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VIA US EXPRESS MAIL - OVERNIGHT
Article No.: EB 177834445 US

September 18, 2010

Ms. Annemarie Craft, Bar Counsel
Attorney Consumer Assistance Program
The Florida Bar, ACAP
651 East Jefferson Street
Tallahassee, FL 32399-2300

RE: Robert W. Bauer; The Florida Bar File No. 2011-00,073 (8B)

Dear Ms. Craft:

This is my rebuttal to the reply of Robert W. Bauer dated August 18, 2010. You asked that I limit this response to 25 pages, and I have done so. However the 25 page limit severely restricts my ability to submit transcripts and other documents that conclusively impeach much of Mr. Bauer's fallacious response. All the hearings Mr. Bauer attended were transcribed, and key phone calls have been transcribed. There are also hundreds of letters and emails that impeach Mr. Bauer's response. Upon request I can provide copies of the transcripts, letters and emails. I have a list of exhibits available upon request.

In addition, Mr. Bauer has incorporated a number of Mr. Rodems' untrue talking points. Mr. Bauer has made a number of false statements of material fact in his response to the Florida Bar. Mr. Bauer knowingly lied to the Bar with malice aforethought.

If Mr. Bauer's reply to my complaint is taken at face value, it is clear he should never have resurrected my claims that I voluntarily dismissed. After all, I sought the Bar's LRS referral for the libel counterclaim only. But Mr. Bauer convinced me that my claims deserved to be resurrected in the name of justice. That was awful counsel.

On March 29, 2007 Mr. Bauer called me after his initial review of this matter. Mr. Bauer said the pending sanctions against me were "entirely and wholly inappropriate" (p29, line 17). Mr. Bauer said "If we can substantiate that that stuff was willful and if I can get, you know, the jury would love to punish a slimy attorney." (p28, line 7). My ultimate repose to that and other of Mr. Bauer's statements was "You know, I want to get a good

outcome with the case, I'm not interested in any personal ax to grind." (p33, line 5). The transcript is available upon request.

Exhibit "A" of Mr. Bauer's response, his letter of April 5, 2007, is telling in his false flattery in paragraph 1, the last sentence: "I also reviewed the original complaint and determined that it appeared to contained (sic) two well plead causes of actions (sic) that could reasonably be pursued in a court action." From a legal standpoint this was false.

While my original complaint survived a motion to dismiss, it was legally deficient and required amendment. In July 2009 I hired attorney Seldon Childers to review this matter, and he concluded the following about my original complaint:

> "Plaintiff has already paid twice the actual damages in attorneys fees to date in the case and there is still essentially no complaint filed. [at footnote 3] i.e. the current complaint is deficient and will have to be amended by a new complaint that is largely re-written, which will re-set all case deadlines and permit more discovery, new motions to dismiss, motions for summary judgment, and a new answer with affirmative defenses and counter-claims, all of which will have to be dealt with just as they were the first time around." (Analysis of Case, Sep-17-09, page 3, ¶2.)

I. Rebuttal to Mr. Bauer's "SUMMARY OF EVENTS PRIOR TO REPRESENTATION OF MR. GILLESPIE"

1. Mr. Bauer told the Bar that Mr. Gillespie was the plaintiff in a suit against Amscot Cash Advance. After losing in lower court, Mr. Gillespie appealed the ruling on grounds arising out of the Fair Debt Collection Practices Act. Mr. Bauer is incorrect about facts important to this case and the offenses of Mr. Rodems and his partners.

a. Eugene Clement was the lead plaintiff in a class action against AMSCOT Corporation. Mr. Clement was unqualified. The suit never achieved class status.

b. The AMSCOT lawsuit was commenced by Alpert, Barker, Rodems, Ferrentino & Cook, P.A. ("Alpert firm"), the predecessor law firm to Barker, Rodems & Cook, PA. (BRC). On December 9, 1999 the Alpert firm filed a class action complaint in United States District Court, Middle District of Florida, Tampa Division, Eugene R. Clement v. AMSCOT Corporation, case no. 99-2795-CIV-T-26C. ("AMSCOT").

c. The AMSCOT lawsuit contained three counts, none under the Fair Debt Collection Practices Act as Mr. Bauer claimed.

> Count I alleged violation of the Federal Truth in Lending Act (TILA)
> Count II alleged violation of state usury laws pursuant to sections 687.02, 687.03, and 687.04 Florida Statutes.
> Count III alleged violation of the Florida Deceptive and Unfair Trade Practices Act, sections 501.201 to 501.23 Florida Statutes.

d. When it appeared that Mr. Clement would be disqualified, the Alpert firm and Mr. Cook pressured me to intervene to save the litigation. I was already a client of the Alpert firm in a lawsuit against ACE Cash Express with the same allegations as AMSCOT.

Initially I resisted suing AMSCOT. Then Mr. Cook made a number of promises to me to sue AMSCOT that I later learned were unlawful, such as help finding employment and possible representation with the Florida Division of Vocational Rehabilitation. Mr. Cook submitted Motion For Intervention As Plaintiffs And Proposed Class Representatives, November 9, 2000 naming me and Ms. Gay Ann Blomefield as intervening co-plaintiffs. See Plaintiff's First Amended Complaint filed May 5, 2010

f. While I was a client of the Alpert firm, Mr. Alpert and Mr. Rodems attended a mediation that went poorly, so Mr. Alpert physically assaulted opposing counsel Arnold Levine. A Tampa Police Department report dated June 5, 2000, case number 00-42020, alleges Mr. Alpert committed battery, Florida Statutes §784.03, upon attorney Arnold Levine by throwing hot coffee on him. At the time Mr. Levine was a 68 year-old senior citizen. The report states: "The victim and defendant are both attorneys and were representing their clients in a mediation hearing. The victim alleges that the defendant began yelling, and intentionally threw the contents of a 20 oz. cup of hot coffee which struck him in the chest staining his shirt. A request for prosecution was issued for battery." Mr. Rodems is listed as a witness on the police report and failed to inform me that Mr. Alpert attacked attorney Arnold Levine. Mr. Levine previously sued Alpert, Barker & Rodems, PA, a $5 million dollar claim for defamation, Buccaneers Limited Partnership v. Alpert, Barker & Rodems, PA, US District Court, Middle District of Florida, Tampa Division, case 99-2354-CIV-T-23C.

g. When I told Mr. Bauer about the preceding incident, he decided to use the information in defense of the libel claim with me. In fact, soon after I retained Mr. Bauer he attended a CLE in Tampa (Basic Federal Practice 2007) where US District Judge James D. Whittemore repudiated the infamous coffee-throwing incident. While I was their client, Mr. Rodems and his partners concealed this information from me, and I failed to read about it in the newspaper. But in 2006 when I began looking for counsel, a number of lawyers in Tampa warned me about Mr. Alpert and his firm, but it was too late. Mr. Bauer told me to get the information from the Florida Bar about this act of violence by Mr. Rodems' partner, and I did so. The Florida Bar was very helpful, and provided me a surplus CD gratis. From there I had the CD transcribed, which the Bar authorized. Upon request I can provide the CD, the transcript, and the letter of authorization from the Bar to prepare a written transcript of the audio CD of course no. 0444C (of the live presentation of course no. 0444R -Basic Federal Practice 2007).

e. Mr. Rodems pulled a stunt with me in this litigation. Initially I had a good working relationship with Judge Nielsen and his judicial assistant Myra Gomez. I attended the first hearing telephonically September 26, 2005 and prevailed on Defendants' Motion to Dismiss and Strike.

Mr. Rodems intentionally disrupted the tribunal with a strategic maneuver to gain an unfair advantage in the litigation. During the scheduling a hearing, Rodems telephoned me at home March 3, 2006 and an argument ensued. Mr. Rodems threatened to reveal my confidential client information.

On March 6, 2006 Rodems made a sworn affidavit under the penalty of perjury falsely placing the name of the trial judge in the affidavit and therefore into the controversy. Rodems submitted Defendants' Verified Request For Bailiff And For Sanctions that falsely placed the name of the Judge Nielsen into an "exact quote" attributed to Gillespie[1] about a violent physical attack in Judge Nielsen's chambers.

Kirby Rainsberger, Police Legal Advisor, Tampa Police Department, reviewed the matter and established by letter February 22, 2010 that Mr. Rodems was not right and not accurate in representing to the Court as an "exact quote" language that clearly was not an exact quote. But it was too late. After Rodems' perjury of March 6, 2006 Judge Nielsen did not manage the case lawfully, favored Defendants in rulings, and responded to me sarcastically from the bench.

2. Mr. Bauer told the Bar that in a letter of April 5, 2007 he advised me that he had negotiated a "walk away" settlement with BRC. In fact, the "walk away" settlement with BRC was on the table before I met Mr. Bauer, and has been offered since he left the case. I can provide additional evidence upon request. The reason I did not take the "walk away" settlement was Mr. Bauer's confidence that he "[a]lso reviewed the original complaint and determined that it appeared to contained (sic) two well plead causes of actions (sic) that could reasonably be pursued in a court action." Of course, this was false, but I believed Mr. Bauer. Mr. Bauer also told me on March 29, 2007 that the pending sanctions against me were "entirely and wholly inappropriate" (p29, line 17). Mr. Bauer said "If we can substantiate that that stuff was willful and if I can get, you know, the jury would love to punish a slimy attorney." (p28, line 7). My ultimate repose to Mr. Bauer was "You know, I want to get a good outcome with the case, I'm not interested in any personal ax to grind." (p33, line 5). Transcript available upon request.

3. As for the sanctions incurred prior to Mr. Bauer's representation, I deferred to his judgment with poor results. Mr. Bauer represented me at the hearing for entitlement of fees on the 57.105 motion on July 3, 2007. Then he attended the hearing on the amount of the fees on March 20, 2008. Mr. Bauer anticipated fees of a few thousand dollars, not $11,550. Mr. Bauer found an expert to testify for me, Frank H. Gassler of Fowler White, but Mr. Bauer was late in locating him. Mr. Bauer moved to continue the hearing so that Mr. Grassler could review the billing, but the court denied that, so I did not have the benefit of an expert witness. Mr. Bauer had continued the hearing twice before for other reasons not related to my case, so the judge did not want to grant another continuance.

[1] The portion of Gillespie's "exact quote" in dispute is "like I did before" which refers to a September 25, 2005 telephonic hearing where he prevailed. It is a self-proving metaphor. Instead Rodems swore in an affidavit that Gillespie said "in Judge Nielsen's chambers" which is false. Rodems could have used Gillespie's exact quote but he did not. Rodems added the name of Judge Nielsen with malice aforethought and did so in a sworn statement under the penalty of perjury.

When Mr. Bauer asked for a continuance to get our expert ready, the judge denied that, and wise-cracked "how about a couple of years continuance?"

While preparing for the appeal, I found a Florida Bar Journal article he needed, but he ultimately failed to use the information in his argument to the court.

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Robert W. Bauer, Esq." <rwb@bauerlegal.com>
Sent: Tuesday, May 13, 2008 10:26 AM
Subject: Re: Fla Bar Article
May-13-08
Mr. Bauer,
Here is the link to the 57.105 article from the Florida Bar Journal, April, 2002, Volume LXXVI, No. 4:
http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/76d28aa8f2ee03e185256aa9005d8d9a/6 OpenDocument
Which cites (at footnote 12) US SUPREME COURT case Haines v. Kerner, 404 U.S. 519, 520 (1972), in which the U.S. Supreme Court held that pleadings drafted by pro se litigants should be held to a less stringent standard than formal pleadings drafted by lawyers. BTW, I originally found this on a regular Google search.
Thank you. Neil Gillespie.
----- Original Message -----
From: Robert W. Bauer, Esq.
To: 'Neil Gillespie'
Sent: Tuesday, May 13, 2008 10:00 AM
Subject: Fla Bar Article
I was trying to locate the article you provided for me from the Florida bar regarding regarding 57.105 motions. If you still have that link I would appreciate you sending it again.
Robert W. Bauer, Esq.
Law Office of Robert W. Bauer, P.A

II. REBUTTAL, BAUER'S RESPONSE TO SPECIFIC COMPLAINTS OF MISCONDUCT

1. Failure to zealously litigate claims:

Mr. Bauer claims he filed a motion to withdraw voluntary dismissal, but that is not factual, I filed that before meeting him. Mr. Bauer filed a hybrid pleading May 2, 2007 captioned "MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO WITHDRAW VOLUNTARY DISMISSAL OR ALTERNATIVELY MOTION TO AMEND ANSWER TO INCLUDE COUNTER -COUNTER COMPLAINT" A copy of this bizarre pleading is listed as Exhibit 1 and available upon request. This strange document has three parts:

a. Memorandum of law supporting my motion to withdraw voluntary dismissal;

b. An amended answer to the counterclaim;
c. A counter-counter complaint (not recognized by Fla.R.Civ.P) that included a count for breach of fiduciary duty. It was rejected by J. Barton August 31, 2007.

Mr. Bauer's enigmatic counter-counter complaint was largely a "cut and paste" of my pro se complaint, which was a defective document. Mr. Rodems threatened Mr. Bauer with a section 57.105 motion by email. Mr. Rodems wrote "We object to the motion for leave to amend because there is no such thing as a "counter-counter complaint"…" and "Given Gillespie's bizarre and inappropriate behavior in this case… I am surprised you would rely on any portions of the pleadings Gillespie filed." I was surprised too, since I was paying Mr. Bauer $250 per hour, I did not understand why he would use my pleading, especially since it was defective. But I went along with what Mr. Bauer wanted.

On August 31, 2007 Judge Barton's ORDER GRANTING PLAINTIFF'S MOTION TO WITHDRAW PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL clearly states that "It is further determined that as a matter of law that Plaintiff is not entitled to file a counter counter-complaint in response to Defendant's Counter-Complaint absent a modification of the current rules of civil procedure." A copy of the order is listed as Exhibit 2. This means Mr. Bauer's attempt to amend the complaint to include a count of breach of fiduciary duty failed. Mr. Bauer lied to the Florida Bar when he wrote "as of today, the claims are still viable" page 3, ¶2.

Jeffrey R. Shelquist is an attorney who I retained several times in the past, he agreed to serve as an intermediary with Mr. Bauer on the so-called failure to communicate. Mr. Bauer rejected that help. On March 28, 2008 Mr. Shelquist wrote me, "As for the breach of fiduciary duty, I see that as your only possible viable cause of action. I have never heard of a counter-counter complaint. It doesn't make sense. You are the plaintiff, it is just an amended complaint to add a new cause of action. It sounds like the judge rejected the pleading, not necessarily the cause of action."

Mr. Bauer wrote the following, page 3, ¶3. I will respond to this paragraph below.

> Mr. Gillespie also alleges that I "failed to present evidence that there was no signed contingent fee agreement," subsequent to Mr. Rodems' representations that there were. This allegation underscores much of the basis for my motion for withdrawal. The Complaint originally drafted by Mr. Gillespie includes a count for breach of contract and, specifically alleges in paragraph 6: "GILLESPIE and the LAW FIRM [BRC] had a written representation contract." The hearings in question were on Defendant's Motion for Judgment on the pleadings. Had I argued that no contract existed between the parties as Mr. Gillespie now claims I failed to do, it would have been repugnant to his position. Additionally, Mr. Gillespie now asserts that I failed to prove the non-existence of a contract by submitting affidavits. Clearly, Mr. Gillespie makes this assertion without an understanding of what is appropriate to argue in a hearing on a motion for judgment on the pleadings. Mr. Gillespie did not understand the procedural or substantive law surrounding this issue and now wishes to supplant his legal prowess with mine.

As a factual matter, there was a signed representation contract with the Alpert firm, but not the BRC firm. Shortly before the AMSCOT case was dismissed, BRC prepared a written (but not signed) contract. The BRC contract was not executed. Mr. Bauer even argued this in his motion Plaintiff's Motion for Rehearing July 16, 2008. The motion is listed as Exhibit 3 and available upon request. This motion is signed by attorney Tanya M. Uhl Esq. Bar No. 0052924 (n.k.a. Tanya Bell). In a letter dated August 5, 2010. Ms. Bell wrote me "In regards to the Plaintiff's Motion for Rehearing that I signed, I did so at the direct request of Robert W. Bauer in his absence. I did not prepare that Motion or even work on that Motion." The letter is listed as Exhibit 4, available upon request.

After Mr. Rodems received the motion for reconsideration, he contacted Mr. Bauer, according to an email I received from Ann Breeden, employee of Mr. Bauer. This email is listed as Exhibit 5, and available upon request. The email establishes a number of facts that impeach Mr. Bauer's statements to the Bar.

1. The email establishes that I am working with his staff in a professional manner.
2. Mr. Bauer cannot find transcripts that were previously provided him, part of an ongoing problem with his office in disarray.
3. Mr. Bauer filed a motion for reconsideration to show the fee contract was not signed.
4. It appears Mr. Rodems lied about a signed contract and is now concerned.

From: "Ann G. Breeden" <agb@bauerlegal.com>
To: "'Neil Gillespie'" <neilgillespie@mfi.net>
Sent: Tuesday, August 12, 2008 11:25 AM
Subject: Transcripts

Mr. Gillespie-

Mr. Rodems has responded to Mr. Bauer regarding our Motion for Rehearing. He specifically was asking about a reference made to a statement made by Mr. Rodems about Barker, Rodems, and Cook being in possession of a signed fee agreement. Mr. Bauer has asked me to review the transcripts of the two hearings to ensure that Mr. Rodems did in fact state that at one of the hearings. We are having trouble locating the transcripts to these hearings. Mr. Bauer has asked me to contact you and ask if you would kindly forward the e-mailed transcripts of the hearings dated October 30, 2007 and July 1, 2008 so that we can respond to Mr. Rodems. I apologize for any inconvenience this may cause you.

Thank you,

Ann G. Breeden

Mr. Bauer argued October 30, 2007 at a hearing for judgment on the pleadings that the agreement was written but it was not signed. Since the transcript is available upon request, why would Mr. Bauer lie to the Florida Bar about this?

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17 [MR. BAUER] Yes. There is an written agreement, but is
18 every -- and that written agreement memorializes
19 some of the terms that are contained in it.
20 However, there is the whole problem of is that even

21 the defendant's attempting to enforce an unsigned
22 contingency fee agreement is a breach of the
23 professional rules of ethics, so there's an issue
24 contained with that. But there's

Mr. Bauer wrote the following, page 4, ¶1. I will respond to this paragraph below.

> Mr. Gillespie claims that I failed to amend the pro se complaint. As previously explained, the actions I pursued were first aimed at re-establishing Mr. Gillespie's claims. Upon doing so, a motion for judgment on the pleadings was filed and noticed. The resultant order from the Court granted the motion as to Count II and dismissed it as to Count I. Rather than give leave to amend, however, the court explicitly ordered "in lieu of an amended complaint, all factual allegations contained in Count II are incorporated in Count I." A responsive pleading had been filed in this matter and without leave, an amendment was not permissible. Furthermore, because of the voluntary dismissal of his claims, there were statute of limitations issues involved in attempting to bring new causes of action.

Mr. Bauer argued against his response above on the record, and in a letter to me dated September 5, 2007 listed as Exhibit 6, available upon request. The court ordered "in lieu of an amended complaint, all factual allegations contained in Count II are incorporated in Count I." late in the game July 7, 2008 because Judge Barton grew tired of listening to Mr. Bauer promise to amend the complaint, but failing to do so. Even so, the order still allows an amended complaint.

Judge Barton asked Mr. Bauer about the original pro se complaint, and Mr. Bauer responded that it needed to be amended. This is from the October 30, 2007 hearing before Judge Barton on Defendants' Motion for Judgment on the Pleadings

Page 14
8 THE COURT: So are we on the pro se version of
9 the complaint?
10 MR. BAUER: Yes, Your Honor.
11 THE COURT: How do you feel about that?
12 MR. BAUER: I'd like to amend it and make it
13 a

Page 16
1 [MR. BAUER] But I don't see in any way there's been -there
2 hasn't been a single amendment to this complaint.
3 The case law clearly states that it's not
4 prejudicial to the other party to at least allow one
5 amendment of the complaint. Many of the case law
6 goes up to the court shall allow up to four.
7 MR. RODEMS: There is no motion to amend the
8 complaint filed with this court.

9 MR. BAUER: The court asked a direct question
10 to me on whether or not I would think it would be
11 warranted to amended complaint and I responded.
12 THE COURT: I asked if you felt comfortable
13 with the current version.
14 MR. BAUER: I think there's probably things -
15 problems probably could be dealt with and clarified
16 and issues could be better dealt with if we went and
17 filed for an amended -an amended complaint and
18 moved forward from that point.

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4 [MR. BAUER] I don't see that -- I have been on this case
5 for a whole of six months. I don't think my failure
6 to have amended the complaint in six months is
7 overly egregious considering we have had multiple
8 issues to deal with, the hearings that have been
9 required to come down here, the writ of certiorari
10 that has been filed. I don't think there's been any
11 delay on my part or on the part of my firm.

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1 MR. BAUER: Your Honor, first of all
2 THE COURT: Let me ask this: And we are still
3 on this original complaint?
4 MR. BAUER: Yes, Your Honor.

Clearly Judge Barton is exasperated that Mr. Bauer was still on my deficient original pro se complaint, but Mr. Bauer refused to amend it. The transcript is available upon request.

In a letter dated September 5, 2007 from Mr. Bauer to me, he wrote “I believe it is necessary at this time to reevaluate the initial complaint and draft an amended complaint to include allegations of malpractice and breach of fiduciary duty.” (¶2) This letter is listed as Exhibit 6, and available upon request.

So Mr. Bauer knew an amended complaint was needed, and he knew that “The case law clearly states that it's not prejudicial to the other party to at least allow one amendment of the complaint. Many of the case law goes up to the court shall allow up to four” (RWB, Oct-30-07, p16, line 3).

2. Failure to zealously litigate against the BRC counterclaim:

Mr. Bauer was hired through the LRS to represent me in the libel claim, and all he did from March 2007 through October 2008 was file an amended answer. Zealous advocacy requires, at a minimum, obtaining discovery on the counterclaim and he failed to do so.

Paragraphs 57 and 67 of the counterclaim relate to my effort with ACAP in 2003 to settle this matter without litigation. Mr. Rodems accused me of felony extortion in his Answer, Affirmative Defenses and Counterclaim, submitted January 19, 2006.

I spoke with Donald M. Spangler, Director of ACAP June 12, 2003. Mr. Spangler assigned reference #03-18867 to the matter. Mr. Spangler suggested to me that I contact Mr. Cook to try and settle the matter. The Florida Bar complaint form, Part Four, Attempted Resolution, states that "[Y]ou should attempt to resolve your matter by writing to the subject attorney, before contacting ACAP or filing a complaint. Even if this is unsuccessful, it is important that you do so in order to have documentation of good-faith efforts to resolve your matter." Copies of the documents are available upon request.

On June 13, 2003 I made a good-faith effort and wrote to Mr. Cook to resolve the matter, noting ACAP reference #03-18867. I requested $4,523.93 to settle the matter and provided Mr. Cook an explanation for the request along with a financial spreadsheet supporting his claim. A few days later I received a letter from Mr. Cook's law partner, Christopher A. Barker, on behalf of Mr. Cook. In his letter Mr. Barker accused me of felony extortion pursuant to §836.05 Fla. Statutes and the holding of Carricarte v. State, 384 So.2d 1261 (Fla. 1980); Cooper v. Austin, 750 So.2d 711 (Fla. 5th DCA 2000); Gordon v. Gordon, 625 So.2d 59 (Fla. 4th DCA 1993); Berger v. Berger, 466 So.2d 1149 (Fla. 4th DCA 1985). Mr. Rodems has accused me of felony extortion in his Answer, Affirmative Defenses and Counterclaim, paragraphs 57 and 67.

3. Failure to zealously pursue case management

Judge Barton raised the issue of case management with Mr. Bauer relative to jurisdiction and filing an amended complaint. On August 15, 2007 - five months into the case - Judge Barton kept asking Mr. Bauer over and over about the complaint and what kind of damages were pled. Mr. Bauer could not answer because he was unprepared. This went on for several pages of the transcript but Mr. Bauer kept making excuses. Judge Barton was concerned that Defendants' motion for judgment on the pleadings was upcoming.

Page 30
1 THE COURT: That's why this is kind of a case
2 management. I mean, we hear a judgment -motion
3 for judgment on the pleadings is going to be set.
4 But if you can do that, maybe get a little extra
5 time. Because the first step, based on what you've
6 just told me, is to see if it's going to remain in
7 circuit court.

In his response to the Bar, Mr. Bauer blames me for "the number of times the courts time was unnecessarily consumed by Mr. Gillespie prior to my representation of him" but Judge Barton was focused on getting the complaint and damages established.

4. Failure to zealously pursue discovery:

Mr. Bauer has misled the Bar in his response to discovery. Mr. Bauer wrote, “Mr. Gillespie had voluntarily dismissed his claims against BRC prior to my representation of him in this matter. Because of this, much of the discovery he sought prior to the dismissal was moot.” Judge Barton made it clear that my claims were not dismissed - see his order of August 31, 2007. Voluntary Dismissal cannot be filed pursuant to Rule 1.420 when a counter-claim is pending without first receiving leave of court. Rogers v. Publix Super Markets, Inc., 575 So.2d 214 (Fla. 5th DCA, 1990) This was affirmed at the 2DCA. In addition Mr. Rodems did not produce a single document responsive to request for production. Rodems merely sent me a letter stating that he provided the documents when in fact he did not.

Mr. Bauer also said he wanted to take the deposition of one of the co-plaintiff’s in the AMSCOT case, that would be Gay Ann Bloomfield (because the other co-plaintiff, Mr. Clement, had his sanity called into question and would be a terrible witness) but Ms. Bloomfield died recently at the age of 63, forever ending that possibility.

During our phone call of February 9, 2009 I tried to explain the importance of discovery, The transcript is available upon request.

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21 [MR. GILLESPIE]…without having their discovery you
22 don't know what they have. You don't know what
23 they plan to bring up. And that's a problem. It's
24 a problem. They haven't provided a single page of
25 discovery responsive to Request for Production.
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1 And that's a problem. Because they could spring
2 anything at any time and say that you already had
3 it and you knew about it. And there is nothing you
4 can say against that.
5 MR. BAUER: If you would like --
6 MR. GILLESPIE: I mean --
7 MR. BAUER: If you would like I will draw up
8 an agreement on how I continue to represent you on
9 this case, the things that I will and the things
10 that I won't do. I will ask for reasonable
11 discovery. I'm not necessarily going to ask for
12 the carbon copy of what you had before.
13 MR. GILLESPIE: Well, like I say, I think a
14 lot of that has passed already, because we have
15 gone through the discovery, we have had the
16 discovery hearings. They could have been done in
17 tandem. When he was -- called a discovery hearing
18 and we were standing there it was just as easy to
19 schedule one for them. But all that has passed.
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5. Failure to seek disqualification of BRC's counsel Ryan Christopher Rodems:

In his response to the Bar, Mr. Bauer misstated Judge Nielsen's Order of May 12, 2006, on disqualification of Mr. Rodems as counsel. The order states: "The motion to disqualify is denied with prejudice, except as to the basis that counsel may be a witness, and on that basis, the motion is denied without prejudice." The Order is listed as Exhibit 7 and is available upon request. When I argued the motion April 25, 2006 I did not cite any case law and merely relied on Bar Rule 4-1.9, conflict of interest, former client. This was a big mistake on my part. A transcript of the hearing is available. In March 2010 I researched this question again and found good case law supporting disqualification. I did not discuss this with Mr. Bauer because he was long gone from the case. Here are the issues.

Judge Nielsen's Order of May 12, 2006, begs the question of disqualification, the last part of the order: "…except as to the basis that counsel may be a witness, and on that basis, the motion is denied without prejudice." The question is not whether Rodems may be a witness, but whether he "ought" to be a witness. Proper test for disqualification of counsel is whether counsel ought to appear as a witness.[1] Matter of Doughty, 51 B.R. 36. Disqualification is required when counsel "ought" to appear as a witness.[3] Florida Realty Inc. v. General Development Corp., 459 F.Supp. 781. For a complete review, see Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, submitted July 9, 2010.

The counter-claim provided a new basis for disqualification of Mr. Rodems. When Judge Nielsen ruled, the counter-claim was not established, so the counter-claim allows another chance for disqualification that Mr. Bauer failed to pursue.

Mr. Rodems will litigate this case forever, and this has caused a problem for Mr. Bauer as discussed during our phone call of February 9, 2009. Transcript available on request.

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Page 4
23 [MR. BAUER] Yes, I admit, this case has taken a
24 long time because there has been a lot of
25 distractions done by Mr. Rodems. You have some

Page 5
1 limited resources. I have limited resources on
2 everything that I can do. I can't do a case that's
3 going to do every possible thing that could ever be
4 done that's going to bankrupt my firm in the
5 attempt to do it.

page 9
19 [MR. GILLESPIE]…Mr. Rodems, because he has a conflict of
20 interest, will lie about anything in this case.
21 And that's why he needs to be disqualified. And I
22 think you have as much as acknowledged that already
23 that the problem you're having is litigating
24 against him and he will devote every resource he
25 has to this and you won't. That's the problem.
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page 10
1 MR. BAUER: I can't -- do you expect me to go
2 bankrupt in representation of you, sir?

page 11
7 [MR BAUER]… And I strongly suggest
8 that you pursue, you know, the other motions that
9 are outstanding. I think they're warranted. And I
10 think they get the message out that we're fighting,
11 we're moving on things. I think it clearly puts
12 before the Court the mistake or perjury, whichever
13 the Court determines that they wish to interpret as
14 Mr. Rodems misleading the Court when he said that
15 certain things were present that weren't. If you
16 read those motions I clearly said that in there.

6. Failure to zealously defend against sanctions: .

Mr. Bauer cites the transcript of the July 3, 2007 hearing on Defendant's Amended Motion for Sanctions Pursuant to § 57.105, Florida Statues, as a good barometer of the efforts I undertook to correct the issues caused by Mr. Gillespie in this matter. That transcript, and all the others, show that Mr. Bauer failed to show how Mr. Rodems used knowledge of my disability against me, knowledge Rodems learned during his firm's representation of me on disability issues, as set forth in the following:

Plaintiff's Accommodation Request Americans with Disabilities Act (ADA), February 20, 2007, listed as Exhibits 8 and 9 respectively, available upon request.

Plaintiff's Amended Request Americans with Disabilities Act (ADA), March 5, 2007

I raised the issue with Judge Barton January 26, 2010 and this was the Court's response:

page 8
11 I mean
12 if you are saying your disability, which is yet
13 unclear to me, hasn't been dealt with accordingly
14 -- I believe this is the first time we are hearing
15 about this.
16 MR. GILLESPIE: Actually it is not, Your
17 Honor. This information was presented to you when
18 you were a Judge way back on March 5th, 2007,
19 Plaintiff's Amended Accommodation Request under the
20 ADA. What had happened is shortly after that date,
21 Mr. Bauer took the case over and this motion wasn't
22 heard.

page 12
13 THE COURT: Right. Well, because clearly if
14 folks have disabilities we could make
15 accommodations and again, you had filed it before

16 but, again, when you had an attorney and he was
17 representing you and could have pressed that
18 forward and apparently there were other matters to
19 address.
20 MR. GILLESPIE: I'm sorry that he didn't do
21 that. He was instructed to do that but for
22 whatever reason, Mr. Bauer failed to do that and he
23 failed to do a lot of other things.

In an email to me July 8, 2008 Mr. Bauer wrote he does not wish for me to attend hearings because he is concerned that Mr. Rodems' comments to me will enflame the situation. How did Mr. Bauer intend to conduct a trial, if he did not want me to attend court? Concerning Mr. Rodems' comments, Mr. Bauer wrote: "I am sure that he makes them for no better purpose than to anger you. I believe it is best to keep you away from him and not allow him to prod you." Upon information and belief, the behavior Mr. Bauer has attributed to Defendants counsel Mr. Rodems, comments made "for no better purposes than to anger you", is unlawful harassment and a violation of section 784.048, Florida Statutes. See Notice of Filing Affidavit of Neil J. Gillespie, September 18, 2010 (RWB email), listed as Exhibit 10, available upon request.

From: "Robert W. Bauer, Esq." <rwb@bauerlegal.com>
To: "'Neil Gillespie'" <neilgillespie@mfi.net>
Sent: Tuesday, July 08, 2008 6:05 PM
Subject: RE: attached, Notice of Filing Fact Information Sheet
It was my understanding that my office did contact you. I have already apologized and have stated that I will correct the error with the court. I can do nothing more.
No – I do not wish for you to attend hearings. I am concerned that you will not be able to properly deal with any of Mr. Rodems comments and you will enflame the situation. I am sure that he makes them for no better purpose than to anger you. I believe it is best to keep you away from him and not allow him to prod you. You have had a very adversarial relationship with him and it has made it much more difficult to deal with your case. I don't not wish to add to the problems if it can be avoided.
I agree that there are personal exemptions – but as you may note I have already filled a stay which we are scheduling for hearing at this time.
Robert W. Bauer, Esq.
Law Office of Robert W. Bauer, P.A
2815 NW 13th St. Suite 200E
Gainesville, FL 32609

7. Failure to inform contrary to Rule 4-1.4(a):

Mr. Bauer's failed to keep me informed of the proceedings contrary to Bar Rule 4-1.4(a) informing a client of the status of representation. Judge Barton found me guilty of contempt July 1, 2008. Order Adjudging Contempt was signed July 7, 2008.

How could Mr. Bauer attend a contempt hearing without speaking to his client! This is simply outrageous and beyond all excuse. What was Mr. Bauer thinking for the long, two hour ride from Gainesville to Tampa to attend the hearing? What was Mr. Bauer thinking he would tell Judge Barton? Why did Mr. Bauer fail to call me from his car on that long drive to Tampa, on his way to the contempt hearing?

Mr. Bauer is wrong when he wrote “Mr. Gillespie is confused as to the Court's retention of jurisdiction; as the Fact Information Sheet has been properly filled out, there were no further sanctions imposed.” In fact, Judge Cook as set a hearing for September 28, 2010 to decide matters related to this contempt. Judge Cook rejected Mr. Bauer’s letter that I provided in a motion for reconsideration of the contempt. Judge Cook did that without hearing. This is what Judge Cook wrote in NOTICE OF CASE MANAGEMENT STATUS and ORDERS ON OUTSTANDING RES JUDICATA MOTIONS signed July 29, 2010. Paragraph 14:

> 14. At this mandatory hearing the parties must also be prepared to discuss the effect of the "Order Adjudging Contempt" entered by Judge Barton on July 7, 2008. This order found that the Plaintiff had ability to comply with the "Final Judgment" entered on March 27, 2008 and that the Plaintiff violated the terms of that order by failing to complete Form 1.977 Fact Information Sheet. The Plaintiff was ordered to complete the sheet and to serve a copy to the Defendant no later than July 11, 2008. If the Plaintiff did not timely submit Form 1.977, as ordered, then pursuant to the "Order Adjudging Contempt," "the Court *shall* dismiss" with prejudice, the Plaintiff s last remaining claim (i.e. Count 1, Plaintiff's breach of contract claim against Defendant law firm). Because this dismissal sanction may render hearing on the Defendant's "Motion for Final Summary Judgment" to be moot, the parties are ORDERED to provide proof to this Court that this prior contempt sanction has been addressed.

Judge Cook’s NOTICE OF COURT-ORDERED HEARING ON DEFENDANTS' MOTION FOR FINAL SUMMARY JUDGMENT signed July 29, 2010 states:

> At this mandatory hearing the parties must be prepared to address the ORDER ADJUDGING CONTEMPT entered by Judge Barton on July 7, 2008, as instructed by this Court's prior order.

The parties are further advised that failure to appear or to comport with either the "Notice of Case Management Status and Orders on Outstanding Res Judicata Motions" or this "Notice of Court-Ordered Hearing on Defendants' Motion for Final Summary Judgment" may constitute contempt of court, which could result in the imposition of sanctions, including without limitation fine, incarceration or dismissal of the action with prejudice.

This document is being provided to Mr. Bauer separately, with copy to the Bar.

Mr. Bauer wrote the following, page 6, ¶3. I will respond to this paragraph below.

> Soon after my representation of Mr. Gillespie began, he became hostile towards my staff. Mr. Gillespie, on numerous occasions, acted hostilely towards my staff while attending meetings at my office (See Affidavit of Beverly Lowe, Exhibit D). He also expressed displeasure that he was being billed for time spent by my law clerks and paralegals in connection with his case. While the billing practices employed during the scope of our representation of Mr. Gillespie fell within the fee agreement he signed (Exhibit B), I advised my staff that they were no longer to work on his case in an attempt to appease him.

Mr. Bauer falsely wrote that I became hostile toward his staff shortly after his representation began. This is a complete and utter falsehood. I did not act hostility towards his staff while attending meetings at his office while I was a client. I did not express displeasure that I was being billed for time spent by his law clerks and paralegals in connection with my case. I questioned the practice of billing $100 paralegal rates to do secretarial duties like open mail and put documents in files, which was contrary to the contract[2]. As for Beverly Lowe, she arrived after I had been a client for one year and was not present to observe anything during that time. Ms. Lowe's affidavit for an alleged incident when I was no longer a client is irrelevant. Nonetheless I made an affidavit in rebuttal that is listed as Exhibit 11, available upon request. I also made an affidavit of Mr. Bauer's refusal to return my case file, listed as Exhibit 12, available upon request.

Here is another false statement of Mr. Bauer:

> Because my staff was removed from his case, they did not follow our standard operating procedures in regards to Mr. Gillespie's documents. As such, he was not provided with the Fact Information Sheet required to be filled out in connection with the Final Judgment ordered against him on March 27, 2008. This was an oversight for which I apologized to Mr. Gillespie, opposing counsel, and the Court in the letter dated July 24, 2008 (Exhibit 10 of Mr. Gillespie's grievance).

Mr. Bauer falsely wrote that his staff was removed from my case. In fact I was in frequent contact with Mr. Bauer's staff through the time I was a client. There are many, many emails showing my contact and friendly communication with his staff at all times during the representation. I even have a personal email with one employee offering

[2] I questioned a number of instances of overbilling which Mr. Bauer admitted and made corrections. In retaliation Mr. Bauer sent me a new fee contract March 31, 2008 with higher rates. In a cover letter Mr. Bauer wrote "Please be advised that this is appropriate under the Laws of Florida as the type of fee agreement we have is construed to be an employment at will and may be modified or terminated at anytime. If you have any concerns regarding the validity of this statement would instruct you to contact another attorney to advise you on this issue." In my view if the contract can be "modified or terminated at anytime" and is between unequal bargaining partners such as a law firm and a private party, this amounts to an adhesion contract that exploits unequal power relations. Mr. Bauer also admitted that it is often the practice of law firms to include the cost of general secretarial duties or other costs in the rate for attorney's fees, but that is not the practice of his firm. This was not clear in our original contract, and added thousands and thousands of dollars to the cost of litigation.

suggestions for a law school that does not require the LSAT. I would be happy to provide copies of the emails upon request.

This question goes to the essence of a major problem with Mr. Bauer, his inattention to detail, and an office operating in disarray. As I noted, Mr. Bauer kept firing his employees or they left voluntarily when they realized their mistake in working for him.

8. Failure to zealously stay the Final Judgment:

Mr. Bauer wrote "Because Mr. Gillespie was unwilling to post a bond, there was little I could do to defend against an action that I was, statutorily, not entitled to notice of until after the action had already commenced." (p7, ¶3). This is false, and a material misrepresentation to the Bar.

I immediately applied for a supersedes bond through the Juris Company suggested by Mr. Bauer. Here is the text of the email from Josh Cossey with a status on the bond. Again, this also shows I was working closely with Mr. Bauer's staff. Listed as Exhibit 13, available upon request.

From: "Joshua A Cossey" <jac@bauerlegal.com>
To: "'Neil Gillespie'" <neilgillespie@mfi.net>
Sent: Tuesday, August 19, 2008 12:45 PM
Subject: Bond status update.
Mr. Gillespie,
I have received your fax, submitted all relevant issues to Mr. Bauer, and submitted the application for initial review to Juris Co. I have also called them and they have acknowledge receipt. I will notify you of any further developments. Additionally, I expressed your concerns regarding the head of household statement, and will follow up with him today.
Respectfully,
Joshua A. Cossey, JD
The Law Office of Robert W. Bauer, P.A.

Here is the text of an email from Mr. Bauer; he said a bond was not in my best interest for the reasons stated in his email. Listed as Exhibit 14, available upon request.

From: "Robert W. Bauer, Esq." <rwb@bauerlegal.com>
To: "'Neil Gillespie'" <neilgillespie@mfi.net>
Sent: Tuesday, August 19, 2008 4:24 PM
Subject: Bond
We received a response from several bonding companies. While we have been able to receive court bonds in the past that where based on a percentage – we are not able to do so at this time. They are now requiring 100% collateral for the bond. Then they charge a service fee of several thousand dollars. I cannot see any advantage for you with this. We still have the option that you can post the full amount with a disinterested third party escrow agent – I should be able to get

another attorney to do that for little or nothing. Again, considering our review of what they can get I am not sure this is in your best interest. Please advise me of your desires in this as soon as possible.
Robert W. Bauer, Esq.
Law Office of Robert W. Bauer, P.A

My email to Mr. Bauer telling him I don't have money to post for a bond. Listed as Exhibit 15, available upon request.

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Robert W. Bauer, Esq." <rwb@bauerlegal.com>
Sent: Tuesday, August 19, 2008 5:35 PM
Subject: Re: Bond
August 19, 2008
Mr. Bauer,
I do not have the money you request to pay for the bond, nor do I have that amount to post with a third party. Barker Rodems & Cook took the last few hundred dollars out of my checking account on August 11, 2008 by garnishment. As you know, thus far I have paid your legal bills with credit cards or home equity loan checks. I am indebted to my mother for over $18,000 for your attorney's fees, plus many more thousands for transcripts, other lawyer's fees, etc (See the email for the rest of the text, Exhibit 15)

Mr. Bauer wrote "Because enforcement of judgments is done ex parte, it was not possible for me to know what actions Mr. Rodems was taking in that regard. Upon learning that Mr. Rodems intended to proceed with garnishment, I filed an emergency motion for stay." (p7, ¶2). The problem with this statement is Mr. Bauer received the garnishment August 1, 2008 but did not tell me! (His trust account was garnished too). I found out about the garnishment when my checks started bouncing August 8, 2008. For over a week Mr. Bauer knew about the garnishment and did not tell me. See my email to him on this subject of August 11, 2008. Listed as Exhibit 16, available upon request.

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Robert W. Bauer, Esq." <RWB@bauerlegal.com>
Cc: "Natalia D Ricardo" <ndr@bauerlegal.com>; "Beverly Lowe" <bel@bauerlegal.com>
Sent: Monday, August 11, 2008 11:18 AM
Subject: writ of garnishment
Dear Mr. Bauer,
Today my bank informed me that a writ of garnishment has been served against my accounts. On Friday evening, August 8, 2008, I noticed checks I had written were not being paid. It turns out that my accounts were frozen. Today the bank would not disclose who initiated the writ of garnishment. I am assuming it was Mr. Rodems on behalf of his client Barker, Rodems & Cook, PA for their final judgment of $11,550. The bank said the sheriff would be serving papers upon me, but as of now that has not happened.

In a letter to you dated April 8, 2008, I requested that you stay any action on the final judgment. While you have made a motion to stay the judgment, you have not even scheduled a hearing. (See the email for the rest of the text, Exhibit 16)

On August 12, 2008 I sent Mr. Bauer another email outlining the chain of events leading to the garnishment. Listed as Exhibit 17, available upon request.

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Robert W. Bauer, Esq." <RWB@bauerlegal.com>
Cc: "Tanya Uhl" <TMU@bauerlegal.com>; "Joshua Cossey" <jac@bauerlegal.com>; "Natalia D Ricardo" <ndr@bauerlegal.com>; "Beverly Lowe" <bel@bauerlegal.com>; "Ann Breeden" <agb@bauerlegal.com>
Sent: Tuesday, August 12, 2008 10:05 AM
Subject: Writ of Garnishment
August 12, 2008
Mr. Bauer,
Please provide a copy of the Writ of Garnishment by email. When did you first become aware that Mr. Rodems obtained a Writ of Garnishment?
Now that my bank accounts have been emptied, what else can I expect to happen?
1. Will my car be taken away? Yesterday I transferred the car to my mother's name.
2. Will things from my home be taken away? My cloths? My Computer?
3. Will there be a sheriff sale? If so, when?
4. Will my family's assets (not in my name) be taken?
5. What else can I expect as a result of the Writ of Garnishment?

During our March 27, 2008 phone call I instructed you to stay the final judgment, and you agreed to file a motion to stay. It goes without saying that the motion to stay must be filed, scheduled, and heard in a timely manner. "Timely" means BEFORE the execution of the judgment, writ of garnishment, etc. Otherwise it is a case of closing the barn door after the horse has escaped. On April 8, 2008, I instructed you by letter to stay the final judgment. Why did you fail to act in a timely matter? Why did you wait until June 9, 2008 to submit Plaintiff's Motion For Stay? Why did you fail to schedule a hearing in June? Why did you fail to schedule a hearing in July? Now that we are in the month of August, your current excuse that the judge is on vacation strains credulity. (See the email for the rest of the text, Exhibit 17)

In addition to the garnishment, Mr. Rodems was aggressively pursuing discovery in aid of execution against our trust, The Gillespie Family Living Trust. The only asset in the trust was our retirement home and furnishings but Mr. Bauer said he knew of no way to keep Mr. Rodems out of the trust. This was the final breakdown in our relationship.

Earlier this year I found good case law protecting property in trusts. Mr. Bauer claimed he could not object to Rodems discovery into our trust. But this case law holds otherwise,

see 13 Fla. Jur 2d Creditors' Rights § 91. The creditors of the trustee are not entitled to an attachment to subject trust property held by the trustee to the payment of the trustee's debts. Tillman v. Taylor, 99 Fla. 1326, 128 So. 846, Fla. 1930. The remedy is not available even if the debt is chargeable to the trust itself. Johnston v. Smith, 76 Fla. 474, 80 So. 184, Fla. 1918. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment, at least in the absence of express statutory authorization. McLeod v. Cooper, 88 F.2d 194, C.A.5 1937.

9. Withdrawal as Counsel:

Mr. Bauer wrote, “As stated previously, the relationship between Mr. Gillespie -and I became strained soon after I made my appearance in his case.” (p7, ¶4). This is false, and a material misrepresentation to the Bar.

Mr. Bauer wrote the following, page 7, ¶5. I will respond to this paragraph below.

> For reasons unclear to me, Mr. Gillespie also became hostile towards my staff and often questioned their qualifications. This made communication with Mr. Gillespie even more difficult. In actuality, many of those individuals listed at page 3 of Mr. Gillespie's grievance are now members of our profession and the Florida Bar. I feel it is our duty as Bar Member's, especially in Gainesville, to help train our future colleagues and as such, I have continually employed law clerks while they are attending the University of Florida, Levin College of Law. It was due to Mr. Gillespie's unwillingness to treat my staff with respect coupled with his frustration and inability to communicate effectively with me, that I felt it necessary to withdraw as his counsel in this matter (See Exhibit D).

When I first met Mr. Bauer March 2, 2007 he said he had been in business for about a year. This was false; it was a couple of months. When I became a client Mr. Bauer had one employee, Karen McCain. She was young and pleasant, and I liked her. She confided in me her fear about taking the LSAT. I suggested she look at Massachusetts School of Law in Andover that does not require the LSAT. Karen was also considering a Master of Arts in Legal Studies at University of Illinois at Springfield.

But Mr. Bauer fired Karen, and he was somewhat justified, since her previous job was a sales clerk at Radio Shack and she lacked sufficient legal experience to bill clients at $75 to $100 per hour. Mr. Bauer also complained that Karen could not multitask.

Within a few months of me becoming a client Mr. Bauer hired more employees. Then I noticed another problem. Mr. Bauer likes the ladies too much for a married man running a law office. Mr. Bauer is tall and handsome and it soon became apparent he liked the attention of all the young pretty women he hired. I recall one day when I was in his office, a young woman stopped by from a neighboring office, perhaps to notarize something. After she left Mr. Bauer began making sexual comments about her body. I just smiled and nodded to appease him. I believe some of these women were a distraction to Mr. Bauer. And for others, I believe they resented Mr. Bauer’s playboy demeanor. I believe this contributed to a high turnover of staff.

As a former businessman myself, I tried to counsel Mr. Bauer on the value of experienced staff, committed to the long term, who could provide continuity of service to the client. Mr. Bauer believes he has a "duty as Bar Member's, especially in Gainesville, to help train our future colleagues". In fact, the client is his first responsibility.

> It is long established that the relationship between an attorney and his client is one of the most important, as well as the most sacred, known to the law. The responsibility of an attorney to place his client's interest ahead of his own in dealings with matters upon which the attorney is employed is at the foundation of our legal system. (Deal v. Migoski, 122 So. 2d 415). It is a fiduciary relationship involving the highest degree of truth and confidence, and an attorney is under a duty, at all times, to represent his client and handle his client's affairs with the utmost degree of honesty, forthrightness, loyalty, and fidelity. (Gerlach v. Donnelly, 98 So. 2d 493).

Otherwise I got along fine with his staff, although since he kept firing them or they left of their own accord at a high frequency, I never got to know most of them.

10. Appeals Court Misconduct:

Mr. Bauer wrote: "As I stated earlier, Mr. Gillespie was adamant about appealing the Final Judgment. I explained to him that an appeal was not appropriate, but he proceeded to file the appeal anyway without my knowledge or assistance." Actually Mr. Bauer helped me file the appeal and he had full knowledge of my effort. It was done this way because Mr. Bauer did not want to pay the filing fee. I paid the filing fee with my own funds. Here is the email from Josh Cossey, cc to Mr. Bauer. Listed as Exhibit 18.

From: "Joshua A Cossey" <jac@bauerlegal.com>
To: <neilgillespie@mfi.net>
Cc: "'Robert W. Bauer, Esq.'" <rwb@bauerlegal.com>
Sent: Thursday, April 24, 2008 6:36 PM
Attach: Florida Rules of Appellate Procedure 2007.pdf
Greetings Mr. Gillespie,
It was a pleasure speaking with you today regarding the questions and concerns raised surrounding case 05-CA-007205. Per our conversation, I have attached the Florida Rules of Appellate Procedure so that you may have it on hand if needed. While I can not advise you or provide legal opinions as to what should be done (strictly defaulting to Mr. Bauer), I note my personal attention to Rule 9.110. You will hear from this office before close of business tomorrow regarding this offices involvement and direction surrounding the appeal and other issues raised in our conversation.
Respectfully,
Joshua A. Cossey, JD
The Law Office of Robert W. Bauer, P.A.

Here is the email from Natalia D. Ricardo providing the appellate filing documents. There are quite a few emails showing that Mr. Bauer knew about and assisted with the appeal. Listed as Exhibit 19, available upon request.

From: "Natalia Ricardo" <ndr@bauerlegal.com>
To: <neilgillespie@mfi.net>
Sent: Friday, April 25, 2008 10:54 AM
Attach: 04-25-08-Notice of Filing Appeal.pdf
Subject: Law Office of Robert W. Bauer, P.A.
Mr. Gillespie,
Attached please find the Notice of Filing Appeal as well as the Final Judgment (in one pdf). Should you have any problems viewing the attachment, please do not hesitate to contact me via e-mail or at the telephone number listed below.
Sincerely,
Natalia D. Ricardo
Legal Assistant to Robert W. Bauer, P.A.

11. Withdrawal and pro se response:

As for Exhibit C to Mr. Bauer's response, Plaintiff Neil J. Gillespie's pro se Response to Attorney Robert W. Bauer's Motion for Withdrawal of Counsel, that was a last minute effort. In July 2009 I retained attorney Seldon Childers to review this matter, negotiate with Mr. Bauer, and advise about the future of the case. But Mr. Childers failed to advise me about the motion to withdrawal, and I was concerned that Judge Barton would not allow the case to proceed unless I paid Mr. Bauer's $12,650 outstanding legal bill. So I drafted my pleading to mitigate that possibility. Once I agreed to release Mr. Bauer from the case, the hearing was over. Transcript available upon request.

12. Response to Allegations of Fraud:

As shown in this rebuttal, Mr. Bauer made many misrepresentations of material fact to the Florida Bar. In addition, I spoke with Karen Kelly of the LRS September 14, 2010. Ms. Kelly said Mr. Bauer has not paid his LRS fee for this case, which she identified as case no. 2007-13518. She said Mr. Bauer marked this matter "case pending".

Mr. Bauer wrote "Although we were engaged in litigation that was very contentious, Mr. Rodems was at all times cordial and professional and treated me with dignity and respect." This is not what Mr. Bauer told me. He said Mr. Rodems lied to the court about a signed contingent fee agreement among other things. As for the "slimy attorney" comment, Mr. Bauer said "Furthermore, the comment was based on Mr. Gillespie's claims against Mr. Cook, not Mr. Rodems." That is contrary to the holding of Smyrna Developers. Partners engaged in the practice of law are each responsible for the fraud or negligence of another partner when the later acts within the scope of the ordinary business of an attorney. Smyrna Developers, Inc. v. Bornstein, 177 So.2d 16. This is especially true in a small three-attorney firm where they conspire to deceive their clients.

III. RESPONSE TO OTHER ALLEGATIONS NOT COVERED BY RULES OF PROFESSIONAL CONDUCT:

Mr. Bauer wrote "Frankly, Mr. Gillespie often wanted to give legal suggestions and advice without sufficient knowledge to do so. He continuously requested that I take actions that were inappropriate and would give rise to liability on both of our parts." In fact I was busy caring for my mother who was dying of Alzheimer's and did not have time to do all the things Mr. Bauer claimed. Late in the representation when my bank account was garnished and Mr. Rodems wanted discovery on the trust, I had to act for mere economic survival, but it was too late.

Mr. Bauer wrote "He made threats to my office staff and did not wish to have my law clerks work on his case." This is nonsense and I deny this accusation. As shown in the emails, I worked well with his staff. The biggest threat to Mr. Bauer's staff was Mr. Bauer. He kept firing or loosing them.

Mr. Bauer wrote "I was successful in reestablishing his claims against BRC and in securing a stay of the final judgment against him." Reestablishing the claims is of little value without amending the complaint and litigating the case. Securing a stay of final judgment is worthless if one cannot meet the terms of the stay.

Mr. Bauer wrote "He threatened to file this grievance if I did not agree to his demands." That statement is false. I did not make any threats against Mr. Bauer.

Attorney Seldon Childers reviewed this matter and wrote: "Bauer's Outstanding Fees. Mr. Bauer has a claim to his fees of $12,517.41, at least as of the most current invoice that I was provided. On the one hand, he may have difficulty proving his entitlement to the fees, due to some evidence that an attempt was made to renegotiate the contract to a contingency basis."

Given the number of misrepresentations and outright lies Mr. Bauer put forth in his response, I would be satisfied if Mr. Bauer is disbarred to protect the public.

Sincerely,

Neil J. Gillespie

cc: Mr. Robert W. Bauer

Enclosures: List of Exhibits, available upon request.

Exhibit 6, September 5, 2007 letter of Robert W. Bauer, to Neil Gillespie stating "I believe it is necessary at this time to reevaluate the initial complaint and draft an amended complaint to include allegations of malpractice and breach of fiduciary duty.

LAW OFFICE OF
ROBERT W. BAUER, P.A.

2815 NW 13th Street
Suite 200
Gainesville, FL 32609

Tele: 352.375.5960
Fax: 352.337.2518

Internet address:
RWB@bauerlegal.com

September 5, 2007

Neil Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Ref: Case Status

Dear Mr. Gillespie,

This letter is to provide you with a brief description of what occurred at last month's hearing on your motion to withdraw voluntary dismissal. As I indicated in my telephone messages after the hearing, we prevailed in our motion and your cause of action has been reinstated.

I believe it is necessary at this time to reevaluate the initial complaint and draft an amended complaint to include allegations of malpractice and breach of fiduciary duty. I believe that it is likely from the comments of opposing counsel that at this time, they are going to attempt to seek an interlocutory appeal in regards to the issue of jurisdiction over this case.

The issue of jurisdiction is more clearly stated in that they believe the court no longer has jurisdiction to hear your causes of action after the voluntary dismissal. I, of course, am willing to handle any appeal that is filed in this action and will advise you as soon as possible for a need to respond to this. However, I must advise you that the defendant seeking interlocutory appeal while the case is pending is going to cause us to have two cases to focus our attention on at one time. This is going to cause a significant amount of work on the part of our office. I only advise you of this so that you will not be surprised when the monthly attorney's bills increase significantly over the coming months.

I do not anticipate any problems from you in regard to the payment of your bills as you have been most courteous and prompt in your responses and payments to bills that have been forwarded. I simply advise you of this to give you advance warning of what might be a financial difficulty for you.

If you have any questions or concerns regarding this, please contact me.

Sincerely,

Robert W. Bauer, Esq.

RWB/kam

EXHIBIT
6

Exhibits available upon request. Exhibits were not provided due to the Bar's request that I limit this response to 25 pages.

1. MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO WITHDRAW VOLUNTARY DISMISSAL OR ALTERNATIVELY MOTION TO AMEND ANSWER TO INCLUDE COUNTER -COUNTER COMPLAINT, May 2, 2007

2. ORDER GRANTING PLAINTIFF'S MOTION TO WITHDRAW PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL, August 31, 2007

3. Plaintiff's Motion for Rehearing July 16, 2008

4. August 5, 2010 letter of attorney Tanya Bell Esq. Bar No. 0052924 (f.k.a. Tanya Uhl).

5. Email of Ann G. Breeden, August 12, 2008

6. Letter of Robert W. Bauer, September 5, 2007 to Neil Gillespie

7. Judge Nielsen's Order of May 12, 2006, on disqualification of Mr. Rodems as counsel

8. Plaintiff's Accommodation Request Americans with Disabilities Act (ADA), February 20, 2007

9. Plaintiff's Amended Request Americans with Disabilities Act (ADA), March 5, 2007

10. Notice of Filing Affidavit of Neil J. Gillespie, September 18, 2010 (RWB email)

11. Affidavit of Neil J. Gillespie in Rebuttal to Beverly Lowe

12. Affidavit of Neil J. Gillespie, Mr. Bauer's refusal to return my case file

13. Email of Josh Cossey, August 19, 2008, supersedes bond through the Juris Company

14. Email of Mr. Bauer, August 19, 2008, stating a supersedes bond is not in my interest

15. My email August 19, 2008 to Mr. Bauer telling him I don't have money to post for a bond.

16. My email August 11, 2009 to Mr. Bauer telling him my bank account was garnished

17. My email August 12, 2008 to Mr. Bauer outlining chain of events leading to garnishment

18. Email of April 24, 2008 from Josh Cossey, assistance with appeal to the 2DCA

19. Email of April 25, 2008 from Natalia D. Ricardo providing the appellate filing documents