

>> THE LAST CASE THIS MORNING,
JUSTICE CANADY IS RECUSED.
CALL THE CASE OF BOARD OF
COUNTY COMMISSIONERS OF COLLIER
COUNTY VERSUS DWIGHT BROCK.
MISS HUBBARD?

>> YES.

>> AND I UNDERSTAND, LET ME
MAKE SURE, YOU'RE GOING TO TAKE
10 MINUTES.

THEN GIVE MR. STEWART FIVE
MINUTES AND YOU WANT TO SAVE,
IS THAT CORRECT.

>> YES, FIVE FOR REBUTTAL.

>> YOU START WITH, WE SHOULD
START WITH 15 MINUTES THEN.
OKAY, SO I'M GOING, SO THAT YOU
UNDERSTAND, IF YOU GO ALL 15
YOU WON'T HAVE REBUTTAL.
SO I WILL REMIND YOU AT, ARE
YOU DOING IT THAT WAY?

OKAY. WE HAVE 20 MINUTES.
SO 10 MINUTES, LIGHT GO ON AT
10?

>> [INAUDIBLE].

>> OKAY.

SO I'M GOING TO TELL YOU, I
WILL TRY TO REMEMBER TO TELL
YOU AT 10.

OKAY.

>> GOOD MORNING, TO ALL OF YOU.
I'M JACQUELINE HUBBARD,
LITIGATION SECTION CHIEF FOR
THE COLLIER COUNTY ATTORNEY'S
OFFICE.

AND I REPRESENT THE COLLIER
COUNTY BOARD OF COUNTY
COMMISSIONERS.

THERE ARE A COUPLE OF POINTS
THAT I THINK ARE IMPORTANT TO
MAKE IN THIS CASE.

ONE OF THEM IS, I BELIEVE THAT

THE LEGISLATURE KNEW WHAT IT WAS DOING WHEN IT DRAFTED CERTAIN STATUTES THAT PERTAIN TO THE ISSUE WE HAVE TODAY. FIRST, WHAT I REFER TO A RULE, I MEAN THE RULES OF THE FLORIDA AUDITOR GENERAL.

>> THE FLORIDA WHAT?

>> AUDITOR GENERAL.

AND THESE RULES WERE PROMULGATED BY THE STATE LEGISLATURE AND UNDER THIS RULE AND OTHER STATUTORY PROVISIONS ALL COUNTY AUDITS ARE TO BE CONDUCTED UNDER THE RULES OF THE AUDITOR GENERAL.

>> BUT DOES THAT MEAN, UNDER THE CONSTITUTION, THE CLERK IS AN AUDITOR?

>> THE CLERK IS AN AUDITOR UNDER THE CONSTITUTION.

>> WHY WOULDN'T, AND I'M GOING, THIS IS NOT AN AREA I'M FAMILIAR WE HAVE INTIMATELY BUT WE HAVE OF COURSE INSPECTOR GENERALS HERE AT THE COURT.

>> NOT INSPECTOR GENERAL. AUDITOR GENERAL.

>> AN AUDITOR, CAN AN AUDITOR NOT DO INVESTIGATIONS AND TO DETERMINE, AND LOOK AT, MAKE SURE THERE ARE CONTROLS IN PLACE AND, YOU KNOW, THAT KIND OF GENERALLY ACCEPTED, NOT A FINANCIAL AUDIT BUT TO INSURE THAT THE, THAT FINANCES ARE BEING PROPERLY ACCOUNTED FOR AND THAT THERE ARE GOOD PROCEDURES IN PLACE?

>> WELL LET ME JUST SAY THIS.

THE REASON WHY I INITIALLY REFERRED TO THE RULES OF THE

AUDITOR GENERAL IS BECAUSE THE STATE LEGISLATURE GAVE THE AUDITOR GENERAL MANDATED THAT THE AUDITOR GENERAL, IMPOSE RULES AND REGULATIONS ON HOW AUDITS TO BE CONDUCTED FOR LOCAL GOVERNMENTS.

NOW, IF YOU LOOK AT ARTICLE 2 SECTION 5-C OF THE 1968 CONSTITUTION, IT SAYS, THE POWERS AND DUTIES, COMPENSATION AND METHOD OF PAYMENT OF STATE AND COUNTY OFFICERS SHALL BE FIXED BY LAW.

IT INCLUDED THE POWERS AND THE DUTIES, SHALL BE FIXED BY LAW.

ARTICLE 8, SECTION 1-B SAID, THE CARE, CUSTODY AND METHOD OF DISPERSING COUNTY FUNDS SHALL BE PROVIDED BY GENERAL LAW.

NOW WE HAVE A WHOLE SERIES OF GENERAL LAW THAT'S BEEN PASSED BY THE LEGISLATURE THAT PERTAINS TO, AND YES, I WOULD AGREE WITH YOU THAT THE CLERK HAS THOSE STATUTORY AND CONSTITUTIONAL TITLES BUT THAT'S ALL THEY ARE UNTIL THEY'RE FILLED IN BY STATUTE.

>> I MEAN IT IS NOT ONLY, NOT ONLY TITLES THEY HAVE GOT SOME DUTIES AND SOME LIABILITIES.

>> YES THEY DO AND SO DOES THE BOARD OF COUNTY COMMISSIONERS AND --

>> THAT DOESN'T ADDRESS WHAT THE AUDITOR, WHAT A CLERK CAN OR CAN'T DO JUST BECAUSE A BOARD MAY HAVE SOME.

AND ON THESE RULES, WHAT ABOUT THE PREPAYMENT INTERNAL AUDITS? ARE YOU SAYING THEY CAN'T DO

THOSE EITHER?

>> NO, THAT'S NOT WHAT I'M SAYING.

>> OKAY.

>> WHAT I AM SAYING THAT THE ONLY STATUTORY PROVISIONS THAT PROVIDE FOR SOME TYPE OF PREAUDIT, AND I'M QUOTING ALACHUA COUNTY, IS 129.09.

NOW, I --

>> WHICH WAS CHANGED AFTER ALACHUA COUNTY.

>> NO, 129.09 HAS BEEN IN EFFECT SINCE 1971 AND STILL IN EFFECT.

>> WHAT WAS CHANGED FROM 1977 TO 1979?

>> WHAT WAS CHANGED WAS THE WORDS, POST-AUDIT IN CHAPTER 11.

>> RIGHT.

>> IT CAME INTO BEING.

AND IN CHAPTER 11 THE LEGISLATURE DEFINED THE TYPES OF AUDITS THAT CAN BE DONE, FINANCIAL AUDIT, PERFORMANCE AUDIT, OPERATIONAL AUDIT.

>> AND CHANGED THE BASIS UPON WHICH THE ALACHUA COUNTY COURT RELIED.

>> NO, THE ALACHUA COUNTY COURT, IN MY OPINION, RELIED UPON, THE ALACHUA COUNTY COURT, THE INITIAL TARGET OF THAT OPINION WAS, WHAT IS THE CLERK'S DUTIES UNDER 129.09? NOT UNDER SOME OTHER STATUTE? 129.09 WAS THE STATUTE THAT WAS REFERRED TO IN THE CASE.

AND ALACHUA COUNTY HELD IN THAT CASE THAT UNDER 129.09, EVEN THOUGH THERE WAS NOTHING IN THE

STATUTES THAT SAID THE CLERK MUST PERFORM AN AUDIT, SINCE THE CLERK HAS THE AUTHORITY, AND THE DUTY AND THE RAMIFICATIONS OF NOT DOING IT CORRECTLY, HE HAS TO DO SOME KIND OF PREAUDIT FUNCTION, WHICH IS THE LANGUAGE THAT THE ALACHUA COUNTY COURT USED.

>> A PREAUDIT FUNCTION OR PREPAYMENT AUDIT?

>> A PREAUDIT FUNCTION. PREAUDIT.

NOW, THAT SAME STATUTE, 129.09, THAT PLACES THAT RESPONSIBILITY ON THE CLERK ALSO PLACES THE RESPONSIBILITY ON THE BOARD IN 129.08.

THAT BASICALLY IS THE SAME EXCEPT ONE PLACES THE RESPONSIBILITY ON THE BOARD AND ONE PLACES THE RESPONSIBILITY ON THE CLERK AND THAT IS, YOU CAN NOT SIGN A LEGAL OR MAKE AN ILLEGAL PAYMENT.

>> WHY SHOULD THIS WHOLE RELATIONSHIP NOT BE DETERMINED ON THE BASIS THAT CERTAINLY THE BOARD OF COUNTY COMMISSIONERS RETAINED THE AUTHORITY TO HAVE THE CERTIFIED FINANCIAL AUDITS CONDUCTED BUT THAT DOES NOT IN AND OF ITSELF PROHIBIT A CLERK FROM CONDUCTING AN INTERNAL -- MAY I FINISH.

>> OH, SORRY.

>> TO FINISH, TO COMPLETE AN INTERNAL AUDIT?

>> WELL, THIS IS WHERE THE CONFUSION COMES FROM BECAUSE THE CONSTITUTION DOES NOT SAY THAT THE CLERK IS AN INTERNAL

AUDITOR.

CHAPTER 11 DOES NOT TALK ABOUT EXTERNAL AND INTERNAL AUDITORS.

>> BUT HOW DO YOU, HOW CAN A CLERK BE PERSONALLY RESPONSIBLE BOTH CIVILLY AND CRIMINALLY IF THEY DO NOT HAVE THE ABILITY TO LOOK, INTERNALLY, TO DETERMINE WHETHER SOMETHING HAS BEEN PAID CORRECTLY OR IS BEING PAID CORRECTLY OR IS NOT?

>> WELL, WE DON'T REALLY OPPOSE THE CLERK.

LET ME MAKE THIS CLEAR.

>> WAIT A MINUTE, I NEED AN ANSWER TO THAT QUESTION.

>> HOW DOES, YOUR QUESTION, AGAIN, SIR, I'M SORRY, JUSTICE LEWIS, HOW DOES HE DO WHAT?

>> IF A CLERK HAS BOTH CRIMINAL AND CIVIL LIABILITY FOR ANY IMPROPER PAYMENTS --

>> CORRECT.

>> -- HOW IN THE WORLD CAN THAT POSITION, THE PERSON IN THAT POSITION BE SUBJECT TO THAT RESPONSIBILITY AND LIABILITY IF HE OR SHE, THAT OFFICE-HOLDER IS PROHIBITED FROM LOOKING AT INTERNAL AUDITS?

>> THE CLERK IS NOT PROHIBITED FROM LOOKING AT INTERNAL AUDITS.

LET ME MAKE MYSELF CLEAR HERE WHERE THE COUNTY STAND.

THE BOARD OF COUNTY COMMISSIONERS DOES NOT CONTEST, NUMBER ONE, THAT THE CLERK IS THE CUSTODIAN OF ALL BOARD FUND.

NUMBER TWO, THE BOARD DOES NOT

CONTEST THAT THE CLERK MAY EXAMINE AND INSPECT ALL OF THE FUNDS IN ANY BOARD BANK ACCOUNT, BECAUSE, AND HE CAN DO IT AS OFTEN AS HE WISHES BECAUSE THE CLERK HAS CUSTODY OF THE BOARD'S BANK ACCOUNTS. SO OF COURSE HE CAN LOOK IN THERE.

BOARD FUNDS ARE HELD IN PUBLIC DEPOSITORIES, AND ARE ACCOUNTED FOR BY THE CLERK AS THE BOARD ACCOUNTANT.

THE CLERK TO THE BOARD, UNDER, 125.17, AND THE ACCOUNTANT TO THE BOARD ON THE 2812, HOWEVER, LIMIT WHAT THE CLERK CAN DO.

AND HERE'S WHAT THE CLERK CAN DO UNDER THOSE TWO STATUTES.

NUMBER ONE, THE CLERK CAN PERFORM SUCH OF THE DUTIES AS PROVIDED BY LAW AND IF IT IS NOT PROVIDED BY LAW, HE CAN'T DO THEM.

AND TWO, PERFORM, SUCH OTHER DUTIES AS THE BOARD MAY DIRECT.

>> YOU'RE SAYING THAT ALL THOSE TOGETHER SAY THAT THE CLERK CAN NOT CONDUCT INTERNAL AUDITS.

>> NO I DID NOT SAY --

>> THAT'S MY QUESTION.

>> HE CAN CONDUCT INTERNAL AUDITS OF HIS DEPARTMENT.

THAT'S NOT WHAT HE WANTS TO DO.

HE WANTS TO COME OVER AND CONDUCT INTERNAL AUDITS --

>> HE WANTS TO CONDUCT AN INTERNAL AUDIT OF COUNTY FUNDS.

>> NO, NO.

HE CAN CONDUCT ANY KIND OF AUDIT OF FUNDS BECAUSE HE HAS THE BANK ACCOUNTS.

IN 136.08 CLEARLY SAYS HE
HAS --

>> WHAT IS THIS DISPUTE ABOUT?

>> THE DISPUTE IS ABOUT THIS.

THE DISPUTE IS THAT

HISTORICALLY THE CLERK HAS COME
OVER FROM HIS PART WHERE HE
RESIDES AS A CONSTITUTIONAL
OFFICER, OVER TO THE BOARD'S
SIDE WHERE THEY RESIDE AS
CONSTITUTIONAL OFFICERS AND
WITHOUT NOTICE, WITHOUT ASKING
FOR PERMISSION, HE HAS COME
OVER AND GONE TO DEPARTMENTS IN
THE COUNTY, PLOPPED HIMSELF
INTO THAT DEPARTMENT, AND BEGUN
AUDITS.

>> IF THAT PERTAINS TO THE
EXPENDITURE OF COUNTY FUNDS FOR
WHICH THAT CLERK IS
RESPONSIBLE, WHY CAN HE OR SHE
NOT DO THAT?

>> HE CAN'T DO IT BECAUSE IT IS
A --

>> TELL ME WHERE THE PROVISION
SAYS YOU CAN'T DO THAT.

I'M SORRY I DON'T BUY THAT --

>> I HAVE --

>> MAY I FINISH PLEASE?

MAY I FINISH MY QUESTION
PLEASE?

>> YES.

>> I DON'T SEE HOW ALACHUA
COUNTY ADDRESSES THAT.
BECAUSE ALACHUA COUNTY
ADDRESSES POST-AUDIT,
POST-PAYMENT AUDIT AND IT DEALS
WITH THE ISSUE WITH REGARD TO
THE STATUTE THAT YOU CHANGED
THE PHRASEOLOGY THAT WOULD
ALLOW, WHETHER IT WOULD ALLOW
INDEPENDENT AUDITORS TO COME IN

OR ALLOW THE CLERK TO COME IN.
DOESN'T IT?

>> NO, YOUR HONOR.

>> OKAY.

>> UNFORTUNATELY I BEG TO
DIFFER WITH YOU.

ALACHUA COUNTY, THAT CASE DEALS
WITH THE AUDIT POWER OF CLERK
VIS-A-VIS THE BOARD OF COUNTY
COMMISSIONERS

STRAIGHTFORWARDLY, I MUST SAY.

>> MISS HUBBARD, PLEASE ANSWER
FULLY JUSTICE LEWIS'S QUESTION.

I WANT TO REMIND YOU HAVE
ALMOST 11 MINUTES.

THEREFORE IN YOU'RE REBUTTAL
TIME.

>> I'M IN REBUTTAL BUT LET ME
JUST SAY THERE ARE SERIES OF
CASES FROM THIS VERY COURT THAT
GO ALL THE WAY BACK TO THE TURN
OF THE LAST CENTURY THAT SAYS
CONSISTENTLY FROM LANDI v.
WHEAT, WHITE v. CRANDON, TO
ALACHUA COUNTY, TO ESCAMBIA v.
BELL, THOSE CASES FROM THE
SUPREME COURT SAY THAT THE, THE
CONSTITUTION CONTEMPLATES THE
CLERK AS EX OFFICIO AUDITOR OF
THE COUNTY WHO SHALL AUDIT ALL
CLAIMS AGAINST THE COUNTY, THAT
ARE PRESENTED FOR PAYMENT, BUT
NOT PERFORM OTHER AUDITING
DUTIES UNLESS SO REQUIRED BY
STATUTE.

>> LET ME TALK TO YOU ABOUT THE
STATUTE FOR A MINUTE.

136.08 SAYS, A CLERK'S DUTIES
ALSO SHALL INCLUDE THE
INSPECTION AND EXAMINATION OF
THE ACCOUNTS OF EACH AND EVERY
BOARD AND THE ACCOUNTS OF EACH

AND EVERY DEPOSITORY.

>> THAT'S CORRECT.

BECAUSE UNDER OUR SYSTEM OF GOVERNMENT, WHICH WE DO HAVE A SEPARATION OF POWERS HERE, UNDER 136, IT TALKS ABOUT THE FACT THAT BOARD FUNDS ARE HELD IN PUBLIC DEPOSITORIES.

SO ALL BOARD MONEY MUST BE IN PUBLIC DEBOSSERS TO.

>> WHEN YOU READ THAT SENATE OF THE STATUTE IS IT YOUR VIEW IT ONLY PERTAINS TO DEPOSITORIES OR SOMETHING IN ADDITION TO THAT?

>> I THINK IT IS ENTITLED COUNTY DEPOSITORIES.

>> IT SAYS -- IT SAYS THE INSPECTION AND EXAMINATION --

>> YES.

>> EXAMINATION WOULD ALSO INCLUDE A TYPE OF AUDIT REVIEW, RIGHT?

>> WELL, IT SAYS, LET ME PUT IT THIS WAY.

IT DEFINITELY, 136.08 SAYS THAT THE AUDITOR GENERAL AND THE CLERK MAY INSPECT AND EXAMINE ALL BANK ACCOUNTS OF THE COUNTY.

>> WELL IT SAYS MORE THAN BANK ACCOUNTS.

IT SAYS THE ACCOUNTS OF EACH AND EVERY BOARD AND, AND, THE COUNTY ACCOUNTS OF EACH AND EVERY DEPOSITORY.

WHEN I READ THAT, SEEMS TO ME WHAT THEY'RE SAYING IS ACCOUNTS AS IN THE TERM OF, LIKE IN A GENERAL LEDGER OR THE ACCOUNTS THAT THE COUNTY USES TO ACCOUNT FOR ITS FINANCIAL STATEMENTS,

NOT A PRESENTATION OF FINANCIAL STATEMENTS BUT, THE ACCOUNTS OF THE BOARD AND THE DEPOSITORY ACCOUNTS.

IT SAYS TWO SEPARATE THINGS THERE, DOES IT NOT?

>> IT MAY BUT IT SAYS THAT ALL COUNTY MONEY WILL BE IN COUNTY DEPOSITORIES.

AND THE ONLY ACCOUNTS HANDLED BY COLLIER COUNTY ARE ALREADY HANDLED BY THE CLERK.

THE CLERK IS THE CHIEF FINANCIAL OFFICER OF THE COUNTY.

THE CLERK HAS ACCESS TO EVERY DOCUMENT THAT HE COULD POSSIBLY NEED TO EXAMINE OR INSPECT.

BUT HE WANTS TO COME OVER TO THE COUNTY AND INTERROGATE THE COUNTY EMPLOYEES BY CONDUCTING WHAT HE CALLS AN AUDIT.

>> WHY DOESN'T THAT STATUTE GIVE THE CLERK THE AUTHORITY TO DO THAT?

>> BECAUSE THAT STATUTE, THAT STATUTE DOES NOT GIVE THE CLERK THE ABILITY TO COME OVER AND INTERROGATE EMPLOYEES BECAUSE OF ANOTHER STATUTE.

>> AND I'M GOING, YOU ARE NOW, JUSTICE, PLEASE ANSWER THE QUESTION.

I JUST WANT YOU TO BE AWARE YOU USED UP YOUR REBUTTAL AND ABOUT TO USE UP MR. STEWART'S TIME SO GO AHEAD.

>> CHAPTER 125 GIVES THE BOARD BROAD HOME RULE POWERS. AND UNDER 125 IT GIVES THE BOARD THE AUTHORITY TO CONDUCT, INVESTIGATIONS OF COUNTY

AFFAIRS, IT GIVES THE BOARD THE ABILITY TO INTERROGATE COUNTY EMPLOYEES.

THE CLERK IS NOT A PROSECUTOR OF THE COUNTY.

THE COUNTY UNDER 125 HAS BEEN GIVEN THE DUTY, TO, PROSECUTE AND DEFEND CASES FOR THE COUNTY.

NOT THE CLERK.

THE CLERK HAS NO AUTHORITY TO COME OVER TO THE BOARD AND INTERROGATE ANY EMPLOYEES.

THIS IS WHERE WE FALL APART.

AS FAR AS THE CLERK BEING ABLE TO LOOK AT ANY DOCUMENT, THEY'RE ALL PUBLIC RECORDS.

AND FOR THE CLERK TO BE ABLE TO LOOK AT ANY -- ABLE TO LOOK AT ANY ACCOUNT HE HAS THEM ALL. THERE IS NO REASON WHY HE CAN'T LOOK AT THEM.

HE CAN LOOK AT THEM BEFORE PAYMENT, AFTER PAYMENT, WHATEVER.

THAT IS NOT WHAT HE WANTS TO DO.

>> YOU'RE NOW OUT OF TIME. I WILL GIVE YOU A MINUTE ON REBUTTAL I ASSUME YOU WANT MR. STEWART TO HAVE HIS TIME. THANK YOU VERY MUCH.

>> YOU'RE WELCOME.

>> MAY IT PLEASE THE COURT. MY NAME IS GREG STEWART, WITH LAW FIRM OF NEIGHBORS, NICKERSON.

REPRESENT THE FLORIDA ASSOCIATION OF COUNTY.

>> WE HAVE A TURF WAR AND REAL LIFE QUESTION, IS THIS ONLY LIVE IN THE 20th CIRCUIT OR IS

THIS THE KIND OF TURF WAR THAT IS OCCURRING ALL OVER THE STATE AND WHAT'S REALLY AT ISSUE HERE?

WE WANT TO MAKE SURE THE BALANCE THE CONSTITUTION ENVISIONED BETWEEN THE CLERK AND THE BOARD IS HONORED. AND NOT HAVE MISSION CREEP. SO IF YOU COULD GIVE, HELP US WITH THAT.

>> I THINK THAT THE CHARACTERIZE THIS AS HAPPENING ALL OVER THE STATE IS NOT CORRECT.

>> I SAID I DIDN'T THINK IT WAS BUT I WANT TO KNOW, YOU KNOW, WHAT'S THE, IS THIS REALLY ABOUT POLITICS AND A CLERK THAT IS JUST, IS PUTTING HIS NOSE INTO BUSINESS THAT IS NOT HIS BUSINESS, OR A CLERK THAT IS TRYING TO, IN EARNEST CARRY OUT HIS STATUTORY RESPONSIBILITIES?

>> WELL, I THINK FROM THE ASSOCIATION OF COUNTIES PERSPECTIVE, LET ME GIVE IT THAT BASIS THAT WHAT WE ARE DEALING WITH WE HAVE VARIOUS DEFINED RULES THE CLERK OF THE COURT HAS UNDER THE CONSTITUTION.

HE IS AN AUDITOR FOR THE COUNTY.

HE IS THE CUSTODIAN OF FUND FOR THE COUNTY.

>> WHAT DOES IT MEAN HE IS AUDITOR OF COUNTY?

>> GOOD QUESTION.

THE, IN TERMS OF THE ROLE THAT THE CLERK PLAYS, AS AUDITOR, IT IS WELL-DEFINED.

IN ADDRESSING JUSTICE LEWIS'S QUESTION, THE ALACHUA COUNTY CASE I BELIEVE IS STILL GOOD LAW, IS STILL VIABLE, NOTWITHSTANDING THE AMENDMENT.

IN THAT CASE THE RESPECTIVE FUNCTIONS AS THE CLERK AND AS AN AUDITOR ARE WELL-DEFINED.

HE HAS A PREEXPENDITURE, PREAUDIT RESPONSIBILITIES.

HE IS TO MAKE THAT DETERMINATION PRELIMINARILY, WHETHER A PUBLIC PURPOSE IS SERVED, WHETHER IN FACT AUTHORIZATION HAS BEEN MADE FOR THIS EXPENDITURE.

HOWEVER, IN ALACHUA, AND IN THE STATUTORY FRAMEWORK, POST-AUDIT EXPENDITURES ARE NOT HIS RESPONSIBILITY.

ONCE THAT EXPENDITURE HAS BEEN MADE, THEN IT IS THE RESPONSIBILITY OF A CERTIFIED, ACCOUNTING FIRM HIRED BY THE COURT.

>> HOW DOES IT COME INTO PLAY THAT, IT DOESN'T SEEM LOGICAL TO ME.

THAT, A CLERK WOULD HAVE THE, OBLIGATION OF MAKING SURE THAT THE FUNDS ARE EXPENDED CORRECTLY, AND HAVE SOME CIVIL AND CRIMINAL LIABILITY IF IT ISN'T, WHEN, IF THE, IF HE CAN NOT GO BACK, AFTER HE'S MADE THIS PAYMENT, AND STILL LOOK AT EVERYTHING, TO MAKE SURE THAT HE IN FACT MADE A PROPER PAYMENT.

>> AND I THINK THAT THIS IS A PROBLEM IN DEFINING WHAT HE IS DOING.

NOBODY IS SAYING THAT THE CLERK HAS NO ABILITY TO REVIEW THE RECORDS, REVIEW THE EXPENDITURES.

HOWEVER, WHERE THE CLERK IS SEEKING TO NOW DO A MORE, A POST-AUDIT, A POST-REVIEW FROM AN AUDIT PERSPECTIVE OF THESE EXPENDITURES, HE IS INTRUDING IN ANOTHER AREA.

>> LET'S TALK ABOUT REAL LIFE SITUATION.

THE LAST PART OF MISS HUBBARD'S STATEMENT WAS, HE HAS TOTAL ACCESS TO THE, TO EXAMINE AND INSPECT ALL OF THE FUND.

SO, IN THE SNARE YEE --

SCENARIO, MR. ^ACKERMAN GIVES THE CLERK CAN LOOK AT NEXT PAYMENT, LOOK WHAT HAPPENED PEF BEFORE.

WHAT WE'RE TALKING ABOUT HERE TO LOOK AT TWO DISCRETE ISSUES. CAN THE CLERK BEFORE PAYMENT IS MADE GO AND TALK TO THE COUNTY DEPARTMENT THAT'S REQUESTING THE PAYMENT AND INTERROGATE THE EMPLOYEE AS TO WHAT THE PURPOSE OF THEIR TRAVEL IS, AND YOU KNOW, WHAT WE WOULD CONSIDER TO BE, MAKING SURE THAT THERE'S A LEGITIMATE EXPENDITURE, BEFOREHAND, CAN THE CLERK GO AND TALK TO WHOEVER HE NEEDS TO, OR SHE NEEDS TO ABOUT WHY THE PAYMENT IS BEING REQUESTED?

>> PREEXPENDITURE, THE CLERK HAS TO MAKE A DETERMINATIONS, AS PART OF HIS FUNCTION, WHETHER THIS PUBLIC PURPOSE SERVED, WHETHER IN FACT --

>> WHAT I'M ASKING YOU --

>> THAT TYPE OF INQUIRY I WOULD
SUBMIT IS APPROPRIATE.

>> SO THEY CAN GO OVER, GO FROM
THEIR OFFICE, OVER TO THE
BOARD, AND ASK MR. SMITH, ARE
YOU REALLY GOING TO NEW YORK ON
THIS, OR IS THERE ANOTHER
PURPOSE?

AND HE CAN ASK ALL THOSE
QUESTIONS.

CAN HE DO THAT?

>> YES.

>> AND CAN HE ALSO, IN TERMS OF
LOOKING AT ONE DEPARTMENT, THAT
KEPT ON REQUESTING AND
REQUESTING AND, YOU KNOW,
PAYMENTS UP TO NEW YORK, SAY,
YOU KNOW, GO AND FIND OUT
WHETHER THEY IN THAT DEPARTMENT
HAVE SUFFICIENT INTERNAL
CONTROLS OVER HOW THEIR
EMPLOYEES ARE ABLE TO TRAVEL?
IS THAT PART OF THE PREAUDIT
FUNCTION?

>> I WOULD SAY NO.

I WOULD SAY --

>> ISN'T THAT --

>> A POST, OR FINANCIAL AUDIT
DONE SUBSEQUENT TO THE
EXPENDITURE.

WHETHER YOU HAVE THE CONTROLS
IN PLACE.

THE FRAMEWORK WE NEED TO KEEP
IN MIND IS WHAT THE
LEGISLATURE, HOW THEY
STRUCTURED THIS FROM AN AUDIT
PERSPECTIVE AND THEY HAVE THE
CLERK DOING THE PREAUDIT,
PREEXPENDITURE.

THEY HAVE AN INDEPENDENT ENTITY
DOING THE POST.

THE REASON IS A CHECK AND

BALANCE.

IT IS A CHECK AND BALANCE NOT ONLY OF COUNTY EXPENDITURES BUT OF THE CLERK.

AND SO THAT INDEPENDENT THIRD PARTY WHO COMES IN AND, THAT PROVIDES THE TRANSPARENCY FOR THE EXPENDITURE.

NOW WHETHER IN FACT THE CLERK WOULD LIKE TO DO ADDITIONAL POST-EXPENDITURE REVIEW, HE HAS NO STATUTORY AUTHORITY.

>> WHAT ABOUT 136.08?

>> THE ISSUE CONCERNING THE DEPOSITORIES?

>> AND THE ACCOUNTS.

>> AND THE ACCOUNTS.

>> I WOULD SUBMIT THAT ISSUE DEALS WITH THE CLERK'S ROLE AS CUSTODIAN OF COUNTY FUNDS.

>> WHAT ABOUT THE FIRST PART OF THAT WHERE IT SAYS THE ACCOUNTS OF EACH AND EVERY BOARD AND THE COUNTY COUNCIL, AND EACH AND EVERY DEPOSITORY?

>> I WOULD AGAIN SUBMIT THAT IS THE ROLE OF THE CLERK AS CUSTODIAN OF COUNTY FUNDS.

THAT IS THE GRANTING AND CLARIFYING THE EXTENT OF AUTHORITY HE HAS AS TO, AS HIS ROLE OF CUSTODIAN.

THAT IS SEPARATE AND DISTINCT FROM WHAT WE'RE TALKING ABOUT IN THE AUDIT.

>> YOU VIEW THAT AS PERTAINING ONLY TO BANK ACCOUNTS?

>> YES.

>> THAT WHOLE SECTION?

>> YES. I BELIEVE THAT'S WHAT THE INTENT IS.

>> IS THIS WHOLE FIGHT WHAT YOU

CALL, WHAT THE CLERK'S DOING
AFTER IT IS PAID?

IS THAT WHAT THIS FIGHT IS?
WE'RE TRYING TO UNDERSTAND
THIS.

>> THIS IS AN ISSUE THAT, IT
MAY BE DEFINITION IN COLLIER
COUNTY BUT IS AN ISSUE OF
SIGNIFICANCE TO THE STATE
BECAUSE IN TERMS OF THE CLERK'S
ROLE IN HOW HE PERFORMS THAT
AUDIT FUNCTION, IT IS, CLARITY
IS NEEDED IN TERMS OF HOW FAR
IS ALACHUA COUNTY STILL VALID
LAW? IS THERE A --

>> AGAIN, IS IT THE QUESTION OF
WHAT YOU CALL, WHAT HE'S DOING?
I MEAN, TO, WE KNOW THAT THE
CLERK CAN NOT DO ONE OF THESE
CERTIFIED AUDITS THAT YOU WOULD
CALL IN AN EXTERNAL AUDITOR TO
COVER THAT. WE KNOW THAT, RIGHT?
BUT DOES THAT IN AND OF ITSELF
AFTER WE CHANGED THE
DEFINITIONS, IN THE STATUTE, TO
REFER TO FINANCIAL AUDITS AS
OPPOSED TO AN INTERNAL AUDIT,
DOESN'T THAT SATISFY AND REMOVE
THE ISSUE THAT ALACHUA WAS
DECIDED ON?

THAT IS THE QUESTION THAT UNDER
THIS STATUTE, WHO IS TO CONDUCT
THESE POST-PAYMENT AUDITS?
IS THAT THE SUM AND SUBSTANCE
OF THIS FIGHT?

>> I THINK ISSUE WHO CONDUCTS
IT IS CLEAR. IT IS NOT THE CLERK.
I THINK THE ISSUE --

>> A FINANCIAL AUDIT BUT THE
QUESTION IS DOES IT PROHIBIT A
CLERK FROM DOING AN INTERNAL
AUDIT?

WE USE THIS PHRASE INTERROGATE.
ISN'T JUST WHAT JUSTICE
PARIENTE SAID, YOU GO NEXT DOOR
AND ASK WHAT IS THIS?
I THINK WE GET OUT OF THIS
ADVERSARIAL ROLE, WE ALL FALL
INTO TOO OFTEN, IF THEY CAN GO
ASK A QUESTION ABOUT HOW IT WAS
SPENT?

CAN'T DO THAT?

>> AND I'M NOT CHARACTERIZING
INTERROGATION.

THAT'S NOT MY ROLE HERE.

>> THAT SEEMS TO BE THROWN
AROUND.

>> I UNDERSTAND.

WHAT WE'RE DEALING WITH THOUGH
IN TERMS OF THIS, AND I THINK
IT IS IMPORTANT FROM THE
ALACHUA PERSPECTIVE, IS, YOU
ASKED A QUESTION CONCERNING THE
CHANGE IN STATUTORY LAW.

>> RIGHT.

>> THE FUNCTION OF THIS
POST-AUDIT THAT WAS ADDRESSED
IN ALACHUA, AS OPPOSED TO
FINANCIAL AUDIT, HAS NOT
CHANGED.

IT STILL REQUIRES A REVIEW OF
EXPENDITURES TO DETERMINE THEIR
LEGALITY.

THE CHANGE THAT HAS OCCURRED
BECAUSE OF THAT IS THAT THE
LEGISLATURE NOW REQUIRES IN
ADDITION TO THAT, AN OPINION,
THAT THE --

>> FINANCIAL AUDIT.

>> THE GENERAL ACCOUNTING
PRINCIPLES.

IT REQUIRES MORE THAN IT USED
TO, IN ALACHUA.

IN TERMS OF A REVIEW OF A

POST-EXPENDITURE ANALYSIS, THAT IN FACT IS THE RESPONSIBILITY OF AN INDEPENDENT THIRD PARTY TO --

>> I DON'T THINK THAT IS THE QUESTION.

THE QUESTION IS, DOES IT PRECLUDE ONE OF THESE INTERNAL THINGS, FOR A CLERK TO ASK ABOUT THE EXPENDITURE, NOT TO DO A FINANCIAL AUDIT BUT AS JUSTICE POLSTON HAS ASKED, JUST TALKING ABOUT ACCOUNTS, RESPONSIBLE FOR THOSE. AND TO DO IT ON AN INTERNAL BASIS?

>> WELL, LET'S PUT SOME DEFINITION TO THE TERM INTERNAL.

>> AS YOU'RE ANSWERING, YOU'RE FIVE MINUTES OVER YOUR TIME BUT I THIS IS IMPORTANT ENOUGH AND YOU'RE GIVING SOME ADDITIONAL INSIGHT THAT WE REALIZE WE TOOK THE CASE BECAUSE IT HAS SOME IMPORTANT IMPLICATIONS SO PLEASE ANSWER THE QUESTION FULLY.

>> I APOLOGIZE.

I'M NOT TRYING TO USE YOUR TIME.

>> IT'S ALREADY GONE. IT'S OVER.

I DON'T WANT MY COLLEAGUES TO BE UPSET, YOU KNOW, WE'RE, UNDULY SAYING THE TIME. SO PLEASE ANSWER THESE QUESTIONS.

I THINK IT IS IMPORTANT.

>> ASSUMING THAT WE USE OF THE AN INTERNAL AUDIT AND AN TURNNAL REVIEW AND IT

CONSTITUTES GOING TO EXPENDITURES THAT HAVE ALREADY BEEN APPROVED AND TO DETERMINE SUBSEQUENT TO THEM, THAT THEY ARE ILLEGAL, OR LEGAL, THAT IS BEYOND THE AUTHORITY OF THE CLERK.

THAT IS THE RESPONSIBILITY OF THIS INDEPENDENT ACCOUNTING FIRM.

AND SO, THAT IS REALLY WHAT WE'RE DEALING WITH HERE, IS WE'RE BASICALLY GOING AFTER THE EXPENDITURE OF THESE FUNDS, AND, MAKING A SUBSEQUENT ANALYSIS.

WHETHER YOU CALL --

>> LET ME ASK ONE QUESTION.

AS CLERK IF I'M WORKING THAT POSITION, AND YOU WORKING WITH THE COUNTY HAVE MADE A REPRESENTATION TO ME FOR REIMBURSEMENT FOR WHATEVER IT IS, X, Y, Z AND I'M RESPONSIBLE FOR THAT AND SOMEHOW THERE IS MISCOMMUNICATION IN THE APPROVAL, WHATEVER, AND, NOT TO GET INVOLVED IN CALLING IN THE COPS AND ALL THAT STUFF, BUT TO DETERMINE THE FLOW OF COUNTY DOLLARS.

CAN I AS A CLERK, GO SEE, I'M GOING TO, AS JUSTICE PARIENTE, I'M GOING TO NEW YORK AND HERE'S OUR EXPENSES.

ALL OF SUDDEN IT COMES BACK AND THERE ARE FUNNY EXPENSES THERE.

MONEY HAS ALREADY BEEN SPENT.

CAN A CLERK LOOK AT THAT AND ASK WHAT IS THAT?

>> IT MAY SEEM IT IS OVERLY RESTRICTIVE TO SAY NO BUT --

>> THAT'S THE ANSWER?

>> THAT IS HOW WE STRUCTURED IN TERMS OF THE CLERK HAS VERY LIMITED --

>> IN THAT SITUATION, THEY, WHO DO THEY GO TO, TO THE BOARD TO SAY I NEED TO ASK ADDITIONAL QUESTIONS?

>> THAT WOULD BE ONE. OR CERTAINLY GO TO OUTSIDE AUDITOR, POST-EXPENDITURE. THAT IS WHY WE HAVE THAT INDEPENDENT PERSON WHO IS MAKING AN INDEPENDENT REVIEW THAT WHETHER THE CLERK HAD, SHOULD NOT HAVE APPROVED A PRIOR EXPENDITURE.

>> OKAY.

NOW, THE WHERE DOES IT SAY, THAT THEY CAN NOT DO THAT?

>> IT DOES NOT SAY SPECIFICALLY.

>> ALL RIGHT.

>> THE CLERK BEING A, HAS NO AUTHORITY EXCEPT THAT WHICH HAS BEEN EXPRESSLY GRANTED OR IMPLIED TO CARRY OUT THE TERMS. THERE IS A LONG, LONG LIST.

>> I AGREE.

>> THE QUESTION SHOULD IT BE IMPLIED HERE?

>> I WOULD SAY NO.

BECAUSE WHAT YOU'RE DEALING WITH HERE, IS YOU'RE IMPLYING HE HAS AUTHORITY BEEN LEGISLATIVELY GRANTED TO A SPECIFIC INDIVIDUAL AND IT IGNORES THE CHECKS AND BALANCE THAT IS THE LEGISLATURE HAS ATTEMPTED TO BUILD INTO THIS PROCESS.

>> OKAY.

>> THANK YOU VERY MUCH FOR YOUR ASSISTANCE.

TIME AGAIN IS COMPLETELY USED UP. GIVE 30-MINUTE REBUTTAL. MR. ACKERMAN, YOU'RE UP.

>> GOOD MORNING, MAY IT PLEASE THE COURT. I'M DAVID ACKERMAN, FOR THE CLERK FOR COLLIER COUNTY. THE SECOND DCA CORRECTLY ANALYZED THE FOUR STATUTES WHICH IMPLEMENT THE TWO ARTICLES OF THE CONSTITUTION WHICH DEFINE THE CLERK'S CONSTITUTIONAL ROLES AND THE COURT HELD THAT THE CLERK'S PRACTICE OF PERFORMING INTERNAL AUDITS WAS A REASONABLY IMPLIED POWER IN ORDER TO CARRY OUT HIS VERY IMPORTANT DUTIES.

>> WHAT IS IT, LET'S, TRYING TO UNDERSTAND WHAT IT IS. IT APPEARED TO BE THAT THERE WAS, THAT THIS CAME OUT OF SOMETHING WHERE THE CLERK FINDS OUT THERE'S SOME OTHER FUND --.

>> AND WHAT IS LEGITIMATELY THERE, A REQUIREMENT, WHY, ISN'T WHAT JUDGE SILBERMAN AND THE TRIAL JUDGE SAID A BETTER POLICY AND IF THE LEGISLATURE FEELS THAT THE CLERK SHOULD HAVE ADDITIONAL RESPONSIBILITIES, LET THE LEGISLATURE BE CLEAR ABOUT IT?

>> WELL, WHAT JUDGE SILBERMAN CONCLUDED WAS, THERE ARE A NUMBER OF POWERS GIVEN TO THE BOARD WHICH OVERLAP. THE POWERS GIVEN TO THE BOARD IN CHAPTER 125 DO INCLUDE THESE POWERS OF INVESTIGATION, POWERS TO INTERROGATE, WHATEVER YOU

WANT TO CALL IT.

BUT WHAT WAS WRONG ABOUT THE
DISSSENT WAS THOSE SHOULD NOT BE
INTERPRETED IN A WAY WHICH IS
UP PLANT THE CONSTITUTIONAL
ROLE OF THE CLERK.

>> EXCEPT THAT, YOU GOT TO
FUNCTIONING BOARD, SEPARATELY
ELECTED, WITH ALL THESE
EMPLOYEES.

WE'VE GOT A SEPARATELY ELECTED
CLERK OF COURT THAT HAS A
SEPARATE OFFICE.

AND THERE IS SOMETHING ABOUT,
YOU KNOW, WHERE, MANY CASES,
HAVE DEFINED THE CLERK'S ROLE
AS ESSENTIALLY MINISTERIAL.

SO, THE IDEA OF THE CLERK
BECOMING AN INVESTIGATIVE ARM
TO LOOK INTO THINGS THAT, THAT
THE COUNTY IS NOT LOOKING INTO,
BECAUSE ALL THEY HAVE TO DO IS
SAY TO THE COUNTY, LISTEN,
THERE'S SOMETHING GOING ON,
WHICH APPARENTLY THEY DID AND
THE COUNTY GOT THE MONEY INTO
THE CLERK.

SO, WHAT MY CONCERN IS, IS THAT
IT BECOMES POLITICAL WHERE YOU
HAVE ANOTHER INDEPENDENTLY
ELECTED OFFICER, WHICH, WHO HAS
A LOT OF OTHER
RESPONSIBILITIES, CERTAINLY
WITH THE COURT RECORDS, COMING
IN AND, EXCEEDING, OR
OVERLAPPING, WITH AUTHORITY
GRANTED TO THE BOARD WHEN THAT,
AUTHORITY HASN'T BEEN EXPRESSLY
GRANTED BY THE LEGISLATURE TO
THEM?

>> WELL, COUPLE THINGS.
CHRONOLOGICALLY WHAT HAPPENED

HERE, WAS THE CLERK LEARNED THAT A FIRE DISTRICT WAS KEEPING THIS NONGOVERNMENTAL ACCOUNT, THE MONEY, CHECKS MADE PAYABLE TO THE COUNTY WERE BEING DEPOSITED IN THIS ACCOUNT.

HE ALSO FOUND AN ACCOUNT WHERE, A FIRE DISTRICT, CALLED UPON THE COUNTY TO IMPOSE FEE FOR A DEVELOPER, TO BUY A FIREBOAT, IN ORDER TO GO OUT TO THE ISLAND OF CAPRI.

INSTEAD OF THAT MONEY GOING TO BUY A FIREBOAT, IT WAS DEPOSITED IN THIS ACCOUNT AND THE COUNTY USED TAXPAYER FUNDS TO BUY THE BOAT.

AFTER THE CLERK LEARNED ABOUT THAT, HE FILED A DECLARATORY JUDGEMENT ACTION ASKING TO HAVE THE MONEY RETURNED TO THE COUNTY AND TO BE ABLE TO PERFORM AN ACCOUNTING.

THE ACCOUNT HAD BEEN MAINTAINED FOR YEARS AND HE WANTED TO MAKE SURE HE WAS ABLE TO ACCOUNT FOR THAT.

THAT'S WHERE THE POLITICAL PROBLEM AROSE BECAUSE THE COUNTY --

>> WHOSE ACCOUNT THOUGH?

AS I UNDERSTOOD IT, THIS ACCOUNT ACTUALLY HAD MONIES THAT THE FIREFIGHTERS THEMSELVES HAD PUT INTO THIS ACCOUNT, IS THAT CORRECT? AND WITH WOULD THAT BE COUNTY FUNDS?

>> NO. THE MONEY THAT WE'RE, WE WERE CONCERNED ABOUT WAS --

>> BUT YOU WERE, THERE WAS SOME

OTHER MONIES PUT IN THERE?

>> A CHECK MADE PAYABLE TO THE COUNTY WAS DEPOSITED IN A NONGOVERNMENTAL ACCOUNT.

>> THIS IS NOT A --

>> SO AFTER THE, AFTER THE CLERK FILED SUIT THE COUNTY RESPONDED BY FILING THIS QUO WARRANTO ACTION.

>> THE CLERK HAS AUTHORITY AND IS COLLECTOR OF FEES IN ITS COURT-RELATED FUNCTION AND BUT, DO THEY HAVE ANY AUTHORITY TO COLLECT FUND FOR THE COUNTY? ARE THEY DELEGATED ANY RESPONSIBILITY IN THAT REGARD WITH RESPECT TO COUNTY FUNDS?

>> WELL, --

>> OR I GUESS, THEY DO NOT HAVE THAT AUTHORITY?

>> THAT'S NOT IN OUR RECORD. THAT'S NOT A PROBLEM IN OUR RECORD.

WE DON'T HAVE A SITUATION WHERE THE CLERK IS SAYING, HE MAINTAINS THE ACCOUNTS. HE IS THE CUSTODIAN OF ALL COUNTY FUND.

AND I GUESS THERE IS SOME CIRCUMSTANCES WHERE HE COLLECTS FEES.

>> IN OTHER WORDS, THAT IS OUTSIDE, THE BOTTOM LINE ON THAT ONE, IF THERE IS SOME OTHER MISCONDUCT GOING ON, HE CAN, REPORT, I GUESS COULD GO TO THE PRESS.

HE CAN, REPORT IT TO THE, AUDITOR, THE INDEPENDENT AUDITOR.

HE CAN, LOOK AT, LIKE ANY CITIZEN CAN, LOOK AT THE PUBLIC

FUND.

BUT THE QUESTION IS WHETHER,
HE OR SHE, GENERICALLY THE
CLERK, CAN, THEN, START TO DO
ADDITIONAL INVESTIGATION ABOUT
SOMETHING THAT WAS NOT PLACED
IN ONE, THE DEPOSITORRY.

I DON'T SEE WHERE THEY HAVE
THAT AUTHORITY?

>> WELL, IT IS THE IMPLIED
AUTHORITY, WELL THERE ARE A
COUPLE THINGS WE'RE TALKING
ABOUT HERE.

IF WE'RE TALKING ABOUT THE FIRE
DISTRICT CASE, LET'S LOOK AT
OUR RECORD.

WHAT THE CLERK DID WAS HE
CALLED THAT PROBLEM TO THE
ATTENTION OF THE BOARD AND THE
BOARD REQUIRED THEM TO RETURN
IT. THAT SEEMS TO BE A REASONABLE
THING TO DO.

>> A QUESTION IN TERMS OF THE
CLERK'S AUTHORITY WITH RESPECT
TO THE, THE BOARD.

WE'RE VERY FAMILIAR WITH THE
CLERK'S AUTHORITY REFERENCE TO
THE COURT RECORDS AND --

>> THAT IS VERY DIFFERENT.

>> SO HAPPY THAT WE'RE HERE ON
SOMETHING OTHER THAN THAT KIND
OF DISPUTE.

WHAT IS THE, THE IDEA THAT THE
CLERK WAS, YOU KNOW, MADE AN
AUDITOR FOR COUNTY FUNDS, IN
TERMS OF THE SEPARATION OF
POWERS?

LOOKS LIKE MR.^BROCK IS
ASSERTING THAT SOMEHOW THEN
GAVE, OR SHOULD GIVE THE CLERK
SOME GREATER RESPONSIBILITY FOR
INSURING THAT THE FINANCE,

FINANCIAL STATUS AND HOW THINGS
ARE GOING WITHIN THE COUNTY
SHOULD BE HIS RESPONSIBILITY,
NO?

>> I DISAGREE.

>> THAT IS NOT WHAT THIS IS
ABOUT?

>> CORRECT.

IF YOU TAKE THIS ALACHUA
COUNTY, THE COURT DECISION IN
ALACHUA COUNTY AND SUBSTITUTE
THE WORDS POST-AUDIT WITH THE
WORDS FINANCIAL AUDIT OR
EXTERNAL AUDIT AND YOU TAKE THE
WORDS PREAUDIT AND SUBSTITUTE
THE WORDS INTERNAL AUDIT, THAT
CASE IS A ALIVE AND WELL TODAY.

IT IS A PRETTY TRADITIONAL
ORGANIZATIONAL SETUP.

FOR EXAMPLE IN A PUBLIC
CORPORATION YOU HAVE AN
INTERNAL AUDIT DEPARTMENT WHICH
IS AWAY FROM THE MARKETING,
SALES AND PROCUREMENT.

AND THEY PERIODICALLY CONDUCT
INTERNAL AUDITS.

WHEN THE EXTERNAL AUDITOR COMES
IN ON AN ANNUAL BASIS.

THAT EXTERNAL AUDITOR IS DOING
FINANCIAL AUDIT AND RENDERING
OPINION ON FAIRNESS WHICH THE
FINANCIAL STATEMENTS ARE
PRESENTED.

THOSE ARE DIFFERENT FUNCTIONS
AND THE CLERK'S INTERNAL AUDIT,
IT IS A PRETTY MUNDANE, ROUTINE
EVENT.

IF YOU LOOK AT THE COUNTY'S
APPENDIX WHERE THERE ARE ALL
THESE INTERNAL AUDITS ARE, ^WHAT
HAPPENS IS, SOMEONE WILL SAY,
TO THE COUNTY, WOULD YOU, FOR

EXAMPLE, WOULD YOU SHOW US THE POLICY WHICH GOVERNS YOUR PURCHASES.

WOULD YOU SHOW US THE MAKING THESE PAYMENTS AND LOOK AT PERIOD, NEXT SIX MONTHS TO SEE WHAT YOUR CONTROLS ARE LIKE.

FOR EXAMPLE, IN A PARKS AND RECS AUDIT, COUNTY EMPLOYEES HAVE CREDIT CARDS.

AND, ONE EMPLOYEE WAS VIOLATING THE POLICY AGAINST LIMITS, BY, BREAKING UP THE PURCHASES.

MUCH LIKE THAT ESCAMBIA COUNTY JUDGE DID IN MAYS AGAINST FLOWERS CASE.

SO THE CLERK FOUND THAT HE MADE PAYMENTS BECAUSE A COUNTY EMPLOYEE MISREPRESENTED PAYMENTS.

>> WHAT IS IT WE'RE REALLY ARGUING ABOUT?

THE MORE I HEAR OF THIS THE MORE I AM NOT SURE, WHAT IS IT THAT THE CLERKS SAY THEY HAVE THE AUTHORITY TO DO THAT THE BOARD SAYS THEY DON'T HAVE THE AUTHORITY TO DO?

>> THE CLERK WOULD LIKE TO CONTINUE THE PRACTICE OF CONDUCTING INTERNAL AUDITS IN ORDER TO --

>> NOW WHAT DO YOU MEAN WHEN YOU SAY AN INTERNAL AUDIT?

>> AN INTERNAL AUDIT WHERE YOU ASK FOR PAPERS AND ASK QUESTIONS OF EMPLOYEES.

THAT'S PERFECTLY REASONABLE FOR SOME --

>> PRE AND POST.

IS THAT WHAT YOU'RE TALKING ABOUT?

>> NOT RELATED TO THE DATE OF THE TRANSACTION.

THERE IS SOME DUE DILIGENCE WHICH OCCURS BEFORE A PAYMENT'S MADE BUT YOU SIMPLY CAN NOT DO IT ALL.

THEY MAKE PAYROLL EVERY TWO WEEKS.

YOU CAN'T COUNT EVERY --

>> ISN'T REALLY THE DISPUTE THEN THE CONSTITUTION OR LEGISLATURE INTENDED WHAT SOUNDS LIKE A MUCH BROADER AUTHORITY?

YOU SAY THERE IS IMPLIED AUTHORITY.

BUT TO ME, IT SEEMS LIKE IT WOULD BE FAR BETTER FOR THERE TO BE A STATUTORY GRANT OF THIS EXPLICIT POWER, BECAUSE, IT IS INTRUSIVE.

I MEAN IT IS NOT, MAY BE INNOCUOUS BUT IT IS INTRUSIVE. I MEAN WE HAVE, I DON'T KNOW WHAT YOU CALL HIM, INSPECTOR GENERAL WITHIN THE COURT SYSTEM.

THE THOUGHT THAT, JUST MAKE SURE THAT THINGS ARE GOING APPROPRIATELY WITHIN THE COURT SYSTEM.

AND, I, IDEA THAT THERE IS SOMEBODY ELSE SEPARATELY ELECTED AND ACCOUNTABLE, THAT THE BOARD HAS NOTHING TO DO WITH, COMES IN AND JUST, AGAIN, MAYBE, MAYBE ALL THE OTHER 66 COUNTIES THEY HAVE THIS PERFECTLY WONDERFUL WORKING RELATIONSHIP AND THIS OCCURS AND NOBODY EVER BRINGS IT TO THEIR ATTENTION BUT THE

OVERREACHING IS, WHERE IS IT STATED THAT THAT'S WITHIN THEIR AUTHORITY?

I THINK THAT'S WHAT WE'RE GETTING BACK TO IS THAT IT MAY BE NOT MISUSED.

IT MAY BE A PURPOSE BUT IS IT ONE OF THE POWERS THAT THEY HAVE BEEN GIVEN?

>> IT IS ONE OF THE OLDEST POWERS OF THE CLERK HAS HELD IN THE STATE OF FLORIDA.

IT'S BEEN IN THE CONSTITUTION FOREVER AND IT PROVIDES A CHECK AND BALANCE.

>> IT JUST MEANS, YOU WOULD SAY THAT AUDITOR ITSELF, EVEN THOUGH IT SAYS, AND ANY OBLIGATIONS ARE THOSE THAT WILL BE SET BY LAW, BY THE NATURE OF WHAT AN AUDITOR IS, GIVES THE CLERK BROAD POWERS REFERENCE TO INVESTIGATION OF COUNTY ACTIVITIES WITH RELATION WITH RESPECT TO THE FINANCES?

>> TWO THINGS.

THE TWO CONSTITUTIONAL PROVISIONS BROUGHT TO LIFE BY THE FOUR STATUTORY PROVISIONS CITED BY THE SECOND GIVE THE CLERK THE POWER WE'RE TALKING ABOUT.

I DISAGREE.

IT IS NOT INTRUSIVE.

YOU LOOK AT OUR RECORD.

IT IS PERFECTLY REASONABLE FOR COUNTY EMPLOYEE RESPONSIBLE FOR COUNTY FUNDS BE RESPONSIBLE TO ANSWER QUESTIONS.

>> AS WHAT?

AS PART OF THE AUDIT?

>> AS PART OF AN INTERNAL ROUTINE INTERNAL AUDIT?

>> YOU HAVE A CONSTITUTIONAL POWER, YOUR CLIENT AS AUDITOR?

>> YES.

>> SO THEN THE QUESTION IS, DO WE TERM AUDITOR TO HAVE LIMITATIONS?

>> SURE.

>> THAT IS WHAT THIS CASE IS ABOUT?

>> SURE, THE LIMITATIONS ARE, WE DON'T HAVE A CASE WHERE A CLERK HAS PUSHED OR ACTED ARBITRARILY UNREASONABLY. IF OUR FACT PATTERN, FOR EXAMPLE SHOWED THE CLERK USING AN INTERNAL AUDIT AS A SUBTERFUGE TO DEFEAT LEGISLATION?

THERE ARE SOME CASES, WHERE A CLERK, THAT IS NOT OUR RECORD. OUR RECORD SHOWS PERFECTLY REASONABLE, ROUTINE, NORMAL, TRADITIONAL INTERNAL AUDITING AND THE COUNTY CAN'T SHOW YOU AN INTERNAL AUDIT WHERE THE CLERK ABUSED THAT POWER.

I MEAN, I'VE READ ALL 67.

>> JUST ONE MORE TIME.

EXPLAIN TO ME WHEN YOU SAY AN INTERNAL AUDIT, WHAT DOES THE CLERK ACTUALLY DO TO PERFORM AN INTERNAL AUDIT?

>> I'LL GIVE YOU AN EXAMPLE.

THE CLERK WILL WRITE A LETTER TO THE COUNTY DEPARTMENT. AND ASK FOR WHATEVER GOVERNING DOCUMENT CONTROLS THEIR PURCHASES.

WHETHER IT BE A CONTRACT WITH THE VENDOR.

>> THIS IS IN RESPONSE TO A REQUEST FOR THE CLERK TO PAY

SOMETHING?

>> NO. THIS IS JUST, TO TEST THE
INTERNAL CONTROLS,
TO ASSESS THE RISK.

BECAUSE DOWN THE LINE THE CLERK
IS GOING TO GET REQUESTS FROM
THAT DEPARTMENT FOR PAYMENTS.
THEY WANT TO SEE WHAT THEIR
INTERNAL CONTROLS ARE LIKE.

>> BUT CAN'T THEY DO THAT?
IF THE NEXT THERE COMES A
PAYMENT, NO ONE'S ARGUING THEY
COULDN'T ASK, ABOUT I DON'T
KNOW, BUT THE INTERNAL CONTROLS
AT THAT TIME.

OR MAYBE THAT IS IN DISPUTE,
WHETHER THEY CAN DO IT IN
RELATIONSHIP TO A PAYMENT BUT
NOT AFTER A PAYMENT'S BEEN
MADE?

>> I DON'T THINK THE COUNTY
DISPUTES -- WELL THAT IS THE
FUNNY THING ABOUT THE COUNTY'S
ARGUMENT.

THEY HAVE NO PROBLEM WITH ANY
INQUIRY DONE BEFORE PAYMENT
BUT, A MONITORING OF INTERNAL
CONTROLS IS ALWAYS GOING TO BE
BEFORE SOME PAYMENT.

SO IT IS A LITTLE BIT OF A
SEMANTIC DIFFERENCE.

>> SEEMS TO ME 136.08 GIVES THE
CLERKS EXPRESS AUTHORITY TO
CONDUCT INTERNAL AUDITS.
WOULD YOU AGREE WITH THAT?

>> I THINK SO.

AND IT'S NOT A STRETCH TO SAY
YOU'RE ALLOWED TO ASK SOMEONE A
QUESTION ABOUT THE RECORDS YOU
HAVE, AN ENTITLEMENT TO REVIEW
UNDER THE LANGUAGE OF THE
STATUTE AT ANY TIME.

SEEMS TO ME THAT EXPRESS LANGUAGE IS MORE POWERFUL THAN THE PREFIX, PREAUDIT, IN THIS COURT'S DECISION BACK WHEN POST AUDIT WAS A DEFINED TERM IN OUR STATUTE.

>> BUT DOES THAT SECTION SAY THAT THE CLERKS HAVE THE RIGHT TO INSPECT AND EXAMINE ACCOUNTS?

>> YES.

>> THAT'S WHAT THAT SECTION ACTUALLY SAYS?

>> YES.

AND ACCOUNTS ARE DEFINED THREE SUBSECTIONS BEFORE THAT IN 136.05 WHICH DEALS WITH, IT SAYS, A COMPLETE SET OF BOOKS SHOWING THE AMOUNT ON HAND, AMOUNT RECEIVED, AMOUNT EXPENDED.

SO THAT WOULD NECESSARILY MEAN, MONEY SPENT.

>> RIGHT.

>> IS THIS -- GO AHEAD.

>> DO YOU HAVE --

>> IS THIS THE TYPICAL KIND OF, I, MAYBE NOT TYPICAL, THE KIND OF SITUATION THAT WOULD BE DISCOVERED ON A POST-PAYMENT AUDIT WAS ONE SUCH AS YOU'RE TALKING ABOUT?

>> SURE.

>> WITH A CREDIT CARD AND, YOU APPROVED THE EXPENDITURES BUT NOW WHAT THEY'RE DOING IS TO, TO SUBVERT WHAT THE REQUIREMENTS ARE, THEY'RE SLITTING THEM UP AND STILL PAYING IT AND THEY OUGHT NOT DO THAT?

>> YES, THIS IS PERFECTLY --

>> THAT KIND OF EXAMPLE.

>> AFFIRMING THE SECOND DCA IS POWERFUL AFFIRMATION OF THE PRINCIPLES OF TRANSPARENCY IN GOVERNMENT, RESPONSEABLE ACCOUNTING.

THE, WE'RE NOT TALKING ABOUT, THIS IS A VERY MODERN COMPLEX FINANCIAL ORGANIZATION. AND INTERNAL AUDITS.

THERE IS NO DISPUTE ABOUT THAT. IF YOU LOOK AT THE ACCOUNTANT, THE ACCOUNTANT FOR THE COUNTY, SAID INTERNAL AUDITS ARE REASONABLE WAY TO MONITOR INTERNAL CONTROLS.

THOSE ARE IMPORTANT FOR THE WORK WHICH WE DO.

TO MAKE SURE THE --

>> DO, DOES THE BOARD, CONDUCT INTERNAL AUDITS?

>> THE BOARD MAY. IT HAS.

FOR EXAMPLE --

>> IS THAT WITHIN THEIR AUTHORITY?

>> SURE.

>> THE BOARD HAS THAT AUTHORITY?

THIS IS SOMETHING THE CONSTITUTION, THE LEGISLATURE INTENDED TO GIVE DULY, TO TWO SEPARATE --

>> CORRECT.

>> THAT'S INTENDED TO WHAT, KEEP THE BOARD HONEST?

>> YES. THAT'S WHAT THIS COURT HELD IN ALACHUA COUNTY.

>> AND DOES THE BOARD HAVE THE SAME DUTY, OBLIGATION TO LOOK THE CLERKS?

>> NO, NO.

IN ALACHUA COUNTY THE

LEGISLATION WHICH THIS COURT HELD UNCONSTITUTIONAL WAS ONE WHERE LEGISLATURE SAID THE COUNTY WILL BE THE CUSTODIAN OF ALL FUND.

THIS COURT HELD THAT IS UNCONSTITUTIONAL BECAUSE THAT SUPPLANTS THE ROLE OF THE COURT.

THERE COULD BE DUPLICATIVE POWERS.

THIS COURT HELD THAT IN ALACHUA COUNTY.

WHAT WOULD BE WRONG AS THE SENTENCE SUGGESTED BECAUSE ALL THE POWERS RESIDE WITH THE BOARD, THE CLERK'S ROLE THERE IS UP PLANTED.

>> DOES ANYONE AUDIT THE CLERK'S OFFICE?

>> SURE.

>> WHO?

>> SOME OF THE AUDITS THAT ARE IN THE COUNTY'S APPENDIX ARE INTERNAL AUDITS IN THE CLERK'S OWN DEPARTMENT.

>> SO THE CLERKS AUDIT THEMSELVES?

>> SURE.

>> WHO ELSE CAN AUDIT THE CLERKS?

>> WELL THERE, THEY AUDIT THEMSELVES.

THEY ARE INTERNAL --

>> THEY HAVE A FINANCIAL AUDIT, AN OUTSIDE AUDITOR COME?

>> YES, WHEN THEY REPORT, THEY'RE ALSO SUBJECT TO THE EXTERNAL AUDIT --

>> EXTERNAL AUDIT.

>> ARE THERE GENERAL AUDITS OF THE CLERKS OFFICE?

>> I DON'T KNOW. I DON'T KNOW.
I DO KNOW THAT, WHEN THE CLERK
REPORTS ON ITS FINANCES AND
OPERATIONS AND THAT'S AUDITED
BY --

>> THAT IS SEPARATE ISSUE.

GOING BACK TO, I HAVE TO GO
BACK TO THE STATUTES.

YOU SAY, IS THIS A CASE OF
EXPRESS AUTHORITY BECAUSE IT
STATUTE HAS GIVEN THE CLERK THE
AUTHORITY TO CONDUCT INTERNAL
AUDITS, RATHER THAN IMPLIED
AUTHORITY?

BECAUSE I KEEP ON HEARING TWO
DIFFERENT VERSIONS.

>> OKAY.

THIS COURT HAS HELD AND THE
SECOND DCA WAS FAITHFUL TO THIS
COURT'S HOLDING YOU CAN IMPLY
POWERS NECESSARY TO MAKE EFFECT
WALL AND COMPLETE EXPRESS
POWERS.

THERE ARE FOUR STATUTES GIVING
THE CLERK EXPRESS POWERS,
RESPONSIBILITIES WITH ONEROUS
LIABILITY.

>> BUT NONE OF THEM
SPECIFICALLY DEAL WITH THIS
TYPE OF SITUATION WHEREAS THE
LEGISLATURE GAVE THE BOARD
SPECIFIC AUTHORITY IN THAT
AREA?

>> I WILL ACKNOWLEDGE THAT THE
LEGISLATURE'S ARTICULATION OF
POWERS OF BOARD ARE MORE MODERN
AND THEREFORE MORE DETAILED.
BUT IF YOU PUT THOSE FOUR
STATUTES TOGETHER AS JUSTICE
POLSTON HAS TOLD US THE CLERK
HAS THE RIGHT TO INSPECT THE
BOOKS AND EXPENDITURES OF AT

ANY TIME.

>> IS THERE ANY AMBIGUITY HERE?
I GUESS IN MY VIEW, AND IT MAY BE NOT THE MAJORITY'S VIEW, IT WOULD BE, GIVEN THE POLITICAL NATURE OF THE SITUATION OF TWO, ELECTED OFFICIALS, THAT WOULD REALLY BE BETTER FOR THIS TO BE AIRED BEFORE THE LEGISLATURE AS TO WHETHER THE CLERK'S AUTHORITY IN THIS, IN THE AREA OF AUDITING IS PLENARY OR IT IS RESTRICTED?

>> DISAGREE WITH THAT.
THE LEGISLATURE CAN NOT PASS A STATUTE THAT -- CONSTITUTIONAL ROLE.

>> BY AUDITOR THEY HAVE EXPANSIVE AUTHORITY.
>> BEING THE AUDITOR RESPONSIBLE FOR PAYMENTS PERSONALLY. PERSONALLY.
THERE IS NO OTHER CONSTITUTIONAL OFFICER I CAN THINK OF WHO IS PERSONSLY RESPONSIBLE FOR UNLAWFUL PAYMENTS. AND WHO CAN BE --

>> THAT IS NOT IN THE CONSTITUTION.
>> IN THE STATUTE BROUGHT TO LIFE BY, THAT IS IN 129.09.

>> BUT IS THAT NECESSARILY A POWER OF AN AUDITOR?
THAT IS A POWER ACTUALLY GIVEN TO THEM UNDER THE STATUTE.

>> YES. YES.

>> IT IS NOT INHERENT BEING AN AUDITOR?

>> I WOULD SUPPOSE THAT'S TRUE.
BUT AN AUDITOR WHO CAN'T AUDIT, I MEAN WE SHOULD GIVE LIFE TO THESE PROVISIONS IN THE

CONSTITUTION IN TODAY'S FACTUAL SETTING.

>> JUSTICE PARIENTE KEEPS GOING BACK TO THE ISSUE AND I THINK WE ASKED THE COUNTY ABOUT THE NATURE OF THIS AND THIS IS A FIRE BOARD AND STUFF.

IS THIS SOME KIND OF POLITICAL DISPUTE GOING?

WE HAVEN'T ASK YOU THAT BECAUSE THAT IS THE KIND OF THING THE COURTS OUGHT NOT BE INVOLVED IN IS THIS PETTY POLITICAL BICKERING.

WE'VE GOT TO TRY TO GET RIGHT.

IS THAT THE ONLY REASON THIS CASE HAS COME UP HERE?

>> I DON'T SEE IT THAT WAY.

I'M DEFENDING A SUMMARY JUDGEMENT, THE QUO WARRANTO COMPLAINT SOUTH OUSTER OF CLERK PERFORMING THESE OBLIGATION THE THESE ARE CRUCIAL --

>> IS SEE THAT.

IS THERE SOMETHING UNDERLYING ALL THIS, THE FIRE BOARD AND STUFF GOING ON?

>> I DON'T KNOW.

>> I SEEN LANGUAGE TALKING ABOUT THE CLERK BEING A WATCHDOG.

>> YES.

>> NOW IS NOT THE CLERK'S FUNCTION TO, BEFORE THEY SIGN A WARRANT, THEY HAVE THE RIGHT TO DO WHATEVER THEY NEED TO DO TO MAKE SURE THAT IT IS PROPER?

>> YES.

>> AFTER THE WARRANT IS SIGNED AND WRITTEN BY THEM, DO THEY HAVE AUTHORITY TO THEN GO TO THE PERSON WHO RECEIVED THE WARRANT TO, TALK WITH THEM,

INSPECT WITH THEM, AFTER THE FACT?

OR IS THAT THE FUNCTION, SHOULD THEY JUST NOTIFY THE COUNTY THAT, THERE MIGHT BE A PROBLEM? OR SHOULD THEY NOTIFY THE STATE ATTORNEY, THERE MIGHT BE A PROBLEM OR SHOULD THEY NOTIFY THE AUDITOR GENERAL THERE MIGHT BE A PROBLEM?

INSTEAD OF THEM DOING IT?

BECAUSE I CAN SEE THIS HAVING POLITICAL RAMIFICATIONS.

THIS WHOLE THING IS REALLY ABOUT POLITICS.

AND, WE WERE TRYING TO MAKE A DECISION BASED ON THE LAW, BUT THEN, WE HAVE STATEWIDE RAMIFICATIONS BECAUSE THE CLERK IS VERY JEALOUS OF HIS POWER AND OF COURSE THE COUNTY IS TOO AND THEY SHOULD BE.

AND, IN MY OPINION, YOU KNOW, IF, WE SHOULDN'T IMPLY ANYTHING FROM A STATUTE THAT THE LEGISLATURE DIDN'T PUT IN IT.

BECAUSE THEY CAN DO IT.

THEY CAN DO IT NEXT SESSION IF THEY WANTED TO.

>> WELL, COUPLE THINGS.

>> AND IN ANSWERING YOU'RE NOW OUT OF YOUR TIME.

BUT SINCE WE GAVE THE OTHER SIDE TIME, PLEASE ANSWER JUSTICE PERRY'S QUESTION.

>> TO ANSWER YOUR QUESTION ON THE POLITICAL ISSUE IF WE HAVE A RECORD, EVIDENCE IN THE RECORD OF SOME KIND OF POLITICAL ABUSE OR MOTIVE, FOR EXAMPLE, IF THE CLERK WAS TRYING TO USE INTERNAL AUDIT

POWER TO THWART LEGISLATIVE DECISIONS I CAN CERTAINLY UNDERSTAND THAT CONCERN. THAT IS NOT IN OUR RECORD. AS FAR AS, YOUR QUESTION ABOUT THE PREAUDIT FUNCTION, AGAIN THAT TERM, PREAUDIT WAS NEVER, AS IT IS DEFINED BY THIS COURT, IT DOESN'T HAVE ANY TIME HORIZON.

IT SAYS, PREAUDIT MEANT LEGALITY OF THE PAYMENT. LEGALITY OF PAYMENT WAS IT BUDGETED.

WAS IT COMPLIANT WITH COMPETITIVE BIDDING LAWS, FOR EXAMPLE?

THAT IS WHAT THAT MEANS. THAT SIMPLY CAN NOT ALL BE DONE BEFORE THE PAYMENT IS MADE.

>> CAN THE CLERK BE INVESTIGATOR AFTER THE FACT? THEY CAN LOOK AT DOCUMENTS SURE, CAN LOOK AT ACCOUNTS, SURE, BUT CAN THEY GO BEYOND WHAT WAS ALREADY IN THEIR POSSESSION TO DO THEIR INVESTIGATION OR DO YOU THINK THEY SHOULD BE ABLE TO DO THINGS OTHER THAN TO AUDIT THEIR ACCOUNTS AND?

>> THE CLERK IS NOT LOOKING TO BE A PROSECUTOR.

HE IS NOT LOOKING TO BE ISSUING SUBPOENAS.

THE WORK HE IS DOING IS REASONABLY AND DIRECTLY RELATED TO THE ROLES HE IS TALKING ABOUT.

WE DON'T HAVE A RECORD WHERE HE IS CALLING IN WITNESSES OR CREATING A CHAMBER OR

ISSUING --

>> YOU'RE SAYING HE CAN'T DO THAT.

>> HE IS ASKING QUESTIONS.

>> CAN HE DO THAT?

>> YES.

>> CAN BE ALLOWED TO DO THAT AFTER THE FACT?

>> YES.

>> CALL THEM IN AND ASK QUESTIONS.

>> YES.

>> THANK YOU, MR. ACKERMAN, WITH THAT YOU'RE OUT OF TIME. ONE MINUTE, AND THAT'S IT.

>> I SIMPLY WANT TO REMIND THE COURT THAT IT'S TRUE BUT UNDER WHITE v. CRANDON, WHICH IS A 1934 CASE SIGNED BY THIS COURT WHICH IS STILL GOOD LAW AN EXPRESS POWER DULY CONFERRED MAY I'M APPLIED AUTHORITY USED TO MAKE THE EXPRESS POWER EFFECTIVE BUT SUCH IMPLIED POWER MAY NOT WARRANT THE EXERCISE OF A SUBSTANTIVE POWER NOT CONFERRED.

>> LET ME ASK YOU A QUESTION. I MEAN AN AUDIT, IS IT YOUR VIEW THAT AN AUDIT CAN NEVER LOOK TO SEE HOW A PAYMENT'S MADE?

>> I THINK THAT THE CLERK HAS THE STATUTORY AND CONSTITUTIONAL POWER TO LOOK AT HOW A PAYMENT IS MADE OR IS GOING TO BE MADE BEFORE HE AGREES TO SIGN THE CHECK.

>> BUT CAN'T LOOK HOW IT WAS MADE BEFORE IT WAS SIGNED. THE QUESTION WAS, DOES AN AUDIT, DOES AN AUDIT INCLUDE

THE CONCEPT OF LOOKING AT
SOMETHING AFTER IT HAS BEEN
PAID?

>> THE AUDIT --

>> AN AUDIT.

>> AN AUDIT WOULD INCLUDE
LOOKING AT SOMETHING BEFORE AND
AFTER.

THE CLERK DOES NOT HAVE THAT
POWER.

HAS NEVER BEEN CONFERRED THAT
POWER.

BEFORE I LEAVE I JUST WANT TO
SAY ONE THING.

THE LEGISLATURE SPOKE ON THIS
ISSUE, AND, DEvised AN ENTIRE
SCHEME UNDER CHAPTER 11, THAT
TOTALLY EXCLUDED THE CLERK.
AND ONE OF THE REASONS THE
CLERK IS EXCLUDED, IS BECAUSE
THE CLERK CAN NOT AUDIT
HIMSELF.

THE CLERK IS A PART OF COLLIER
COUNTY GOVERNMENT TO THE EXTENT
THAT HE IS THE FINANCIAL
OFFICER.

BEFORE ANY CHECK IS CUT, ALL
MATTER OF INFORMATION IS
CONVEYED TO THE CLERK.

>> THANK YOU, MISS HUBBARD.

>> OKAY. AFTER THAT CHECK
IS CUT, HIS DUTIES ARE OVER.

>> APPRECIATE IT.

WE KNOW THIS IS AN IMPORTANT
ISSUE AND WE APPRECIATE THE
ATTENTION EVERYBODY HAS GIVEN
IT AND THE, ARGUMENTS HERE
TODAY.

THE COURT WILL BE IN RECESS.

>> PLEASE RISE.