

*The Law Office of  
Andrea Flynn Mogensen, P.A.  
200 South Washington Boulevard - Suite 7 - Sarasota, Florida 34236*

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*Telephone: 941-955-1066    Andrea@SarasotaCriminallawyer.com    facsimile: 941-866-7323*

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October 2, 2012

*VIA E-MAIL*

Pamela Nadalini  
1565 First Street  
Sarasota, FL 34236

Re:    Cyber-security audit by Sylint Group

Dear Pam:

On behalf of my client, Sandra Coleman, I would like to direct your attention to the fact that an agent of the City Clerk's office, John Jorgensen, has made statements to the news media on numerous occasions relating to an active and ongoing audit in violation of Florida Statutes.

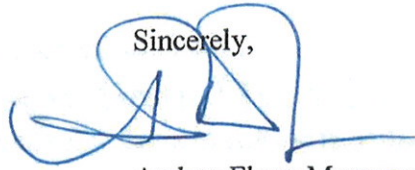
As you know, Mr. Jorgensen, through his attorney, has asserted several statutory exemptions relating to information obtained by him in connection with the cyber-security investigation and audit, including exemptions for active criminal investigation and active internal audit. Notwithstanding these active and ongoing investigations, Mr. Jorgensen has released information obtained during the course of his investigation to the news media on several occasions.

Any person who willfully and knowingly violates the provisions of chapter 119, including premature disclosure of information that is exempt and confidential, commits a misdemeanor of the first degree. *See* section 119.10, Fla. Stat.

Given that Mr. Jorgensen is acting as an agent for the City Clerk, we respectfully request your office to immediately take action against Mr. Jorgensen and to report this activity to the appropriate law enforcement agency that has jurisdiction to investigate this matter.

If you have any questions about the nature of this letter, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

Andrea Flynn Mogensen

cc: Robert Fournier, City Attorney

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October 2, 2012

Sylint Group, Inc.  
240 N. Washington Blvd.  
Suite 240  
Sarasota, FL 34236

Steven Tepler  
5715 Firestone Ct  
Sarasota, FL 34238-5745

John Jorgensen  
240 N. Washington Blvd.  
Suite 240  
Sarasota, FL 34236

Re:    Sandy Coleman

Gentlemen:

On behalf of my client, Sandra Coleman, notice is hereby given to the above parties that I intend to bring litigation against you for any and all statements that constitute defamation, libel and slander that were made on October 1, 2012, and October 2, 2012.

Additionally, pursuant to Art. I, § 24(a), Fla. Const., and Chapter 119, Florida Statutes, my client seeks all records,<sup>1</sup> including e-mails, attachments text messages and electronic records sent or received by their agents, attorneys, consultants or employees (hereinafter "responsive parties")<sup>2</sup> for the period August 1, 2011, through the date of receipt of this request ("the relevant time period"), that relate to any services performed on behalf of the City of Sarasota, Florida, ("City"), or any agent of the City, including any employee, officer, or commissioner.

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<sup>1</sup> The term "records" shall have the same definition set forth in § 119.011(12), Fla. Stat.

<sup>2</sup> To the extent that responsive parties acted as the custodian of public records, they have an independent duty to preserve and make those records available for inspection. See *Nat'l Collegiate Athletic Ass'n v. Associated Press*, 18 So.3d 1201, 1209 (Fla. 1st DCA 2009), reh'g denied (Oct. 12, 2009), *review denied*, 37 So.3d 848 (Fla. 2010).

This letter constitutes formal notice to the responsive parties that discovery efforts relating to preservation of all records responsive or relating to any services performed on behalf of the City of Sarasota, Florida, ("City"), or any agent of the City, including any employee, officer, or commissioner, will be made in a court of competent jurisdiction. Through discovery requests, we expect to obtain from the responsive parties a number of documents and things, including files stored on the computers and computer storage media. As part of our initial discovery efforts, we intend to serve interrogatories and additional requests for the production of documents and things.

To the extent you have not previously complied with your obligations as a custodian of records, we request that the responsive parties preserve and not modify, delete, destroy, dispose of, conceal or alter any mainframe computer, server, desktop, laptop, tablet, smart phone, or other electronic computer device ("computers") used by the responsive parties to store electronic files and other data during the relevant time period. This request includes, without limitation, electronic files or data generated by or stored on any computers or storage media (e.g., hard disks, floppy disks, back-up tapes, thumb drives, flash drives or other removable storage media).

In order to avoid spoliation, the responsive parties will need to preserve and make available the data requested on the original storage media, or on exact copies of that media (sometimes referred to as images copies or evidentiary copies). Do not reuse any media to provide this data. Electronic documents and the storage media on which they reside contain relevant, discoverable information beyond that which may be found in printed documents. Therefore, even where a paper copy exists, we seek all documents in their electronic form, along with information about those documents contained on the media. We also seek paper print outs of only those documents that contain unique information after they were printed out (such as paper documents containing handwriting, signatures, marginalia, drawings, annotations, highlighting and redactions) along with any paper documents for which no corresponding electronic files exist.

Our discovery requests will ask for certain data on the hard disks, floppy disks, back-up media or other removable storage media used in any computers which may contain the requested records, some of which data are not readily available to an ordinary computer user such as "deleted" files and "file fragments". As you may know, although users may "erase" or "delete" a file, all that is really erased is a reference to that file in a table on the hard disk. A "deleted file" can be as intact on the disk as any active file you would see in a directory listing.

Please be advised that courts have made it clear that all information available on electronic storage media is discoverable, whether it is readily readable (active) or deleted but recoverable. *See, e.g., Martino v. Wal-Mart Stores, Inc.*, 835 So.2d 1251, 1257 (Fla. 4th DCA 2003), *approved*, 908 So.2d 342 (Fla. 2005); *see also Gayer v. Fine Line Const. & Elec., Inc.*, 970 So.2d 424, 426 (Fla. 4th DCA 2007).

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Accordingly, the responsive parties are required to preserve and not destroy all passwords, decryption procedures including software to decrypt the files, network access codes, I.D. names, manuals, tutorials, written instructions, decompression or reconstruction software, and any and all other information and things necessary to access, view and, if necessary, reconstruct the electronic data we are requesting through discovery.

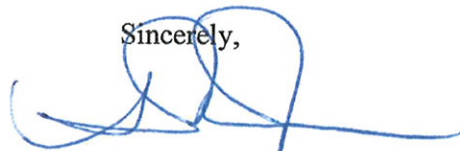
In order to assure that the obligations of the responsive parties to preserve records will be met, please forward a copy of this letter to all persons and entities with custodial responsibility for the items referenced in this letter. For your benefit, I have attached a copy of The Sedona Conference Commentary on Legal Holds: The Trigger & the Process.

If you are contend that any record, or portion thereof, is exempt from inspection, please state in writing the basis for the exemption and include the applicable statutory exemption. *See* section 119.07(1)(d), Fla. Stat. Additionally, pursuant to the requirements of section 119.07(1)(f), Fla. Stat., I hereby request that you explain in writing and with particularity the reasons for your conclusion that the record is confidential or exempt.

If any of the requested documents are maintained in a common-format electronic-medium, please provide these documents in such electronic medium and not in paper form. For purposes of this request, common electronic-formats include (1) American Standard Code for Information Interchange ("ASCII"), (2) email files formatted in Microsoft Outlook known as a .pst file; (3) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM's Lotus Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (4) a text file (.txt), or (5) hypertext markup language (.html) or similar web page language. This is the preferred format. However, if any of the requested documents are only maintained or can only be produced as electronic images, for example a portable document format (.pdf), then as an alternative, I request this electronic-image format. *See* § 119.01(2)(f), Fla. Stat.

If you have any questions about the nature of this letter, please do not hesitate to contact my office.

Sincerely,



Andrea Flynn Mogensen

cc: Pamela Nadalini, City Clerk  
Robert Fournier, City Attorney

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