is the second of these lawsuits.

5 At the center of both lawsuits is a
6 gentleman by the name of Christopher Hrabovsky.
7 Ms. Rubalcava just moved for admission into
8 evidence of his affidavit. We object to that.
9 Mr. Hrabovsky has dodged service of process for
10 a deposition. And, you know, he should be here
11 today to testify. He's within the subpoena
12 power of the Court. We couldn't find him or
13 put one on him.

14 Mr. Hrabovsky is a very vocal member and
15 involved in both of the lawsuits. He's a very
16 vocal member of the neighborhood group
17 Concerned Citizens that sued us in the first
18 lawsuit. The evidence will show he was at the
19 forefront of the creation and delivery of this
20 alleged assignment document that's before
21 Your Honor.

22 The Second DCA has called into question
23 the authenticity of this document by asking
24 this Court to hold this hearing.
25 Mr. Hrabovsky, unsurprisingly, has appeared in

1 opposition to our apartment project at all the
2 hearings before the City Commission. He has
3 indicated -- and I quote -- "Every aspect of
4 the project will be challenged in every way;
5 all the state, federal, local venues that we
6 can get in front of will all be exploited," end
7 quote.

8 So Mr. Hrabovsky has engineered what we
9 believe the evidence will show is a fake,
10 forgery document from Clay Colson. The
11 evidence will establish that Mr. Hrabovsky was
12 intimately involved in this and his signature
13 was lifted from another document signed and
14 filed in the court prior to Mr. Colson's
15 death. That's the opinion of our expert
16 handwriting examiner, who the Court will hear
17 from today, who has 40 years of experience.

18 Again, Mr. Hrabovsky has dodged service
19 for weeks, but, very importantly, we here as
20 the opponent of the authenticity of the
21 document, we don't have a burden to show that
22 it's fake or that it's fraudulent. The burden
23 is entirely on the proponent of the document,
24 in this case Ms. Rubalcava, to prove that the
25 document is in fact what it purports to be and

1 is authentic.

2 The materials we supplied the Court, the
3 first five documents are really the Second DCA
4 filings that brought the case here. Starting
5 with tab Number 6 is the controlling law
6 concerning the burden and other issues in this
7 case. Tab 6 is the third federal case,
8 controlling Second DCA opinion that arose from
9 the Sixth Judicial Circuit. It was a
10 foreclosure suit, Your Honor, based on a note
11 and mortgage. The bank sought to introduce
12 into evidence a copy of the note, but they
13 could not authenticate the note. After the
14 case in chief, Judge Kimberly Sharpe Byrd --
15 she refused to allow entry into evidence of the
16 note because authenticity could not be
17 established. And then at the conclusion of the
18 bank's case in chief, Judge Sharpe Byrd granted
19 an involuntary dismissal in favor of the
20 defendant. So it's -- the Second DCA affirmed
21 that ruling by Judge Sharpe Byrd and ruled that
22 a proponent -- in this case, Ms. Rubalcava --
23 has the burden to prove a necessary document is
24 authentic, and, if she can't, dismissal is
25 appropriate.

1 Tab 7 in your notebook is the Jackson case
2 under the Fifth DCA, the exact same ruling.

3 Tab 8 is an interesting case, the
4 United Auto case as Third DCA. That case
5 involved an assignment of a cause of action,
6 similar to this case. And the footnote 4 is
7 the key language from that case that holds that
8 a proponent of the document with a legal impact
9 on the case must have evidence of authorship
10 before the document can be authenticated. In
11 that case, the signatory of the document did
12 testify regarding execution of the assignment.
13 So, in that case, it was appropriate. The
14 assignment was admitted into evidence as
15 authentic.

16 Here, the alleged assignee, Your Honor, we
17 don't believe will be able to meet her burden.
18 The evidence will be she did not see Mr. Colson
19 execute the assignment. It was purportedly
20 delivered to her by none other than
21 Mr. Hrabovsky. He's not here today.

22 Further, neither Ms. Rubalcava nor anyone
23 else has been able to produce an original.
24 This is supposedly a document that was signed
25 by Mr. Colson. Where is the wet ink signature?

1 No one has produced it. We have not seen it.
2 The testimony has been that it's been sent to
3 the Second DCA. Our document examiner actually
4 reviewed the document in the Second DCA, and it
5 is not an original. And his opinion will be
6 that the document has a fake, lifted signature.

7 Tab 9 of your materials, Your Honor, the
8 Evidence Code 90.953 and Professor Ehrhardt's
9 discussion of same. An alleged duplicate of a
10 document necessary to a party is inadmissible
11 if there's a genuine question regarding the
12 authenticity. That's the rule of evidence, and
13 Professor Ehrhardt comments on that. You can
14 see the comments there. It would be
15 inadmissible in this case unless the
16 plaintiff -- or Ms. Rubalcava can come forward
17 with evidence as to its execution and
18 authenticity, showing an original document.

19 The Rainess case behind Tab 10, same
20 thing. Absent an exception that doesn't apply
21 here, a duplicate or copy of a document with
22 legal effect is inadmissible if there's a
23 genuine question regarding the authenticity of
24 the document. Your Honor, we respectfully
25 submit that the Second DCA has indicated that

1 there's already a genuine question regarding
2 the authentication. So it's Ms. Rubalcava's
3 burden to kind of overcome that genuine
4 question. We don't think that she can do that
5 today. So we respectfully submit the evidence
6 will show that the transfer assignment document
7 should not come into evidence and it is not
8 genuine.

9 Thanks, Judge.

10 THE COURT: Thank you.

11 Ms. Rubalcava, who is your first witness?

12 MS. RUBALCAVA: Elaine Colson.

13 THE BAILIFF: Raise your right hand and be
14 sworn by the Court.

15 THE COURT: Do you solemnly swear to tell
16 the truth, the whole truth, and nothing but the
17 truth?

18 ELAINE COLSON POWERS: Absolutely,
19 Your Honor.

20 THE COURT: Thank you.

21 You may proceed.

22 THEREUPON,

23 ELAINE COLSON POWERS,
24 having first been duly sworn or affirmed, was
25 examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MS. RUBALCAVA:

3 Q Is Clay Colson your brother?

4 A My name is Elaine Colson Powers. Clay is
5 my brother.

6 Q He's your older brother?

7 A He's my brother, deceased.

8 Q Do you have knowledge that Clay Colson's
9 intent to carry on this cause is true, even though
10 he may have died suddenly, he had been ill?

11 A Yes. He spoke to me about this. He very
12 much believed in the environment, saving mother
13 earth, and working very hard. His intent was if
14 anything happened to him that you Theresa would
15 carry on in his stead. Unfortunately, he passed
16 away quite quickly, but he was always devoted to try
17 to do the right thing, and I know in this case that
18 he indeed would want you to represent him.

19 Q Do you have knowledge of him signing the
20 cause of action with Chris Hrabovsky over to me
21 prior to his death?

22 A Absolutely.

23 MR. McLAREN: Your Honor, I would like to
24 ask for a foundation to be laid of her
25 knowledge to the question.

1 THE COURT: You need to lay a foundation.

2 BY MS. RUBALCAVA:

3 Q Did you know that your brother had been
4 sick?

5 A Yes. I knew that he was fearful that
6 something might happen to him because he had been
7 threatened, and he was very much adamant about
8 making sure that his work -- even though he left
9 this earth, he wanted to make sure his work
10 continued, and it was extremely important him. That
11 was the most important thing that he ever -- he was
12 completely devoted to it.

13 Q Was Mr. Colson in an accident?

14 A Actually, a developer rammed him and tried
15 to kill him in his car. Morgan & Morgan was looking
16 at it, and unfortunately since he passed away, that
17 has been released.

18 Q Because of that incident, he became more
19 aware that it was important to have a document
20 signing the cause of substitution to someone else?

21 MR. McLAREN: Your Honor, I hate to
22 object, but there's no foundation for any of
23 this. It seems to be hearsay at this point.

24 BY MS. RUBALCAVA:

25 Q Did you ever go to the doctor with your

1 brother?

2 A Absolutely. I took him to the doctor.

3 THE COURT: Foundation is how she knows
4 how her brother signed.

5 BY MR. McLAREN:

6 Q Did you see him sign it?

7 A I did not, but he told me.

8 MR. McLAREN: Objection, Your Honor. Move
9 to strike. Hearsay.

10 THE COURT: She answered.

11 BY MR. McLAREN:

12 Q Is there any other way that you know that
13 he was involved in signing this document?

14 A I was told by --

15 MR. McLAREN: Same objection, Your Honor.

16 THE COURT: Sustained.

17 THE WITNESS: I was very close to my
18 brother, and he shared a lot with me. And this
19 was extremely important to him, and he did tell
20 me --

21 MR. McLAREN: Same objection, Your Honor.

22 THE COURT: Sustained.

23 THE WITNESS: So what can I say,
24 Your Honor, to change your mind? Because the
25 bottom line is he had evidence sent to make

1 sure that his work was carried on, especially
2 in this case.

3 THE COURT: Today is about the evidence.

4 THE WITNESS: Okay. And what kind of
5 evidence can I give you besides the fact that
6 he was my brother and I talked to him all the
7 time?

8 THE COURT: I'm not your attorney.

9 THE WITNESS: I understand.

10 THE COURT: So, unfortunately, I can't
11 answer that.

12 THE WITNESS: I appreciate it.

13 MS. RUBALCAVA: No further questions.

14 THE COURT: Any cross?

15 CROSS-EXAMINATION

16 BY MR. McLAREN:

17 Q Ms. Colson, is it true your brother died
18 of a heart attack?

19 A We did not have an autopsy, but I actually
20 found him, and he was passed away in his sleep.

21 Q Sorry. You found him at his house?

22 A At his residence. Yes.

23 Q Is it your understanding that he died
24 suddenly?

25 A Yes. It was also my understanding that he

1 had gone to a meeting and told me about it and had
2 given Chris the information and signed the paperwork
3 in order to make sure that Theresa --

4 MR. McLAREN: Your Honor, I would move to
5 strike as nonresponsive.

6 THE COURT: Can you ask the question?

7 BY MR. McLAREN:

8 Q The question was: Is it your
9 understanding that your brother died suddenly?

10 A Absolutely.

11 Q Are you in possession of the original of
12 the assignment document?

13 A No, I'm not in possession of it.

14 MR. McLAREN: Thank you. No further
15 questions.

16 THE COURT: Any follow-up?

17 MS. RUBALCAVA: Yes.

18 REDIRECT EXAMINATION

19 BY MS. RUBALCAVA:

20 Q Ms. Colson, if you saw your brother's
21 signature, would you recognize it?

22 A Absolutely.

23 MS. RUBALCAVA: May I show the witness
24 this paper?

25 THE COURT: Any objection?

1 Show it to opposing counsel.

2 MR. McLAREN: Thank you.

3 THE COURT: Deputy, would you provide that
4 document.

5 MR. McLAREN: For the record, Your Honor,
6 that is the document in question, the
7 assignment document.

8 THE COURT: The assignment document.
9 Thank you.

10 THE WITNESS: Yes, that's absolutely my
11 brother's signature. He liked to make a --
12 (inaudible) --

13 THE COURT REPORTER: I'm sorry. I can't
14 hear you.

15 THE WITNESS: I said he liked to make a C
16 like that. So I do affirm that that is his
17 signature.

18 MS. RUBALCAVA: Thank you.

19 THE WITNESS: You're welcome.

20 RE-CROSS-EXAMINATION

21 BY MR. McLAREN:

22 Q Ms. Colson, the document you were handed
23 is a copy of Mr. Colson's signature. Right?

24 A Not that I know of. I don't know if it's
25 the original or not. All I can tell you is it is

1 his signature.

2 MR. McLAREN: May I approach the witness,
3 Your Honor?

4 THE COURT: Yes.

5 MR. McLAREN: Let the record reflect this
6 is the transfer of interest document that was
7 shown the witness a minute ago by
8 Ms. Rubalcava.

9 BY MR. McLAREN:

10 Q Ms. Colson, does that appear to be a copy
11 of a signature?

12 A I'm not a signature expert. I have to be
13 honest with you. I do know it's my brother's
14 signature, period.

15 Q Right. Does it appear to be a wet ink
16 signature or a copy?

17 A I don't know. I cannot determine that.

18 Q Okay. Fair enough. Thank you.

19 A But it is his signature, I'm sure.

20 Q Understood. So you can't tell if it's a
21 photocopy of his signature or his actual signature
22 itself. Right?

23 A It looks like it's the original signature.

24 Q Oh, it does?

25 A To me, but I'm not an expert. So I -- I'm

1 just saying to me it looks original.

2 Q Are you changing your testimony?

3 A I'm not changing my testimony.

4 Q Okay.

5 A I'm bolstering my testimony the fact it's
6 my brother that signed that.

7 Q I'll be glad to let you look at it some
8 more.

9 A Sure. Go ahead. Let me look at it.

10 Q Do you believe this is an original
11 signature? Is that your testimony to this Court
12 under oath?

13 A To me, it looks like an original
14 signature, and I know it's Clay's signature, but I
15 wasn't there, but I can attest to the fact that it's
16 his signature.

17 Q Thank you.

18 A Thank you.

19 MR. McLAREN: Your Honor, I'd like to mark
20 this in evidence and hand it to the Court as
21 Intervenor's Exhibit -- Your Honor, we would
22 ask this to be admitted only for the purpose of
23 determining its authenticity, not as an actual
24 authentic document.

25 THE COURT: Limited purpose -- say that

1 again, please, Mr. McLaren.

2 MR. McLAREN: No further questions.

3 THE COURT: It will be Intervenor's -- I'm
4 going to say Intervenor's Exhibit Number 1 for
5 the limited purposes of?

6 MR. McLAREN: I'm sorry, Your Honor. It's
7 Exhibit -- we marked it as Exhibit 10 because
8 we've got some other exhibits, 1 through 9, and
9 we are asking that it be admitted for the
10 limited purpose of determining its
11 authenticity. We don't want it admitted as an
12 authentic document. We are asking for its
13 admission for that limited purpose.

14 THE COURT: Any objection?

15 MS. RUBALCAVA: No.

16 THE COURT: Thank you. Okay. I'm marking
17 it as Exhibit Number 10.

18 (Exhibit Number 10 was marked and admitted
19 into evidence for the limited purpose of determining
20 its authenticity.)

21 MR. McLAREN: Thank you, Your Honor.

22 THE COURT: You may step down.

23 THE WITNESS: Thank you, Your Honor. God
24 bless. Have a great day.

25 THE COURT: Call your next witness,

1 please. Any other witnesses?

2 MS. RUBALCAVA: No, ma'am.

3 THE COURT: Okay. Thank you.

4 Mr. McLaren?

5 MR. McLAREN: Your Honor, we call
6 Thomas Vastrick, handwriting expert.

7 THE COURT: How do you spell that last
8 name?

9 MR. McLAREN: Vastrick.

10 MR. COSTELLO: Your Honor, it's
11 V-a-s-t-r-i-c-k.

12 THE COURT: Vastrick. Okay.

13 THE BAILIFF: Stop right here and raise
14 your right hand to be sworn in, please.

15 THE COURT: Good morning. Do you swear to
16 tell the truth, the whole truth, and nothing
17 but the truth?

18 THOMAS VASTRICK: I do.

19 THE COURT: Thank you.

20 MR. COSTELLO: Your Honor, we have an
21 exhibit binder. We would like to move our
22 exhibits into evidence.

23 THE COURT: Have you looked at the
24 exhibits?

25 MR. COSTELLO: (Indicating.)

1 THE COURT: Let me know if there's any
2 objection.

3 MS. RUBALCAVA: No.

4 THE COURT: Thank you.

5 (Binder containing Exhibit Numbers 1
6 through 9 was admitted into evidence.)

7 THE COURT: Okay. You may proceed.

8 MR. COSTELLO: Thank you, Your Honor.

9 Shane Costello on behalf of Morgan Group.

10 THEREUPON,

11 THOMAS VASTRICK,
12 having first been duly sworn or affirmed, was
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. COSTELLO:

16 Q Sir, would you please state your full name
17 for the record?

18 A My name is Thomas Vastrick. My last name
19 is spelled V, as in "Victor," -a-s-t-r-i-c-k.

20 Q And, sir, what do you do for a living?

21 A I'm a forensic document examiner in
22 private practice.

23 Q And what does being a forensic document
24 examiner involve?

25 A We're involved in the examination for

1 identification or elimination purposes of
2 handwriting, hand printing, signatures,
3 determination of alterations of documents,
4 counterfeiting, various office machine product
5 classification and identification, nondestructive
6 ink and paper analysis. Basically, anything that
7 has to do with a document, with the exception of
8 fingerprints.

9 Q And if you can turn to Intervenor's
10 Exhibit 6 in your notebook, please.

11 A Yes, sir.

12 Q Is this a copy of your CV, sir?

13 A Yes, it is.

14 Q And can you please tell the Court your
15 education and training that is relevant to forensic
16 document examination.

17 A I have a bachelor of science degree in
18 forensic science from California State University at
19 Sacramento. I have also completed a full-time,
20 two-year, in-residence training program specifically
21 in forensic document examination, and that was with
22 the U.S. Postal Inspection Service Headquarters
23 Crime Laboratory in Washington, D.C.

24 Q Thank you, sir.

25 Can you please provide an overview of your

1 work experience in connection with forensic document
2 examination?

3 A I have been a forensic document examiner
4 for 45 years. I am a -- I'm board-certified to do
5 technical testing since 1982 by the American Board
6 of Forensic Document Examiners. This is the
7 certifying body that certifies document examiners
8 across the country for government, law enforcement
9 agencies, and for us in private practice. I am a
10 life member of the American Society of Questioned
11 Document Examiners and also am currently serving as
12 secretary of the organization. I am a retired
13 fellow with the American Academy of Forensic
14 Sciences, Questioned Documents Section. For four
15 years, I served as the chair of the Questioned
16 Documents Section, and for five years, I served on
17 the academy's board of directors. I have written
18 numerous research papers and presentations,
19 numbering around 50 or 60. I have had over 20 of
20 them published. I have written one book and been a
21 contributing author to four other textbooks.

22 Q And have you previously been accepted as
23 an expert witness in court testifying to issues
24 pertaining to forensic documents examination?

25 A Yes, sir.

1 Q And can you provide an overview of the
2 courts in which your testimony has been accepted?

3 A I testified in courts ranging from Florida
4 to Texas to Oklahoma to North Carolina, plus
5 California, Wyoming, and the Bahamas. I've
6 testified somewhere in the vicinity of 3- to 400
7 times.

8 Q And is that in both state and federal
9 courts, in those jurisdictions?

10 A Yes, sir.

11 MS. RUBALCAVA: Your Honor, I object.
12 None of this was filed and served to me before
13 this hearing, and it's unfair to deprive me of
14 this document as it's here today.

15 THE COURT: Well, right now, this is still
16 questioning about his curriculum vitae.

17 Nobody exchanged lists of witnesses prior
18 to this? Everyone knew it was an evidentiary
19 hearing. There were not any requests for
20 exchange of witness lists? So, therefore, your
21 request is denied.

22 MS. RUBALCAVA: Thank you, Your Honor.

23 BY MR. COSTELLO:

24 Q Sir, can you tell us what you've been
25 requested to do in connection with this matter.

1 A Yes. I was provided a document, a
2 transfer of interest, and I was asked to
3 determine -- there was a question as to the
4 authenticity of the signature. I compared that with
5 signatures that were on file with the Second
6 District Court of Appeal in Tampa.

7 Q And we've marked the transfer of interest
8 as Intervenor's Exhibit 10. Do you have that? It
9 was provided by the --

10 THE COURT: It may not be in your binder.
11 I'm not sure.

12 MR. COSTELLO: It was provided by
13 Ms. Rubalcava.

14 THE COURT: Do you need a copy of that,
15 the one that was put into evidence?

16 MR. COSTELLO: We would like to use the
17 document that was proffered.

18 THE COURT: Here. Thank you.

19 MR. COSTELLO: Can I approach the witness?

20 THE COURT: Yes, you may.

21 BY MR. COSTELLO:

22 Q Sir, the document I've handed you,
23 Intervenor's Exhibit 10, if you can look at that
24 signature there and tell us if that is an original
25 signature, please.

1 A I would have to have a microscope to make
2 the determination whether this specific document was
3 an original or not. I do see evidence to suggest
4 that it is not.

5 Q And what evidence is it that you see that
6 suggests it is not?

7 A Breaks in the writing line that are
8 consistent with photocopy.

9 Q And does this appear to be a copy of the
10 transfer of interest document that you were asked to
11 examine in this case?

12 A Yes.

13 Q Can you -- sir, did you review other
14 documents that Mr. Colson filed with both the
15 Sixth Circuit and the Second District Court of
16 Appeal?

17 A Yes, sir. I came to Tampa specifically to
18 examine the documents in the file at the office of
19 the person that was maintaining the records.

20 Q And can you explain the purpose of
21 examining these other documents Mr. Colson had filed
22 and signed?

23 A It was twofold: One, to make a
24 determination as to whether any of the documents
25 were original signatures, particularly the one on

1 the transfer of interest; and, second, make a
2 determination of whether multiple signatures bore
3 signatures that were of exact replication to each
4 other, which would be evidence that this signature
5 did not originate on the document but were rather
6 transferred to the document such as a cut and paste.

7 Q Can a person sign their name twice in
8 exactly the same way?

9 A No. It is a basic axiom of
10 handwriting-comparison science. It is clearly
11 stated within our industry -- published industry
12 standards that no one is going to write the same
13 entry with the exact same detail more than once.

14 Q And did you find a document in the court
15 filings that you examined that had an exact replica
16 of Mr. Colson's signature on -- as is on the
17 transfer of interest document?

18 A Yes, I did.

19 Q And if you can turn to Exhibit 7 of your
20 binder, please, Intervenor's Exhibit 7.

21 A Yes, sir.

22 Q Is this a copy of the motion that you
23 found that has an identical signature of Mr. Colson
24 as to the signature on the transfer of interest?

25 A Yes.

1 Q Can you explain your analysis as to how
2 you concluded that it is the exact same?

3 A It's a -- it's a side-by-side and overlay
4 comparison that shows that there's no deviation
5 between the two signatures with each other. They
6 exactly replicate. And the only way that can happen
7 is if they are reproductions of the same signature.

8 Q As part of your work as a forensic
9 document examiner, do you also have experience
10 examining whether a document has an original wet
11 signature versus is a copy?

12 A Yes. That's a basic part of our work.

13 Q And did you -- did you actually go to the
14 Second District Court of Appeal to examine the
15 transfer of interest document that was filed there?

16 A Yes. I went there and brought my digital
17 microscope and conducted a microscopic examination
18 on the documents.

19 Q And what did your inspection reveal?

20 A My inspection revealed that they were not
21 original ink signatures. They were duplicates.

22 Q So based upon your investigation and
23 analysis, what is your conclusion regarding the
24 signature on the transfer of interest document?

25 A Well, the transfer of interest document,

1 which is dated February 20, 2023, postdates one of
2 the other documents that's dated December 27, 2022,
3 yet bears the exact same signature. As a result,
4 it's my conclusion, based on the assumption that the
5 date of the December 27, 2022 is accurate, that the
6 signature on the transfer of interest -- that is
7 depicted on the transfer of interest did not
8 originate on this document but was transferred to
9 this document from another source. It could have
10 been a copy of the document that's in number 7 or it
11 could have been another document.

12 Q And through your experience as a forensic
13 document examiner, are you aware of means by which
14 signatures can be lifted or electronically
15 duplicated from one document to another?

16 A Yes. There's basic tools, like some with
17 computers. Apple, you don't even need an app to do
18 it. Non-Apple computers have basic apps within
19 their products when they are sold, like Snagit, in
20 which that can be done, and then there's
21 commercially available software that can also do it.
22 So it's readily available.

23 MR. COSTELLO: One moment, Your Honor.

24 THE COURT: Okay.

25 MR. COSTELLO: No further questions.

1 Thank you.

2 THE COURT: Thank you.

3 Any cross?

4 MS. RUBALCAVA: I have no questions for
5 the witness. (Inaudible.)

6 THE COURT REPORTER: I'm sorry. I didn't
7 hear you.

8 THE WITNESS: He seems very credible.

9 THE COURT REPORTER: Thank you.

10 THE COURT: Thank you, Doctor. You may
11 step down. Or Mr. Sorry.

12 Mr. McLaren?

13 MR. COSTELLO: Your Honor, we would call
14 Ms. Rubalcava.

15 THE COURT: Okay.

16 Could you come up, please, and stand in
17 front of me for a second. We're going to call
18 you -- they are calling you as a witness.
19 Raise your right hand. Do you swear to tell
20 the truth, the whole truth, and nothing but the
21 truth?

22 THERESA RUBALCAVA: I do.

23 THE COURT: Thank you. Please come
24 forward over here.

25 THEREUPON,

1 THERESA RUBALCAVA,
2 having first been duly sworn or affirmed, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COSTELLO:

6 Q Now, Ms. Rubalcava, you were not with
7 Mr. Colson when he allegedly signed the transfer of
8 interest document. Correct?

9 A Correct.

10 Q You have never seen an original of the
11 transfer of interest document. Correct?

12 A Correct.

13 Q You do not know if anyone else was with
14 Mr. Colson when he allegedly signed the transfer of
15 interest document. Correct?

16 A I do not know.

17 Q The papers that you have filed with the
18 Court in this matter and with the Second District
19 Court of Appeal, those were hand-delivered to your
20 house pre-prepared. Correct?

21 A Sometimes.

22 Q And other times, Mr. Hrabovsky had them
23 and you'd meet with him?

24 A Yes.

25 Q And whether they are delivered to your

1 door or Mr. Hrabovsky has them, you then arrange to
2 meet with Mr. Hrabovsky and sign the documents?

3 A Yes.

4 Q And then you do not actually file them
5 with the Court. Correct?

6 A I have filed some things but not
7 everything.

8 Q For example, the motion for substitution
9 you did not file with the Court?

10 A I did not.

11 Q And it is true that you have previously
12 pled guilty to two felony crimes. Correct?

13 A Correct. I don't know what that has to do
14 with transfer of substitution.

15 Q You met Mr. Colson at a public hearing in
16 approximately late 2021. Is that correct?

17 A Correct.

18 Q And at that point, it was just an
19 introduction. Is that correct?

20 A Yes.

21 Q And you met with him in October of 22 --
22 2022 at my client's property. Is that correct?

23 A Correct.

24 Q And after you met with him in October
25 2022, you never saw him again before he passed away.

1 Correct?

2 A I never saw him again, but I did speak to
3 him on the phone.

4 Q You spoke to him on the phone a couple of
5 times. Correct?

6 A Yes.

7 Q The first time that you saw a copy of the
8 transfer of interest document was when Mr. Hrabovsky
9 showed it to you in the second week of March 2023.
10 Is that correct?

11 A Yes.

12 Q And that was several weeks after
13 Mr. Colson had passed away?

14 A Yes.

15 Q And that's the same time that
16 Mr. Hrabovsky had you sign the motion for
17 substitution that someone else other than you filed
18 with the Court. Correct?

19 A Correct.

20 MR. COSTELLO: Nothing further,
21 Your Honor.

22 THE COURT: Thank you. If you would like
23 to elaborate, you're welcome to do that.

24 THE WITNESS: I had been out of town when
25 Mr. Colson passed away. When we met in

1 October, he asked me would I be interested in
2 taking over his cause if something ever
3 happened to him. He said he had other people.
4 I didn't ask who they were. I don't know who
5 they were. I just know in February I was
6 called to ask if I would take over his cause,
7 and I said that I would take over the cause for
8 the late great Clay Colson.

9 MR. COSTELLO: Your Honor, I object and
10 move to strike as hearsay as to what Mr. Colson
11 told her and as to whoever called and told her
12 about taking over.

13 THE COURT: I'm going to sustain it as to
14 the hearsay statement.

15 Thank you. You may step down.

16 MR. COSTELLO: Your Honor, our next
17 witness is just a short witness, Mr. Thomas
18 Santarlas, S-a-n-t-a-r-l-a-s.

19 THE BAILIFF: Raise your right hand to be
20 sworn in, please.

21 THE COURT: Good morning. Do you swear to
22 tell the truth, the whole truth, and nothing
23 but the truth?

24 THOMAS SANTARLAS: Yes.

25 THE COURT: Thank you.

DIRECT EXAMINATION

1
2 BY MR. COSTELLO:

3 Q Sir, can you please state your full name
4 for the record.

5 A Dr. Thomas E. Santarlas.

6 Q And what do you do for a living?

7 A I'm a process server.

8 Q And were you engaged in this case to serve
9 a subpoena for deposition as well as a subpoena for
10 this hearing on Christopher Hrabovsky?

11 A Yes, sir.

12 Q Were you successful in getting service on
13 him?

14 A No, sir.

15 Q If you can turn to Exhibit 8 in the
16 evidence binder, please.

17 A All right.

18 Q Sir, are the returns of service at
19 Exhibit 8 the returns for the various locations
20 where you tried to serve Mr. Hrabovsky?

21 A Yes, sir.

22 Q And where did you first try to serve him?

23 A At his residence, 1602 Gulf Beach
24 Boulevard, Tarpon Springs, Florida.

25 Q And how do you know that it is

1 Mr. Hrabovsky's residence at that address?

2 A I did a background search on
3 Mr. Hrabovsky, and that address was coming back as
4 his home address.

5 Q And what happened when you attempted to
6 serve him at that address?

7 A There was no response at the front door.
8 I also went to the side door. There was no response
9 at the side door. There were surveillance cameras
10 on the side door and I believe at the front.

11 Q Were there any vehicles in the driveway?

12 A Yes, sir. There were two vehicles on one
13 occasion, and when I went back, there were a second
14 vehicle different.

15 Q And in your experience, what does that
16 indicate when the vehicles are there and no one
17 comes to the door when you're trying to serve
18 process?

19 A Well, when the vehicles change within a
20 short period of time, it's a possibility that
21 there's people inside the residence and not
22 responding to the door, especially when there are
23 security cameras. So they can see me and I can't
24 see them.

25 Q Did you try to serve Mr. Hrabovsky

1 anywhere else?

2 A Yes.

3 Q Where else did you try to serve him?

4 A At City Hall, 324 East Pine Street,
5 Tarpon Springs.

6 Q And were you able to find him there?

7 A No, sir.

8 Q Did you try to serve him at the Board of
9 Adjustment meeting at the City?

10 A Yes, sir, I did.

11 Q And why did you try to serve him at that
12 meeting?

13 A I was told that he was a board member on
14 the adjustment.

15 Q And were you able to serve him at the
16 Board of Adjustment meeting?

17 A No, sir.

18 Q If you turn to Exhibit 9, the minutes from
19 the City's Board of Adjustment meeting April 26,
20 2023, is that the meeting that you tried to serve
21 Mr. Hrabovsky at?

22 A Yes, sir.

23 Q Okay. And it says under the minutes
24 "Absent, no prior notice given, Chris Hrabovsky."
25 Do you see that?

1 A Yes, sir.

2 Q And was there any discussion at the
3 meeting as to why he was not present?

4 A No, sir. Each person has a placard with
5 their name in front of it, and he was the only board
6 member that was absent from that meeting.

7 Q And did you also try to serve
8 Mr. Hrabovsky at a business address?

9 A Yes, sir.

10 Q Where was that?

11 A 34876 US Highway 19 North in Palm Harbor,
12 Florida.

13 Q And why did you try to serve him at that
14 address?

15 A As part of my background investigation, I
16 searched Florida Division of Corporations, also
17 known as Sunbiz, and there is a corporation that is
18 registered to Mr. Hrabovsky. And the address for
19 the registered agent as well as the principal
20 address came back to that address.

21 Q And did you find Mr. Hrabovsky and serve
22 him there?

23 A No.

24 MR. COSTELLO: No further questions,
25 Your Honor.

1 THE COURT: Ms. Rubalcava?

2 MS. RUBALCAVA: No questions, Your Honor.

3 THE COURT: Thank you.

4 MR. McLAREN: Your Honor, that concludes
5 our evidence presentation.

6 THE COURT: You may step down, sir. Thank
7 you.

8 Would either of the parties want to do a
9 closing or closing argument?

10 MS. RUBALCAVA: Yes.

11 THE COURT: Okay. Thank you.

12 MS. RUBALCAVA: Where do I stand?

13 THE COURT: Wherever you would like.

14 MS. RUBALCAVA: As far as I know,
15 Clay Colson signed that paper over to me to
16 take over his cause. I've done my best to try
17 to prove that I'm telling the truth and that
18 that is what happened, and that's why we're
19 here today.

20 THE COURT: Thank you.

21 This is what I'm thinking about doing, and
22 you're certainly welcome to also do a short
23 closing, if you'd like to.

24 MR. McLAREN: Your Honor -- Your Honor,
25 I'm prepared to make a very short closing.

1 THE COURT: Okay. I'll give you that
2 opportunity.

3 MR. McLAREN: Thank you, Judge.

4 The evidence really is undisputed.
5 Mr. Colson unfortunately died suddenly. There
6 was never any, you know, potential opportunity
7 to know that he was going to die. He may have,
8 you know, confided in people that he was an
9 environmentalist and wanted people to carry on
10 his work, but no one saw him execute this
11 document. The only evidence from anyone
12 qualified that's seen the document is that it's
13 a fake. No original ever has been produced to
14 this Court or anyone in this case. There's
15 never -- nobody's ever seen a wet signature.
16 The document in court marked Exhibit 10, we
17 respectfully request the Court look at it and
18 note that it's clearly a photocopy. The person
19 that engineered the preparation and filing of
20 this document was Mr. Hrabovsky, and
21 Mr. Hrabovsky refused to even show up today,
22 Your Honor. There's a reason for that. He
23 does not want to be cross-examined on this.
24 That's why he filed the affidavit that we
25 object to. There is no credible evidence from

1 anyone that this document is authentic. The
2 burden is on Ms. Rubalcava. She has not met
3 that burden.

4 Thank you, Judge.

5 THE COURT: Thank you. I don't know where
6 Exhibit Number 10 went. I do not have it back.
7 Do you have it up here?

8 THE BAILIFF: Yes.

9 THE COURT: This is what I'm thinking:
10 That both sides should prepare a proposed
11 findings of fact, and I'm not sure exactly when
12 my 20 -- 60 days are over, but let me look in
13 the order. I'm not in the right binder.

14 MR. McLAREN: Your Honor, it appears to us
15 that may be June the 4th.

16 THE COURT: June 4th is the deadline.
17 Okay. So how soon could you all get me -- both
18 sides get me the proposed findings of fact
19 and -- today is the 22nd.

20 Ms. Rubalcava, how long would it take you
21 to prepare your proposed findings of fact for
22 me?

23 MS. RUBALCAVA: A week, ten days.

24 THE COURT: Today is Monday. Is it
25 possible to do it maybe by Friday? We're kind

1 of on a timeline.

2 MS. RUBALCAVA: This Friday?

3 THE COURT: Would that be okay?

4 MS. RUBALCAVA: Okay.

5 MR. McLAREN: Fine with us, Judge.

6 THE COURT: Okay. So if you could email
7 those to my JA, which is section7@jud6.org.

8 MS. RUBALCAVA: Can you repeat that again,
9 Your Honor?

10 THE COURT: Yes. Section and then the
11 number 7, numeral 7, @jud6.org.

12 MS. RUBALCAVA: Thank you.

13 THE COURT: By close of business on
14 Friday.

15 MS. RUBALCAVA: Yes, ma'am.

16 THE COURT: Okay. Anything else for
17 today?

18 MR. McLAREN: Does Your Honor want the
19 submission in Word form?

20 THE COURT: That would be great.

21 What's the date? June 5th.

22 MS. RUBALCAVA: 4th.

23 MR. COSTELLO: June 4th is the expiration.

24 THE COURT: Thank you. If there's nothing
25 else, court is adjourned. Thank you.

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(At 12:06 p.m., the proceedings were
concluded.)

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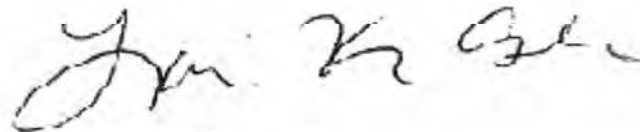
CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, Lori K. Ash, RPR, FPR, certify that I was authorized to and did stenographically report the foregoing proceedings and that the foregoing pages, numbered 1 through 48, are a true and complete record of my stenographic notes taken during said proceedings.

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

Dated this 31st day of May, 2023.



LORI K. ASH, RPR, FPR

Appendix 4

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT IN
AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

CLAY G. COLSON,
Plaintiff(s),

v.

Case No. 21-005793-CI
UCN: 522021CA005793XXCICI

CITY OF TARPON SPRINGS, FLORIDA,
Defendant(s).

ORDER DENYING EMERGENCY MOTION TO ALLOW FILMING

THIS CAUSE came before the Court on May 22, 2023 at 11:00 a.m. regarding Theresa Rubalcava's Emergency Motion to Allow Filming of These Proceedings as Required by Law, as filed on May 19, 2023, in the above-styled case. The Court, having heard argument of counsel, having reviewed the record and the applicable law, and being otherwise fully advised in the premises, finds:

1. By Order dated April 5, 2023, the Second District Court of Appeal of the State of Florida relinquished jurisdiction to this Court to determine the authenticity of a certain transfer of interest in the above-styled cause(s) of action.
2. Theresa Rubalcava filed a motion to allow filming of the hearing scheduled to occur on May 22, 2023 at 11:00 a.m.
3. Pursuant to Fla. R. Gen. Prac. & Jud. Admin. 2.450, the use of electronic media and still photography is "subject at all times to the authority of the presiding judge to...control the conduct of the proceedings...ensure decorum and prevent distractions...and ensure the fair administration of justice in the pending cause."
4. Likewise, the Media Policy outlined in the Sixth Jud. Cir. Admin. Order No. 2008-076 PA/PI-CIR dictates that "[n]o device capable of taking pictures or capturing sound may be operated inside any room in which a judicial proceeding is taking place or immediately prior to a scheduled judicial proceeding without prior approval of the presiding judge."

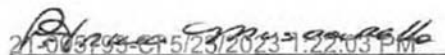
THEREFORE, it is ADJUDGED:

1. To ensure decorum and the fair administration of justice, and to prevent distractions, Theresa Rubalcava's Emergency Motion to Allow Filming of These Proceedings as Required by Law, as filed on May 19, 2023, is **DENIED**.

ORDERED in Chambers, at Clearwater, Pinellas County, Florida. A true and correct copy of the foregoing has been furnished to the parties listed below.

cc: Shane T. Costello, Esq.
Andrew J. Salzman, Esq.

Theresa D. Rubalcava, pro se
319 Lebeau Street
Clearwater, Florida 33755


~~21-006793-CJ 5/23/2023 1:22:03 PM~~
Circuit Judge Patricia A. Muscarella
21-006793-CJ 5/23/2023 1:22:03 PM
Circuit Judge

Appendix 5

REGISTER OF ACTIONS

CASE NO. 21-005793-CI



Order Documents! [Click Here!](#)

Request Now! Including Certified!

CLAY G COLSON Vs. CITY OF TARPON SPRINGS FLORIDA

21-005793-CI

Case Type: DECLARATORY - CIRCUIT
Date Filed: 12/09/2021
Location: Section 7
Judicial Officer: MUSCARELLA, PATRICIA ANN
APPEAL CASE NUMBER: 2D22-3637
UNIFORM CASE NUMBER: 522021CA005793XXCICI

PARTY INFORMATION

DEFENDANT CITY OF TARPON SPRINGS FLORIDA

324 PINE ST
TARPON SPRINGS, FL 34689

Attorneys
ANDREW J SALZMAN, ESQ

UNICE SALZMAN JENSEN P
A
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STE 201
CLEARWATER, FL 33756
727-733-0494(W)

PLAINTIFF COLSON, CLAY G
4318 JOY DRRIVE
LAND O LAKES, FL 34637

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

- 06/16/2023 CASE REOPENED
- 06/16/2023 MOTION FOR REHEARING Doc # 95
AND EXCEPTIONS TO REPORT AND RECOMMENDATIONS ON MOTN FOR SUBSTITUTION OF APPELLANT ENTERED 06012023
- 06/02/2023 FINDINGS-ORDER OF COURT RE Doc # 94
RETURNING JURISDICTION
- 06/01/2023 TRANSCRIPTION OF PROCEEDINGS Doc # 93
5/22/2023 EVIDENTIARY HEARING
- 05/24/2023 LIST OF EXHIBITS Doc # 92
FOR 05222023 EVIDENTIARY HEARING - EXHIBIT NOTEBOOK INDEX WITH ATTACHMENTS
- 05/23/2023 ORDER DENYING Doc # 91
EMERGENCY MOTION TO ALLOW FILMING
- 05/23/2023 REOPEN - CLOSED
- 05/19/2023 EMERGENCY MOTION Doc # 90
TO ALLOW FILMING
- 05/19/2023 CASE REOPENED
- 05/17/2023 REQUEST FOR JUDICIAL NOTICE Doc # 83
- 05/17/2023 EXHIBIT Doc # 84
A - ORDER AND OPINION
- 05/17/2023 EXHIBIT Doc # 85
B - MOTION FOR SUBSTITUTION OF APPELLANT
- 05/17/2023 EXHIBIT Doc # 86
C - RESPONSE IN OPPOSITION TO MOTION FOR SUBSTITUTION OF APPELLANT AND MOTION TO ENLARGE TIME

05/17/2023 EXHIBIT Doc # 87
D - ORDER FROM THE DISTRICT COURT OF APPEAL

05/17/2023 EXHIBIT Doc # 88
E - APPELLANTS MOTION TO ENLARGE TIME TO RESPONDED THE MOTION TO RECOGNIZE MORGAN GROUP DEVELOPMENT, LLC AS AN APPELLEE OR ALTERNATIVELY TO INTERVENE

05/17/2023 NOTICE OF FILING Doc # 89
ATTACHED AFFIDAVIT OF CHRIS HRABOVSKY

05/11/2023 DCA ORDER Doc # 82
THE MOTION TO REQUIRE SERVICE OF DOCUMENTS FILED BY THERESA DEWALD RUBALCAVA IS DENIED. MS. RUBALCAVA IS NOT CURRENTLY THE APPELLANT OR A PARTY TO THIS APPEAL. IN ADDITION, THE APPELLEES RESPONSES FOR WHICH MS. RUBALCAVA SEEKS TO DIRECT SERVICE CERTIFY SERVICE ON MS. RUBALCAVA BY US MAIL AT HER ADDRESS. AS A COURTESY, COPIES OF THE RESPONSES AND APPENDIX ARE ENCLOSED WITH MS. RUBALCAVA'S COPY OF THIS ORDER. 2D22-3637

05/10/2023 SUBPOENA - NOT SERVED Doc # 78
CHRISTOPHER HRABOVSKY

05/10/2023 SUBPOENA - NOT SERVED Doc # 79
CHRISTOPHER HRABOVSKY

05/10/2023 SUBPOENA - NOT SERVED Doc # 80
CHRISTOPHER HRABOVSKY

05/10/2023 SUBPOENA - NOT SERVED Doc # 81
CHRISTOPHER HRABOVSKY

05/05/2023 NOTICE OF CANCELLATION Doc # 77
OF TAKING DEPOSITION DUCES TECUM OF CHRIS HRABOVSKY

04/28/2023 NOTICE Doc # 74
OF VIDEOTAPING DEPOSITION

04/27/2023 NOTICE OF CANCELLATION Doc # 75
OF TAKING DEPOSITION DUCES TECUM OF CHRIS HRABOVSKY

04/27/2023 NOTICE OF TAKING DEPOSITION Doc # 76
CHRIS HRABOVSKY - DUCES TECUM

04/21/2023 CORRESPONDENCE TO COURT RE Doc # 72
PROPOSED ORDER

04/21/2023 ORDER GRANTING Doc # 73
MOTION FOR ORDER TO OBTAIN CERTIFICATE OF DEATH

04/21/2023 **REOPEN - CLOSED**

04/18/2023 **CASE REOPENED**

04/18/2023 MOTION Doc # 71
FOR ORDER TO OBTAIN CERTIFICATE OF DEATH
Filed by: MORGAN GROUP DEVELOPMENT

04/18/2023 **CASE CHARACTERISTIC CHANGE (UCR)**

04/14/2023 NOTICE OF TAKING DEPOSITION Doc # 69
DUCES TECUM OF THERESA RUBALCAVA WITH ATTACHED EXHIBIT A

04/14/2023 NOTICE OF TAKING DEPOSITION Doc # 70
DUCES TECUM OF CHRIS HRABOVSKY WITH ATTACHED EXHIBIT A AND 1

04/13/2023 NOTICE OF HEARING Doc # 68
05222023 11:00

04/05/2023 DCA ORDER Doc # 67
DCA RELINQUISHES JURISDICTION TO THE TRIAL COURT FOR 60 DAYS TO HOLD AN EVIDENTIARY HEARING ON THE MOTION FOR SUBSTITUTION OF APPELLANT. 2D22-3637

03/16/2023 DCA ORDER Doc # 66
APPELLANTS SUCCESSOR IN INTEREST SHALL SHOW CAUSE WITHIN 15 DAYS AS TO WHY THIS PROCEEDING SHOULD NOT BE DISMISSED FOR LACK OF A PARTY APPELLANT TO PROSECUTE THIS APPEAL AS A RESULT OF THE SUGGESTION OF DEATH FILED REGARDING APPELLANT CLAY G COLSON 2D22-3637

02/16/2023 DCA ORDER Doc # 65
THE MOTION TO INTERVENE, FILED BY MORGAN GROUP DEVELOPMENT, LLC, IS GRANTED. MORGAN GROUP DEVELOPMENT, LLC IS RECOGNIZED AS AN APPELLEE IN THIS APPEAL. THE APPELLANT SHALL SERVE THE IB BY 03/18/2023. 2D22-3637

01/13/2023 DCA ORDER Doc # 64
APPELLANT MAY RESPOND TO THE 'MOTION TO RECOGNIZE MORGAN GROUP DEVELOPMENT' WITHIN 15 DAYS 2D22-3637

01/04/2023 STATUS REPORT TO COURT Doc # 63
\$106.00 FILING/COPY/CERT FEES NOT SATISFIED. 2D22-3637

11/14/2022 CERTIFICATE OF CLERK RE NON PAYMENT Doc # 62
\$106.00 FILING/COPY/CERT FEES 2D22-3637

11/09/2022 LETTER FROM 2ND DCA RE ASSIGN APPEAL NO. Doc # 60
2D22-3637

11/09/2022 DCA ORDER FILING FEES DUE Doc # 61
BY 12/19/2022 2D22-3637

11/07/2022 NOTICE OF APPEAL RECORDED Doc # 58

11/07/2022 LETTER FROM CLERK RE APPEAL NOTICE TO DCA Doc # 59

11/04/2022 NOTICE OF APPEARANCE Doc # 56
Party: CITY OF TARPON SPRINGS FLORIDA

11/04/2022 NOTICE OF APPEAL Doc # 57
Party: COLSON, CLAY G

10/22/2022 ORDER GRANTING Doc # 55
STIPULATION FOR SUBSTITUTION OF COUNSEL FOR DEFT

10/21/2022 STIPULATION FOR SUBSTITUTION OF COUNSEL Doc # 53

10/21/2022 CORRESPONDENCE TO COURT RE Doc # 54
PROPOSED ORDER

10/07/2022 ORDER DENYING Doc # 52
REHEARING

10/07/2022 **REOPEN - CLOSED**

09/08/2022 DCA ORDER Doc # 51
THE MOTION FOR REHEARING EN BANC IS STRICKEN AS FACIALLY INSUFFICIENT. THE MOTION FOR REHEARING IS DENIED. PETITIONER'S REPLY TO OR MOTION TO STRIKE THE RESPONSE TO PETITIONER'S MOTION IS STRICKEN AS UNAUTHORIZED. 2D22-1756

08/26/2022 RESPONSE Doc # 50
TO SECOND AMENDED MOTION FOR REHEARING

08/18/2022 AMENDED MOTION Doc # 49
MOTION FOR REHEARING OF THE ORDER DISMISSING THIS ACTION OF PREJUDICE
Party: COLSON, CLAY G

08/18/2022 **CASE REOPENED**

08/05/2022 RESPONSE Doc # 48
TO PLAINTIFF S VERIFIED MOTION FOR REHEARING

07/25/2022 AMENDED MOTION Doc # 47
FOR REHEARING OF ORDER DISMISSING CASE W/PREJUDICE W/ATTACHMENTS
Party: COLSON, CLAY G

07/25/2022 **CASE REOPENED**

07/22/2022 RESPONSE Doc # 46
TO PLTF'S MOTION FOR REHEARING

07/13/2022 MOTION Doc # 44
FOR REHEARING OF ORDER DISMISSING ACTION W/ATTACHMENTS
Filed by: COLSON, CLAY G

07/13/2022 **CASE REOPENED**

06/28/2022 ORDER DENYING Doc # 41
PLAINTIFFS MOTION TO ENLARGE TIME TO FILE AN AMENDED COMPLAINT

06/28/2022 ORDER DENYING Doc # 42
PLAINTIFFS MOTION FOR RECONSIDERATION

06/28/2022 CORRESPONDENCE TO COURT RE Doc # 43
PROPOSED ORDER

06/28/2022 **CIVIL - CASE DISPOSED BY JUDGE**

06/21/2022 DCA ORDER Doc # 40
DENYING THE PETITION TO REVIEW ORDER EXCLUDING PRESS COVERAGE OF PROCEEDINGS IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT, IN AND FOR PINELLAS COUNTY, FLORIDA, WITHOUT PREJUDICE TO PETITIONER'S SEEKING PERMISSION TO RECORD FUTURE PROCEEDINGS IN ACCORDANCE WITH SIXTH JUDICIAL CIRCUIT ADMINISTRATIVE ORDER NO. 2008-076 PA/PI CIR. / 2D22-1756

06/20/2022 CORRESPONDENCE TO CLERK RE Doc # 39
SUPPLEMENT TO APPENDIX - RCVD BY COURT 06162022

06/17/2022 NOTICE Doc # 38
OF REQUEST

06/15/2022 RESPONSE Doc # 36
TO PLAINTIFF'S MOTION TO ENLARGE TIME TO FILE AN AMENDED COMPLAINT

06/15/2022 EXHIBIT Doc # 37
A-LETTER/APPLICATION/CASE RECORDS

06/08/2022 PLTF-PET'S MOTION FOR RECONSIDERATION Doc # 34
OF ORDER GRANTING DEFENDANT CITY OF TARPON SPRINGS' MOTION TO DISMISS FOR FAILURE TO JOIN INDISPENSABLE PARTIES

06/08/2022 MOTION Doc # 35
TO ENLARGE TIME TO FILE AN AMENDED COMPLAINT
Filed by: COLSON, CLAY G

06/03/2022 COPY Doc # 33
OF CORRESPONDENCE TO SECOND DCA RE: THE PETITION TO REVIEW ORDER EXCLUDING PRESS COVERAGE RECEIVED BY COURT 06/02/2022 2D22-1756

06/02/2022 DCA ORDER Doc # 32
BY 06/12/2022 PETITIONER SHALL SUPPLEMENT THE APPENDIX WITH EITHER WRITTEN ORDER OR TRANSCRIPT OF THE TRIAL JUDGE'S ORAL PRONOUNCEMENT. RESPONDENT SHALL SERVE A RESPONSE TO THE PETITION WITHIN 10 DAYS. 2D22-1756

06/01/2022 LETTER FROM 2ND DCA RE ASSIGN APPEAL NO. Doc # 30
2D22-1756

06/01/2022 DCA ORDER Doc # 31
APPROVING AFFIDAVIT OF INSOLVENCY/INDIGENT AND ACCOMPANYING MOTN FILED ; FILING FEE NOT REQUIRED. 2D22-1756

05/31/2022 RESPONSE Doc # 28
(PLTF'S) TO DEFT'S FIRST REQUEST TO PRODUCE

05/31/2022 NOTICE OF SERVICE OF INTERROGATORIES Doc # 29
(PLTF'S)

05/25/2022 ORDER DENYING Doc # 27
MOTION TO DISQUALIFY JUDGE

05/20/2022 MOTION Doc # 25
TO DISQUALIFY JUDGE PATRICIA ANN MUSCARELLA
Filed by: COLSON, CLAY G

05/20/2022 APPLICATION FOR INDIGENT STATUS APPROVED Doc # 26
Party: COLSON, CLAY G

05/17/2022 MOTION TO COMPEL DISCOVERY Doc # 20
Party: CITY OF TARPON SPRINGS FLORIDA

05/17/2022 EXHIBIT Doc # 21
FIRST REQUEST TO PRODUCE
Party: CITY OF TARPON SPRINGS FLORIDA

05/17/2022 EXHIBIT Doc # 22
NOTICE OF SERVING FIRST SET OF INTERROGATORIES

05/17/2022 EXHIBIT Doc # 23
LETTER DATED 04182022

05/17/2022 NOTICE Doc # 24
OF REQUEST FOR COURT TO CONSIDER MOTION TO COMPEL DISCOVERY WITHOUT HEARING

05/10/2022 ORDER GRANTING Doc # 18
DISMISSAL WITH LEAVE TO AMEND 30 DAYS

05/10/2022 CORRESPONDENCE TO COURT RE Doc # 19
PROPOSED ORDER - RCVD BY COURT 05062022

03/16/2022 NOTICE OF HEARING Doc # 17
(CROSS TELEPHONIC) 05022022 11:00

03/09/2022 REQUEST FOR PRODUCTION Doc # 15

03/09/2022 NOTICE OF SERVICE OF INTERROGATORIES Doc # 16
03/07/2022 NOTICE OF HEARING Doc # 12
05022022 11:00 TELEPHONIC
03/07/2022 MOTION TO INTERVENE Doc # 13
FILED BY MORGAN GROUP DEVELOPMENT LLC
03/07/2022 EXHIBIT Doc # 14
COMPOSITE A- COPIES ORDERS
01/31/2022 NOTICE OF CANCELLATION Doc # 11
OF TELEPHONIC HEARING 03312022
01/26/2022 SUMMONS - SERVED Doc # 10
01252022
Party: CITY OF TARPON SPRINGS FLORIDA
01/25/2022 SUMMONS - ISSUED Doc # 7
AMMENDED
Party: COLSON, CLAY G
01/25/2022 DEF-RESP'S MOTION TO DISMISS Doc # 8
FOR FAILURE TO JOIN INDISPENSABLE PARTIES
01/25/2022 NOTICE OF HEARING Doc # 9
03312022 10:15 TELEPHONIC
01/19/2022 NOTICE OF APPEARANCE Doc # 6
Party: CITY OF TARPON SPRINGS FLORIDA
12/17/2021 DEF-RESP'S MOTION Doc # 5
TO QUASH PROCESS AND SERVICE OF PROCESS
12/14/2021 SUMMONS - SERVED Doc # 4
12/10/2021
Party: CITY OF TARPON SPRINGS FLORIDA
12/10/2021 SUMMONS - ISSUED Doc # 3
NCB - GIVEN TO PLAINTIFF FOR PROCESS SERVER
Party: CITY OF TARPON SPRINGS FLORIDA
12/09/2021 COMPLAINT Doc # 1
12/09/2021 ATTACHMENT Doc # 2
ORDINANCE

FINANCIAL INFORMATION

APPELLANT COLSON, CLAY G



Court Ordered [Click Here!](#)

Pay Now! Fines, Fees, Costs?

Total Financial Assessment			531.55
Total Payments and Credits			425.55
Balance Due as of 06/20/2023			106.00
12/09/2021	Transaction Assessment		400.00
12/09/2021	Counter Payment	Receipt # CV-2021-29455	(400.00)
12/10/2021	Transaction Assessment		10.00
12/10/2021	Counter Payment	Receipt # NC-2021-10328	(10.00)
01/25/2022	Transaction Assessment		10.00
01/25/2022	Counter Payment	Receipt # NC-2022-00657	(10.00)
07/13/2022	Transaction Assessment		3.15
07/13/2022	Counter Payment	Receipt # CV-2022-16516	(3.15)
11/07/2022	Transaction Assessment		106.00
06/16/2023	Transaction Assessment		2.40
06/16/2023	Counter Payment	Receipt # CV-2023-08781	(2.40)

COLSON, CLAY G
COLSON, CLAY G
COLSON, CLAY G
COLSON, CLAY G
COLSON, CLAY G
THERESA RUBALCAVA

Appendix 6

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2008-076 PA/PI-CIR

[Printer friendly version](#)

RE: MEDIA POLICY

Florida Rule of Judicial Administration 2.450 governs the use of technology in judicial proceedings. Rule 2.450 vests the presiding judge with broad authority to control the conduct of proceedings before the court, ensure decorum and prevent distractions, and ensure the fair administration of justice. Rule 2.450 also vests the chief judge with broad authority to determine the location and placement of audio systems, microphones, television cameras and equipment, still camera photographers and equipment, light sources, and related technological devices in courtrooms and courthouses. The Rules of Judicial Administration can be accessed on The Florida Bar's webpage at <http://www.floridabar.org/>.

Recent technological advancements in consumer electronics, coupled with the installation of wireless technology in many courthouses, now make it more difficult for the presiding judge and court security to ensure that people attending court proceedings are not recording or broadcasting the court proceedings without the court's approval. Any non-approved recording or broadcasting of court proceedings violates Florida Rule of Judicial Administration 2.450.

In order to ensure that professional journalists continue to have appropriate access to court proceedings, to ensure that members of The Florida Bar continue to have the ability to operate approved technological devices, to prevent disruptions to court proceedings, to prevent non-approved audio or visual recordings, to ensure safety and security in the hallways and other areas of ingress and egress in the courthouses, and to assist court security in the uniform enforcement of issues related to Florida Rule of Judicial Administration 2.450, it is hereby

ORDERED:

1. Definitions.

- a. "Professional journalist" is defined as a person regularly engaged in collecting, photographing, recording, writing, editing, reporting, or publishing news, for gain or livelihood, who obtained the information sought while working as a salaried employee of, or independent contractor for, a newspaper, news journal, news agency, press association, wire service, radio or television station, network, or news magazine.
- b. "News" is defined as information of public concern relating to local, statewide, national, or worldwide issues or events.

2. No device capable of taking pictures or capturing sound may be operated inside any room in which a judicial proceeding is taking place or immediately prior to a scheduled judicial proceeding without prior approval of the presiding judge. Such devices include, but are not limited to, cell phones, cameras, digital voice recorders, tape recorders, laptops, personal digital assistants, or similar technological devices. A person who operates a non-approved device will have the device confiscated by court security and such person may be issued a trespass warning or may be held in contempt of court or both.

3. In order to ensure security and the orderly administration of justice, persons seeking prior approval to operate a device capable of taking pictures or capturing sound shall do the following:
 - a. A person not meeting the definition of “professional journalist” shall present his or her request to the Public Information Officer (PIO) of the Sixth Judicial Circuit as far in advance of the scheduled proceeding as circumstances permit. The PIO shall communicate all requests made under this provision to the presiding judge. The PIO will then inform the requester whether or not the presiding judge has approved the request.
 - b. A person meeting the definition of “professional journalist” may present his or her request to the presiding judge or to the Public Information Officer (PIO) of the Sixth Judicial Circuit as far in advance of the scheduled proceeding as circumstances permit.
4. Members of The Florida Bar appearing before the court shall be allowed to operate technological devices to the extent customarily allowed by the presiding judge.
5. Nothing in this Administrative Order shall be construed to limit or impair a presiding judge’s authority to grant, deny, or otherwise respond to a request by a person to operate a device capable of taking pictures or capturing sound in a room used for a judicial proceeding.
6. Nothing in this Administrative Order shall be construed to limit or impair a presiding judge’s authority to exclude any items from the courtroom in order to ensure safety or the orderly administration of justice.
7. No person may conduct photography or audio or visual recording in any area of the courthouse that is primarily used for ingress to or egress from the interior rooms in the courthouse. Such rooms include, but not limited to, courtrooms, chambers, conference rooms, offices, and the secure areas adjacent to the courthouse entrances. A person who conducts photography or audio or visual recording in any area of the courthouse that is primarily used for ingress to or egress from the interior rooms in the courthouse will have the device confiscated by court security and such person may be issued a trespass warning or may be held in contempt of court or both.
8. Designated places to conduct interviews may be provided by the court on a case-by-case basis as circumstances permit. Requests to conduct interviews in a courthouse area should be submitted to the Public Information Officer (PIO) of the Sixth Judicial Circuit as far in advance of the desired date as circumstances permit.
9. The Sheriff of Pasco County and the Sheriff of Pinellas County shall enforce this Administrative Order by confiscating devices that are being used in violation of paragraph 2 or paragraph 7 above. The Sheriff does not need to confiscate all devices capable of taking pictures or capturing sound that are simply brought into courthouses or rooms used for judicial proceedings. Rather such devices shall be confiscated when:
 - a. the device is being operated without prior approval from the presiding judge in a room where a judicial proceeding is taking place; or
 - b. the device is being operated to conduct photography or audio or visual recording in an area of the courthouse that is primarily used for ingress to or egress from the interior rooms in the courthouse.
10. The Chief Judge may delegate his or her authority under Florida Rule of Judicial Administration

2.450 to determine the location and placement of audio systems, microphones, television cameras and equipment, still camera photographers and equipment, light sources, and related technological devices to the presiding judge in order to accomplish the orderly administration of justice.

Administrative Order PA/PI-CIR-99-77 is hereby rescinded.

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida on
this _____ day of November 2008.

Robert J. Morris, Jr., Chief Judge

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Bob White, Sheriff, Pasco County
The Honorable Jim Coats, Sheriff, Pinellas County
The Honorable Jed Pittman, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Jackson Flyte, Regional Counsel
Gay Inskeep, Trial Courts Administrator
Carol Heath, Executive Director, Pinellas County Clerk's Office
Debbie Gay, Assistant Court Services Director Pasco County Clerk's Office
Bailiff's Office, Pasco County Sheriff
Court Security Division, Pinellas County Sheriff
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties