

**CASE INFORMATION SHEET
FLORIDA LEGAL PERIODICALS, INC.
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COUNTY AND COURT:

Seminole County Circuit Court

NAME OF CASE:

DANIEL SMITH and HELENE SMITH, husband and wife,

Plaintiffs,

v.

SEMINOLE COUNTY BOARD OF COMMISSIONERS, a Governmental entity, and
SANLANDO UTILITIES CORPORATION,

Defendants.

CASE DOCKET NO.: 07-CA-234-11 **JUDGE:** Honorable Alan A. Dickey

PLAINTIFF'S ATTORNEY/TRIAL COUNSEL [full names, firm and city]:

Mark A. Cornelius, Esquire
Bogin, Munns & Munns
Orlando, Florida 32804

DEFENDANT'S ATTORNEY/TRIAL COUNSEL [full names, firm and city]:

David R. Kuhn, Esquire
Susan R. Fuller, Esquire
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
Orlando, Florida 32801

For Defendant Seminole County Board of Commissioners

William Linero, Jr., Esquire
Butler, Pappas
Tampa, Florida 33602

For Defendant Sanlando Utilities Corporation

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT [at time of accident or occurrence]:

43 year-old male, teacher
43 year-old female, public relations

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

December 30, 2004 in Longwood, Seminole County, Florida.

CAUSE OF INJURY: [factual description including allegations and defenses on liability]:

This case involved a claim brought by plaintiff homeowners against Seminole County for the total destruction of plaintiffs' residence due to a fire. Plaintiffs sought property and emotional distress damages allegedly flowing from the destruction of their home. No one was injured in the fire. Plaintiffs' homeowner's insurance reimbursed them for the property damage loss.

Plaintiffs sued Seminole County for the actions of the firefighters as well as co-defendant Sanlando Utilities Corporation, a private corporation which installed the waterlines and fire hydrants in the neighborhood.

Plaintiffs' theory was that a fire hose was not compatible with one of the hydrants which necessitated the firefighters to apply an adapter to the hydrant in order to hook up the hose. This action took less than 2 minutes. Plaintiffs alleged that this delay caused the loss of the home. The firemen testified that at no time were they without water, and that the hydrant-hose situation caused no impediment in fighting the fire.

Plaintiffs argued that Seminole County and co-defendant had a duty to inspect the hydrants to ensure compatibility with the hoses. Seminole County served the following Motions for Summary Judgment:

1. There is no common law or statutory duty of care for a governmental entity to provide fire protection services to individual property owners. Therefore, sovereign immunity precluded any claim against Seminole County;
2. There is no exception to the impact rule for loss of property so plaintiffs were precluded from claiming emotional distress for watching their house burn;

3. Plaintiffs failed to submit facts supporting a claim of negligence against Seminole County;
4. There was no casual connection between Seminole County's alleged negligence and Plaintiffs' claimed injury as Plaintiffs' house was beyond saving by the time the fire department arrived; and
5. Plaintiffs were made whole by insurance proceeds.

NATURE OF INJURY [please be specific concerning injuries, treatment and medical testimony]:

Plaintiffs claimed property damage and emotional distress resulting in lost income, sleep apnea, depression, anxiety, weight gain, headaches and shortness of breath.

PLAINTIFF'S EXPERT WITNESSES [include full name, degree, specialty and city]:

J. Robert Gribble, Ph.D. – Battalion Chief, City of Cleveland, Department of Public Safety, Division of Fire – Sharon Center, Ohio

DEFENDANT'S EXPERT WITNESSES [include full name, degree, specialty and city]:

None. Seminole County intended to call the firefighters who were involved in fighting the fire to give testimony regarding firefighting techniques.

FINAL SUMMARY JUDGMENT:

 X Final Summary Judgment for Defendants, Seminole County and Sanlando Utilities Corporation

DATE OF SUMMARY JUDGMENT:

July 8, 2010

COMPARATIVE NEGLIGENCE [if applicable]:

N/A

DEFENDANT'S OFFER:

Seminole County served proposals for settlement in the amount of \$100. Based on Plaintiffs' rejection of the proposals for settlement, Seminole County has filed motions for attorneys' fees and costs.

PLAINTIFFS' DEMAND:

None.

DEFENDANT'S ATTORNEY'S COMMENTS:

Plaintiffs have appealed the Final Summary Judgment in favor of Seminole County. This appeal is pending before the 5th DCA.

Submitted By: David R. Kuhn, Esquire **Date:** August 24, 2010
Susan R. Fuller, Esquire

Firm: Rissman, Barrett, Hurt,
Donahue & McLain, P.A.

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