

NEWS RELEASE

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COURT CLERKS SUED FOR COLLECTING ILLEGAL FEES IN DIVORCE CASES

Tampa, Fla. - The Clerks of the Circuit Court have been charging and collecting illegal filing fees in divorce cases throughout the state, according to a class action lawsuit filed today in Hillsborough County. Thousands of cases have been affected and over one million dollars of illegal fees collected by the court clerks since last July, the lawsuit alleges. The suit was filed by several people who paid such fees in their own cases, on behalf of themselves and other people who have been subjected to the same illegal filing fees. It names the clerks of Hillsborough, Pinellas and Pasco counties as defendants and as representatives of all 67 clerks in the state.

When the legislature changed the law last year to authorize a filing fee of \$295 on any counterclaim filed in circuit court, it did not specify that the fee could be charged on counterpetitions filed in family law cases. Although many of the clerks recognized that the new law might not apply to family law cases, virtually all of them began imposing the fees in those cases anyway. Last November, the Attorney General issued a formal opinion concluding that the filing fee was not authorized in family law cases. Some of the clerks stopped charging the filing fees after the Attorney General's opinion came out.

A large group of clerks, however, made an "immediate, conscious and deliberate" decision to disregard the Attorney General's opinion and to continue imposing the fees, according to the complaint. The day after the Attorney General's opinion was released and distributed to the clerks, the lawyer for Pat Frank, the clerk for Hillsborough County, wrote in an email that there was "consensus" among the clerks' lawyers to continue to charge the filing fee in divorce cases.

Internal documents received from several of the clerks' offices through the public records act reflect "very disappointing conduct by a group of public officials whose primary responsibility is to safeguard our money," Harrison said. "The clerks collectively decided they were going to keep charging these unauthorized fees and just hope that nobody noticed. Well, we noticed."

Even most of the clerks who stopped charging the unauthorized fees have refused to refund the fees they had already collected, according to attorney Richard A. Harrison, who filed the lawsuit. "That's also illegal," Harrison said, "because Florida law

absolutely requires the clerks to refund any overpayment of fees without waiting for a party to ask for a refund.”

The lawsuit asks for a judge to declare that the filing fees charged in family law cases are illegal and to order the clerks to stop charging those fees. It also asks the court to make the clerks pay back all the fees they have collected, so that the monies can be refunded under court supervision to the parties that paid them.

Richard A. Harrison is a shareholder in the firm of Allen Dell, P.A. and has been practicing law for more than 20 years. He is Board Certified in City, County and Local Government Law by The Florida Bar. Harrison is a Phi Beta Kappa graduate of Stetson University and an honors graduate of Stetson College of Law.

Allen Dell, P.A. is a leading Tampa law firm with 17 attorneys. It has been established in Tampa for nearly 85 years and maintains a diverse civil practice. The firm’s website is at www.allendell.com.

The lawsuit is *Hertenstein v. Frank*, Hillsborough Circuit Court Case No.: 09-7625. An electronic copy of the complaint is available upon request from aplace@allendell.com.

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