UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

NEIL J. GILLESPIE,

Plaintiff,

vs.

THIRTEENTH JUDICAL CIRCUIT, FLORIDA, et al.

Defendants.
_____/

CASE NO.: 5:10-cv-503-Oc-10TBS

PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

Plaintiff Gillespie responds to this Court's Order To Show Cause and states:

1. This Court by Order entered October 19, 2011 directed the Plaintiff to show cause by written response why this case should not be dismissed pursuant to Local Rule 3.10 for lack of prosecution due to the non-filing of a Case Management Report within the time prescribed by Local Rule 3.05. (DKT 53). The Plaintiff timely moved to enlarge the time to respond to a date certain of November 9, 2011. (DKT 55). The Court granted the motion November 3, 2011, and Ordered Plaintiff's deadline for filing a response to the Order to Show Cause is November 9, 2011. (DKT 56).

2. Pursuant to Local Rule 3.05, the Clerk designated this action as a Track Two Case September 30, 2010 for case management purposes. Local Rule 3.05(c)(2)(B) states:

> (2) Track Two Cases - -
>
> (B) Counsel and any unrepresented party shall meet within 60 days after service of the complaint upon any defendant, or the first appearance of any defendant, regardless of the pendency of any undecided motions, for the purpose of preparing and filing a Case Management Report

> in the form prescribed below. Unless the Court orders otherwise, parties represented by counsel are permitted, but are not required, to attend the case management meeting. The Case Management Report must be filed within 14 days after the meeting. Unless otherwise ordered by the Court, a party may not seek discovery from any source before the meeting.

3. The Court seeks dismissal of the action pursuant to Local Rule 3.10 for lack of prosecution due to the non-filing of a Case Management Report within the time prescribed by Local Rule 3.05. Local Rule 3.10 states:

> RULE 3.10 FAILURE TO PROSECUTE: DISMISSAL
>
> (a) Whenever it appears that any case is not being diligently prosecuted the Court may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed, and if no satisfactory cause is shown, the case may be dismissed by the Court for want of prosecution.

4. A review of the docket in this action shows considerable activity by the Plaintiff in prosecution of the action, including a pending motion to extend time to file a Notice of Objection. (DKT 54). Pursuant to local Rule 1.04(d) Plaintiff Gillespie on August 31, 2011 gave notice of pendency of a related case. On August 22, 2011 the Supreme Court of Florida acknowledged a new case, number SC11-1622 (Lower Tribunal Case Number(s): 2D10-5197, 05-CA-7205). The case caption is Neil J. Gillespie v. Barker, Rodems & Cook, et al. (DKT 46). Currently a motion is pending in the Supreme Court of Florida to extend the time to file a petition for writ of mandamus, due to a conflict with this Court and the filing of this written response to the Order To Show Cause.

Introduction

5. This lawsuit is about the basic requirements of justice, fairness and equality that we should all expect from our courts. In August 2005 Plaintiff Gillespie brought suit in the Thirteenth Circuit to recover $6,224.78 stolen by Gillespie's former lawyers, Barker,

Rodems & Cook, PA. Mr. Rodems is unethically representing his firm against a former client, and his independent professional judgment is materially limited by his own interest and conflict. Shortly after Gillespie prevailed on defendants motion to dismiss in January 2006, Mr. Rodems disrupted the proceedings with a harassing phone call, followed by an affidavit claiming that Gillespie planned an attack in the chambers of Judge Nielsen. The accusation was later proved false by an investigation of the Tampa Police Department. Mr. Rodems countersued Gillespie for libel, and racked up $11,550 in sanctions on a discovery error and misplaced defense to the counterclaim. The libel claim was baseless and Rodems dropped it in 2010. Gillespie was previously represented by attorney Robert W. Bauer, who dropped the case and complained on the record that Mr. Rodems "...decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner...". In 2009 attorney Seldon "Jeff" Childers determined that $7,143 was stolen by Barker, Rodems & Cook, not $6,224.78 claimed in the original complaint. Mr. Rodems' "full nuclear blast approach" has aggravated Gillespie's disability to the point where Gillespie can no longer represent himself at hearings. In 2010 Judge Barton was disqualified over thousands of dollars paid by Barker, Rodems & Cook to the court reporting business owned by Barton's wife. Judge Martha Cook assumed the case, she is a recipient of campaign cash from both Mr. Rodems and his partner, William Cook. Judge Cook repaid Mr. Rodems and William Cook with a series of favorable rulings that were unlawful. Gillespie commenced the instant action in response to Civil Rights violations for the misuse and denial of judicial process under the color of law, and violations of the Americans With Disabilities Act (ADA). Even though

Judge Cook was a Defendant in the instant case, she refused to recuse herself and kept making rulings against Gillespie, most of them done ex-parte. No one should be a judge in his or her own case. On November 18, 2010 Gillespie filed a Petition for Writ of Prohibition to remove Judge Cook, case no. 2D10-5529, and she recused herself sua sponte the same day. The case was reassigned to Judge James Arnold, and while on appeal in 2D10-5197, Rodems disrupted the appellate process with a second round of full nuclear blast attacks to have Gillespie arrested on civil contempt, based on an unlawful ruling of Judge Cook, for purportedly failing to attend a deposition. On several occasions Mr. Rodems appeared before Judge Arnold and told bold-faced lies to cause a writ of bodily attachment to be issued to arrest Gillespie. [DKT 37]. Rodems lied to Judge Arnold about Gillespie's disability [DKT 36], Rodems lied to the Court about Gillespie's willingness to attend a deposition [DKT 35], and Rodems even told the Court that Gillespie received money from a trust, which is false. Because Gillespie is indigent the public defender was appointed to represent him at the contempt hearing, but Judge Arnold dismissed the public defender and issued a warrant to arrest Gillespie. Plaintiff Gillespie made two Rule 22 Application to US Justice Clarence Thomas for an Emergency Petition For Stay or Injunction to no avail. [44]. Mr. Rodems refused to cooperate with Gillespie's new lawyer to attend a deposition, and Gillespie was deposed in the Hillsborough Courthouse while in custody of two armed Hillsborough County Sheriff deputies. Gillespie, a diabetic, was denied food while in custody, and about four (4) hours into the deposition became hypoglycemic and confused. Once Gillespie was incompetent, Mr. Rodems obtained a settlement agreement unlawfully. Gillespie was so

incompetent that he could not give consent, and the record shows that his lawyer Mr. Castagliuolo made the decision to settle, which went against Gillespie's instructions not to take a walk-away settlement. [DKT 33, 34, 39]. Subsequently the Supreme Court of Florida decided to here from Gillespie in case no. 2D11-1622, and allowed a petition for writ of mandamus which will be filed shortly.

6. For case management purposes under Local Rule 3.05, Plaintiff believes this action is a complex litigation case due to the nature of the allegations against a Florida Circuit Court, three circuit court judges, court counsel, the ADA coordinator, the law firm that gives rise to the action, and the attorney and firm hired to represent, and later betrayed, the plaintiff. The Plaintiff, an indigent, disabled, unrepresented, nonlawyer, appearing pro se, alleges misuse and denial of judicial process under the color of law, violation of his Civil Rights, and the Americans With Disabilities Act (ADA). Counsel of record Ryan Christopher Rodems, a one-time defendant himself in this case, made the action impossibly complex by intentionally misleading this Court with false and untrue statements in his pleadings, in violation of Rule 11(b), FRCP.

The Notorious Thirteenth Judicial Circuit

7. a. The Thirteenth Circuit is notorious for wrongdoing. The price is high for confronting judicial misconduct. In one example, Circuit Judge Gregory Holder spoke to the media about judicial misconduct, and was a cooperating witness (2001-2002) in a federal criminal investigation of corruption at the Hillsborough County Courthouse. In retaliation the Florida Judicial Qualifications Commission (JQC) pursued two failed inquiries against him, JQC Inquiry Nos. 01-303 and 02-487. Judge Holder spent many

years and $1.92 million successfully defending himself. On June 23, 2005, the Hearing Panel of the JQC voted unanimously to dismiss the charges against Judge Holder. This was the first trial defense verdict against the JQC in almost twenty years. On September 15, 2009 the Supreme Court of Florida, case no. SC03-1171, ordered entry of judgment for Judge Holder for recovery of costs from the JQC in the amount of $70,000 for successfully defending JQC Inquiry No. 02-487. Judge Holder's actual expenses were $1,779,691.81 in legal fees, and cost of $140,870.79.

b. The JQC filed Notice of Formal Charges against Judge Holder July 18, 2003 (Inquiry No. 02-487, Supreme Court Case No.: SC03-1171) alleging Judge Holder plagiarized 10 pages of a 21 page research report to the Faculty of the Air War College Directorate of Nonresident Studies, Air University, titled "An Analysis of the Anglo-American Combined Bomber Offensive in Europe During World War II, 1942-45." At the time Judge Holder held the rank of Lieutenant Colonel, United States Air Force Reserve. During the trial, Judge Holder presented compelling evidence that the purported Holder paper was fabricated to retaliate against him for participating in the courthouse corruption investigation. [Bartoszak Tr. pp. 7, 12-13, at App. 3.]

In 1999, Judge Holder reported to former Chief Judge Dennis Alvarez that certain judges were engaging in improper conduct. [Nasco Tr. pp. 17-19, at App. 8.] In July of 2000, Judge Holder's bailiff, Sylvia Gay, discovered former Judge Robert Bonanno in Judge Holder's chambers, after normal business hours, while Judge Holder was out of state on Air Force Reserve duty. Judge Bonanno left Respondent's chambers carrying unidentified documents. [Id.] Judge Holder reported this incident, and a law enforcement

investigation ensued. [Id. at pp. 102, 105-07.] Ultimately, impeachment proceedings were commenced against Judge Bonanno and he resigned from office.

During 2001 and 2002, Judge Holder cooperated with the FBI in the courthouse corruption investigation. [Bartoszak Tr. pp. 4-5, at App. 3.] Because of Judge Holder's cooperation, the investigation's targets had motive and resources to seek retribution against him. [Id. at pp. 7-8] Indeed, these targets faced not just loss of position but potential incarceration. [Id.] Detective Bartoszak testified at trial that the courthouse corruption investigation team was concerned that Judge Holder's activities were being monitored by targets of the investigation. Judge Holder was advised by federal law enforcement agents to carry a weapon, and he was provided with a secure cell phone to communicate with the authorities. [Bartoszak Tr. pp. 7-8, at App. 3.]

In early 2002, in the midst of the courthouse corruption investigation, Assistant United States Attorney Jeffrey Del Fuoco, who also served in the United States Army Reserve, claimed that an unmarked manila envelope was anonymously placed under his office door at the Army Reserve Headquarters in St. Petersburg. [Del Fuoco Tr., pp. 8-9, at App. 10.] Del Fuoco testified that the unmarked envelope contained an unsigned typewritten note to the effect that "I thought you would be interested in this," or "something should be done about this." [Id. at p. 10.] The note was purportedly signed "A concerned citizen," or "A concerned taxpayer." The note allegedly accompanied a copy of the purported Holder paper and a copy of the Hoard paper (the "Papers"). [Id. at pp. 10-12.] The United States Attorney's Office did not provide the papers to the JQC until December of 2002, approximately 11 months after it received them. Tellingly, the

referral to the JQC occurred just weeks after Judge Holder wrote a letter to the Department of Justice Office of Professional Responsibility complaining about the lack of progress in the courthouse corruption investigation. [Bartoszak Tr. p. 8, at App. 3.] However, by that time, the purported note and envelope had inexplicably disappeared from the file in the United States Attorney's Office. [Del Fuoco Tr., pp. 50-52, at App. 10.] Consequently, the only evidentiary documents received by the JQC were the purported Holder paper and the Hoard paper.

It is widely alleged that the Inquires of Judge Holder were retaliatory for his role as a cooperating witness in a federal criminal investigation of corruption at the Hillsborough County Courthouse.

c. A grand jury presentment of An Investigation Into Judicial Misconduct In Hillsborough County of December 8, 2000 and the Judicial Qualifications Commission (JQC) Inquiry Concerning Circuit Judge Robert H. Bonanno, JQC Case No. 00-261, showed how the unauthorized entry by Circuit Judge Robert Bonanno into the office of Circuit Judge Gregory Holder led to the revelation that Circuit Judge Gasper Ficarrotta conducted an extramarital affair with Hillsborough County Bailiff Tara Pisano which lasted for more than a year, and that sexual relations occurred between them in the courthouse during regular business hours while jury trials were conducted in the next room. Grand jury testimony showed Judge Ficarrotta wanted to install a "stripper pole" in his chambers so Bailiff Pisano could perform for him, that Ficarrotta wore a Pisano's thong in chambers, and that Ficarrotta exposed his genitals in chambers. Ficarrotta offered his resignation after the affair became public.

Judge Holder also alerted investigators to an incident in which Bailiff Tara Pisano accused her husband, sheriff's Cpl. Carmine Pisano, of threatening to kill Ficarrotta in response to the affair. The Sheriff's Office made no report of that incident. The grand jury testimony shows that Carmine Pisano's threat to kill Ficarrotta was made in the presence of other officers when Pisano took his service pistol out of its holster and left the room saying he was going to kill Judge Ficarrotta. "It's not against the law to threaten anybody except the president of the United States, unless there's an overt act to substantiate it," said Sheriff Cal Henderson. "We didn't do an investigation because one was not needed."

The grand jury found evidence of unlawful election campaigning by Hillsborough County Corporal Michael Sheehan, and secret Judicial Qualifications Commission investigation. Bailiff Tara Pisano saw large amounts of money in Judge Ficarrotta's office, including a cash-filled security box. Pisano saw Ficarrotta solicit and receive money from lawyers for Sheriff Cal Henderson's 2000 election campaign. FDLE agents discovered that Judge Ficarrotta and Sheehan share a safe deposit box at a Bank of America branch on Davis Islands. The report does indicate what the safe deposit box was used for. Judges are ethically forbidden from raising money for political candidates.

The FDLE documents also indicate for the first time the five-year extramarital affair between Judge Bonanno and his former court clerk, Joan Helms. In an interview with Special Prosecutor Jerry Hill and an FDLE agent, Helms, 48, said her sexual relationship with Bonanno began in 1995 and ended in 2000. Helms was the court clerk assigned to Bonanno in the civil trial division during 1998. Sexual encounters with

Bonanno occurred during the evenings or on weekends at Helms' home in north Tampa. A copy of the grand jury presentment is Exhibit 1 in the Appendix.

Also of note and apart from the investigation, Myra Gomez was Judge Holder's assistant, and married to County Judge Frank Gomez, first cousin to then-Chief Judge Dennis Alvarez. David A. Rowland was and still serves as Court Counsel. Mike Bridenback has served as Trial Court Administrator since 1994, except for a one-month retirement in 2009 so he could collect a $312,351 lump sum retirement payment and a $4,744 monthly pension, then return to the position at the minimum salary of $105,000. Bridenback was rehired by current Chief Judge Manuel Menendez, Jr. who succeeded Alvarez.

Matters Imminently Affecting the Public Interest

OSCA - Thirteenth Circuit Astronomically High Number of Summary Judgments

8. Recently questions have been raised by attorneys about the Thirteenth Circuit and the astronomically high number of summary judgments. Attorney Mark Stopa publishes the *Stopa Law Blog*, and represents Florida homeowners in mortgage foreclosures. On October 29, 2011, Mr. Stopa commented on the Foreclosure and Economic Recovery Status Report (Exhibit 2, Appendix) published by the Office of State Courts Administrator (OSCA) in *Comparing Hillsborough's Dismissal rate to other Florida counties*, (Exhibit 3, Appendix) found online at http://www.stayinmyhome.com/blog/?p=1861. Mr. Stopa openly wondered how Hillsborough County could have had only 226 foreclosure cases dismissed in the 12-month period from July 1, 2010 through June 30, 2011. The Hillsborough court

dismissed just 226 cases, a very low number compared to other counties, but also that it entered 6,530 summary judgments. That's 29 summary judgments for every dismissal – a ratio of 29:1. Mr. Stopa noted the following compared with other Florida circuits:

> In the Seventeenth Judicial Circuit (Broward), the ratio is less than 2:1.
>
> In the Fifteenth Judicial Circuit (Palm Beach), the ratio is approximately 1:1.
>
> In the Twelfth Judicial Circuit (Manatee and Sarasota), there were more dismissals than summary judgments!
>
> In the Sixth Judicial Circuit (Pinellas and Pasco), the ratio is 4:1.

Incredibly, 4:1 is the highest ratio of any county in Florida other than Hillsborough, and the ratio in Hillsborough is 29:1. Mr. Stopa concluded with this: "Think about that for a minute, and ask yourself... with 20 judicial circuits in Florida, why does Hillsborough have such an astronomically higher ratio of summary judgments to dismissals than every other circuit in Florida? Simply from a statistical standpoint, an outlier like this cannot be a coincidence ... can it?"

9. Clearly something is terribly wrong in the Thirteenth Circuit. The misuse and denial of judicial process under the color of law imminently affects the public interest. Attorney Matt Weidner, a candidate for the Florida House of Representatives, publishes a blog, *Matt Weidner - Fighting For The American People*. On October 29, 2011 Weidner published "HILLSBOROUGH FORECLOSURE COURT- Very Disturbing Numbers, a system gone awry" (Exhibit 4, Appendix) found online at http://mattweidnerlaw.com/blog/2011/10/hillsborough-county-appealing-every-single-foreclosure-case-thatll-make-the-point/ that described the summary judgment problem.

Numbers from the Foreclosure and Economic Recovery Status Report published by the Office of State Courts Administrator (OSCA) show the following:

July 1, 2010 through June 30, 2011

13th Judicial Circuit

226 Dismissals

6,530 Summary Judgments

0 Trials

6,756 Cases Disposed Of

In his blog post of October 29, 2011, Mr. Weidner made the following comments:

> "The numbers detailed above are very, very disturbing. They reflect a court system that is out of whack, and I don't like the way the numbers are tilted. These numbers come from the Office of State Court Administrator and they are so far out of line from every other judicial circuit that they warrant high level review from the United States Justice Department or from someone, anyone who has any ability or willingness to stand up and speak for justice, the Rule of Law and basic rights..."
>
> "These numbers simply cannot be ignored and they certainly cannot be explained away. And the execution of the procedures that lead to these numbers are even more disturbing that must be investigated....if only anyone with authority would look into them..."
>
> "It's beyond disturbing. It's tyranny. It's treason. It's the kind of abject corruption and repression that leads to people rioting in the streets and Revolution..."

Next page, photographs of the Occupy Tampa protesters demonstrating on the steps of the old federal courthouse, 601 N. Florida Ave., Tampa, Florida, October 6, 2011, and marching on W. Kennedy Blvd., Tampa, October 6, 2011

Below is a photograph of the Occupy Tampa protesters demonstrating on the steps of the old federal courthouse, 601 N. Florida Ave., Tampa, Florida, October 6, 2011.

Occupy Tampa protesters marching on W. Kennedy Blvd., Tampa, October 6, 2011

Another Matter Imminently Affecting the Public Interest

10. On May 25, 2011 Krista J. Sterken, Esq., an associate of Foley & Lardner LLP, telephoned Gillespie at 11:55 a.m. offering legal representation in matters related to the lawsuit Gillespie v. Barker, Rodems & Cook, P.A., et al, case no. 05-CA-007205, Circuit Civil Court, Hillsborough County, Florida. Ms. Sterken was co-counsel with attorney Michael D. Leffel, Esq., a partner at Foley & Lardner LLP, who filed an amicus brief in Turner v. Rogers, U.S. Docket 10-10. [DKT 49]. This case that may have US Supreme Court possibilities per Turner v. Rogers [DKT 44] which ruled June 20, 2011 on whether an indigent civil contemnor facing incarceration on support was entitled to counsel. The court ruled no, but the petitioner's incarceration violated due process because he received neither counsel nor the benefit of alternative procedural safeguards that would reduce the risk of an erroneous deprivation of liberty. This case is different because the opposition is represented by counsel, which is not common in support cases as held in Turner. In this case opposing counsel Mr. Rodems is representing his own firm and law partner in a "full nuclear blast approach" according to attorney Robert Bauer. Ms. Sterken's offer of legal representation was contingent upon a conflict search. On May 27, 2011 Mr. Leffel notified Gillespie that Foley & Lardner could not represent him. [DKT 49]. Gillespie is not aware of any conflict, and believes the issue is Mr. Rodems' unprofessional conduct, the "full nuclear blast approach" described by Mr. Bauer.

Florida Has No Meaningful Regulatory Oversight of the Bar or Bench

In a time of universal deceit - telling the truth is a revolutionary act. -George Orwell

11. The Florida Supreme Court has delegated to the Florida Bar the function of disciplining its members. The Supreme Court and the Bar have a fiduciary duty to protect members of the public harmed by the unethical practice of law and lawyers. The Florida Bar unfortunately is being operated, and demonstrably so, in a fashion as to protect itself and bad lawyers rather than the public. For example, the ABA Journal Law News Now reported May 19, 2011 a story by Debra Cassens Weiss "Criticism of the Foreclosure Process Brought Bar Probe of Two Fla. Lawyers": (Selected passages)

> "Two Florida lawyers who criticized mass foreclosures found themselves under investigation by the state bar for their comments."
>
> "One of the complaints stemmed from a CNN interview with foreclosure defense lawyer Chip Parker of Jacksonville, the story says. He told the network, "Foreclosure courts throughout the state of Florida have adopted a system of ramming foreclosure cases through the final judgments and sale—with very little regard to the rule of law." He also complained of "an attack upon the citizens of the state of Florida by retired judges.""
>
> "The other foreclosure lawyer, Matthew Weidner of Tampa, was investigated for "exercising free speech in the courtroom," the story says." (Exhibit 5, Appendix)

Plaintiff Gillespie has made a number of meritorious complaints to The Florida Bar against lawyers guilty of multiple breaches of the Bar's Rules, which complaints the Bar has failed to honestly adjudicate. Initially his complaint was against William J. Cook of Barker, Rodems & Cook, PA (BRC). Subsequently Mr. Bauer, a referral from the Bar, determined that the Bar was incorrect in failing to proceed against Mr. Cook. Mr. Bauer encourage and reinstated the Plaintiff's dismissed civil case against Cook and BRC, then dropped the mater when it became too difficult, leading to this lawsuit. Before Mr. Bauer responded to Gillespie's complaint, Mr. Rodems submitted a thirteen page diatribe to the

Bar in Bauer's defense that was a false and misleading, and a palpable conflict of interest, since he is a partner with Cook in BRC. The information provided by Mr. Rodems, and incorporated into Mr. Bauer's response, resulted in new breaches of the ethics rules, specifically:

Rule 4-8.4(c), conduct involving dishonesty, fraud, deceit, and misrepresentation

Rule 4-8.4(d), conduct prejudicial to the administration of justice

The Florida Supreme Court has delegated to the Florida Bar the function of disciplining its members. The Supreme Court and the Bar have a fiduciary duty to protect members of the public harmed by the unethical practice of law and lawyers. The Florida Bar unfortunately is being operated, and demonstrably so, in a fashion as to protect itself and bad lawyers rather than the public. For example, the Bar's claim that the grievance committee is its "grand jury" is profoundly misleading as set forth in the Plaintiff's April 11, 2011 email to James Watson, Chief Branch Disciplinary Counsel, Tallahassee Branch. The Bar's "grand jury" encourages violations of Rule 4-8.4(c) and (d) by respondents and their supporters to evade discipline.

The JQC - "Florida's Judicial Protection Society"

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. Commentary, Canon 1

12. The Judicial Qualifications Commission (JQC) is not functioning to protect the citizens of Florida. Circuit Court Judge Martha J. Cook is one example of a judge who routinely violates the Code of Judicial Conduct to achieve her desired outcome in a case. Judge Cook committed a number of incidents of misconduct in this case, see DKT 22-23.

Judge Cook's ethics have come in question over her refusal to disqualify herself when hearing foreclosure cases, a conflict with her ties to the banking industry. On July 21, 2011 Tampa Bay Online published a story by Shannon Behnken "Critics: Judge with interest in bank shouldn't hear foreclosures". The story quotes Henry P. Trawick Jr., a Sarasota lawyer and author of Florida's Practice and Procedure. "[I]t's good that Cook disqualifies herself from hearing cases that involved her husband's bank. But he said she should go a step further. "I think she shouldn't hear foreclosure cases," Trawick said. "That's what I would do if I had that close of a connection, but perhaps my ethical standards are higher." The problem, Trawick said, is whether or not Cook shows favor to the banks; those representing homeowners may feel like she might." Gillespie believes that Judge Cook's Order Prohibiting Plaintiff From Appearing Pro Se was entered to suppress information that showed Judge Cook's financial affairs violated the Code of Judicial Canons 2, 3, 5 and 6 set forth in "Plaintiff's 4th Motion To Disqualify Judge Martha J. Cook", filed November 10, 2010 (DKT 38). June Maxam of the North County Gazette wrote February 22, 2010 a story "Florida's Judicial Protection Society". Maxam wrote in part: (Exhibit 7, Appendix)

> "Can you believe that the 764 judges in Florida are so ethical that there are disciplinary complaints pending against only three of them?
>
> In fact, since 2001, the Florida Judicial Qualifications Commission has accepted only 38 cases for judicial disciplinary action, less than half of 1% of the state's judges.
>
> Only one of the three cases still awaiting final disposition involves alleged judicial misconduct on the bench and that judge had been arrested for possession of cocaine and driving under the influence. The other two cases concern improper political activity during the judges' election campaigns.

> It's almost as if the JQC only disciplines judges whose egregious conduct they can't hide or those who aren't part of the good ole boy network."

The JQC is an independent agency created by the Florida Constitution solely to investigate alleged misconduct by Florida state judges. It is not a part of the Florida Supreme Court or the state courts and operates under rules it establishes for itself. The JQC has no authority over federal judges or judges in other states. Complaints against state judges must be filed in writing with the JQC, not with the Supreme Court or any other state court or judge. Neither the Supreme Court nor its Chief Justice have any authority to investigate alleged misconduct by state judges or to investigate the JQC. Authority for the JQC is found in the Florida Constitution, Article V Judiciary, Section 12 Discipline; removal and retirement.

Corruption - 13th Circuit JNC

13. On May 5, 2010 Plaintiff Gillespie moved Judge Barton to disclose ex-parte communication with S. Cary Gaylord, an attorney and commissioner on the 13th Circuit Judicial Nominating Commission. (JNC). In a March 15, 2010 email by Mr. Gaylord to Mr. Robert R. Wheeler, General Counsel to the Governor, Mr. Gaylord wrote "I have personally spoken with Mr. Gillespie, with judges presiding over various cases mentioned in his complaints and with other lawyers who have been involved in litigation mentioned by Mr. Gillespie and involving Mr. Rodems." Gillespie wrote to and asked Mr. Gaylord if he spoke with the Judge Barton and if so what was the substance of the conversation. Mr. Gaylord responded by letter dated April 13, 2010 that "I recall that there were judges I talked to but I can't recall which ones." and that he has no notes to

refresh his memory. Gillespie was concerned that Mr. Gaylord spoke with the Judge Barton and that the communication was prejudicial to Plaintiff receiving a fair and impartial consideration of his lawsuit before the Court. (Exhibit 8, Appendix)

a. Mr. Rodems submitted an application to the 13th Circuit JNC dated January 4, 2010. In response (relevant portion) to question no. 52 he wrote, "In 2008, I submitted applications to the Tenth Judicial Circuit JNC." In response to question no. 53 Rodems wrote (relevant portion): "I was proud to be nominated by the JNC in Polk County for each of the three circuit vacancies in 2008." Mr. Rodems is a resident of Hillsborough County and has lived in Tampa or Brandon since 1994 according to his answer to question no. 51 (relevant portion): "In 1994, I moved to Hillsborough County, and since then I have lived in Tampa or Brandon." The Florida Constitution, Article V Judiciary, Section 8 Eligibility states "No person shall be eligible for office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court." (relevant portion). Mr. Rodems does not reside in the territorial jurisdiction of the 10th Circuit but was nominated by the 10th Circuit JNC for judge in the 10th Circuit for each of the three circuit vacancies in 2008, according to his response.

b. Mr. Rodems wants to be a judge. It is a several-year ambition according to his applications for judge. His law partner Chris A Barker applied for and was appointed in April 2008 to the 13th Circuit JNC. Mr. Barker knew his close friend and law partner Mr. Rodems wanted to become a judge. That would create a substantial conflict if Mr. Rodems applied to the 13th Circuit JNC, but Mr. Barker failed to disclose this conflict on his Questionnaire For Gubernatorial Appointments. After he was appointed, Mr. Barker

was not able to serve due to the conflict with Mr. Rodems, who applied for every vacancy. However Mr. Barker influenced the JNC sufficiently to be named its Vice Chair, and was in a position to provide Mr. Rodems inside information as to the workings of the JNC. This gave Mr. Rodems an unfair advantage over the other applicants, and the Plaintiff made a complaint to Gov. Crist. In response the Governor's General Counsel Rob Wheeler appointed Chief Inspector General (CIG) Melinda Miguel to investigate this matter. The CIG issued a report June 21, 2010, case #201003040004. This was about a week after the Plaintiff attended the JNC interviews held June 15, 2010 to fill the circuit judge vacancy created when Judge Black was appointed to the 2dDCA. The Plaintiff's summation and reply to the CIG report and June 15th JNC interviews was made by letter June 29th and July 19th respectively to Erik M. Figlio, the successor General Counsel. (Exhibit 9, Appendix)

c. The June 15, 2010 interview showed two areas of concern. First, the JNC sought to identify and exclude from nomination applicants who showed judicial independence. Second, Mr. Rodems was nominated ahead of better applicants, presumably because of the good-will created by Mr. Baker, the JNC Vice Chair and Rodems' friend and law partner. The JNC sought to identify and exclude applicants who showed independence by asking if the applicant had seen any behavior from a judge in court that was unprofessional. The following responses were provided to the JNC:

> Applicant responded that one judge said to a woman who was obviously pregnant and about to give birth, words to the effect "would you like this garbage can moved closer to you in case you have the baby?" The judge was referring to a trash can in the courtroom. (Plaintiff discussed this question by email with Mr. Bajo, JNC Chair) (Exhibit 10, Appendix)

> Applicant noted an instance in traffic court where a pro se litigant was "destroyed" by clearly inadmissible evidence from law enforcement. The applicant said a judge should step in for pro se litigants where appropriate.
>
> Applicant noted some judges willfully embarrass lawyers in open court, ask to see their bar card, or inquire where they went to law school.
>
> Applicant complained about angry judges "yelling" at participants during litigation.

The JNC asked this question of a number of applicants. Some applicants responded with examples of judicial misconduct. Others applicants were evasive or brushed-off the question. Gillespie's notes show that applicants who described bad behavior by judges to the JNC were nominated at a rate lower than applicants who did not describe bad behavior by judges to the JNC. Initially the Plaintiff dismissed this as coincidence. But in hindsight, and with the benefit of subsequent information, in his opinion it is possible that this question is used as a screening tool to eliminate applicants critical of sitting judges, to ensure that nominees, if appointed, will be team players and look the other way if they see another judge engage in misconduct.

d. In addition, the JNC was so concerned about judicial workloads that applicants were specifically asked what hours they planned to keep if appointed. In response to this question the Plaintiff heard Mr. Rodems disparage every judge in the 13th Judicial Circuit. Mr. Rodems described criticism he heard about judges leaving court early on Fridays, a situation so pervasive that one could "fire a bullet" in the Hillsborough Courthouse it was so empty. (Exhibit 11, Appendix). Gillespie was stunned that Mr. Rodems would make such a wild accusation about judges in the 13th Judicial Circuit

based on rumors heard on the street, and use such a violent metaphor as "fire a bullet". Gillespie confirmed by email July 5, 2010 with Mr. Bajo the above statement by Mr. Rodems. Incidentally, Rodems told the JNC that in contrast to Hillsborough judges who do not work a full day on Friday, he would make more effort, and even work Saturday.

e. As set forth in Plaintiff's letter to Mr. Figlio of July 19, 2010, three better qualified applicants, Mr. Courtney, Ms. Seace and Mr. Watson, were passed over in lieu of Mr. Rodems. In contrast to the these applicants, Mr. Rodems has no background of public service. His application shows he has not worked outside the legal profession. Mr. Rodems told the JNC there is "nothing civil about civil law" and lawsuits are about "taking people's money and property". He also said you "need a thick skin" to participate in the process, and he believes one should "hit hard until the whistle blows." This explains Mr. Rodems "full nuclear blast approach" in this case.

f. The June 15, 2010 JNC interviews were held at the law offices of JNC Chair Pedro F. Bajo, Jr., Esq., Bajo Cuva, P.A., 100 N. Tampa Street, Suite 1900, Tampa, Florida. During a break in the interviews Mr. Bajo provided Gillespie a copy of a letter from Mr. Bauer to Governor Crist, dated January 4, 2010, in support of Mr. Rodems for judge. (Exhibit 12, Appendix). Mr. Bauer wrote in part: "It is my personal opinion that Ryan Christopher Rodems is an honorable and honest gentleman capable of satisfying the duties and responsibilities of a judgeship should he be appointed to such a position in either County or Circuit Court." This is in contrast to Mr. Bauer's statement that Rodems mislead Judge Barton while representing his firm in the lawsuit with Gillespie. (Transcript, page 11, Feb-09-09)

MR. BAUER:...[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.

Mr. Bauer is referring to Rodems' false statement to the Court about a signed representation agreement. An attorney who mislead the Court is not "honorable and professional". This letter was little more than a quid pro quo exchange for Mr. Rodems' subsequent support of Bauer in my announced Florida Bar complaint against Mr. Bauer. The JNC contacted Mr. Bauer shortly before he wrote the letter as part of its review of Mr. Rodems' application for judge. Mr. Bauer's letter shows how miscreants support each other and further corrupt the legal process, as well as the JNC process.

Florida - Most Corrupt State in America

14. a. Florida is the most corrupt state in America. Florida is so corrupt that the FBI took out ads calling on citizens to report corruption in June, 2011. The FBI ad appeared in the Tallahassee Democrat, and said "Dishonest government officials aren't just wasting your tax dollars. They're betraying your trust. Report public corruption to the FBI."

b. On November 30, 2009, Governor Charlie Crist filed a petition requesting that a Statewide Grand Jury be convened in order to "examine and evaluate public policy issues regarding public corruption and develop specific recommendations regarding improving current laws." On December 2, 2009, the Florida Supreme Court issued an Order, case no. SC09-1910, to convene the Nineteenth Statewide Grand Jury for the purpose of investigating crimes, returning indictments, and making presentments.

c. The Statewide Grand Jury First Interim Report filed December 29, 2010 noted on page 119 that Florida led the nation in the number of federally convicted public officials from 1998 through 2007. According to this testimony, Florida leads the next closest state, New York, by over an 8% margin. On page 124 the Report noted Florida ranked first with 824 convicted public officials and New York ranked second with 704.

d. But ethics reforms were ignored by Florida lawmakers, according to a story in the Herald-Tribune by Zac Anderson May 29, 2011, "Ethics reforms ignored by Florida lawmakers." (Exhibit 13, Appendix). Anderson wrote:

> "For all the major reforms Florida lawmakers took on this year, they failed to enact stronger ethics standards for public officials despite a rash of corruption cases from South Florida to Sarasota.
>
> The inaction is even more glaring in the wake of an unusual statewide grand jury last December that issued 127 pages of recommended changes in state law after declaring that "corruption is pervasive at all levels of government" in Florida.
>
> Florida entered this spring's legislative session reeling from years of major scandal at the state and local level. More than 800 public officials were convicted in Florida on various charges between 1997 and 2007, making Florida the top state for government corruption, according to the grand jury..."

Gillespie v. HSBC Bank: Objective Control Case

15. a. Gillespie brought his dispute to the Thirteenth Judicial Circuit for a fair and just adjudication. But Mr. Rodems has prevented a lawful adjudication of the dispute because his exercise of independent professional judgment is materially limited by his personal conflict and interest. There is an objective control case that serves as constant much like the control group in a research project. Gillespie commenced two pro se lawsuits in August 2005 because he could not find or afford counsel to represent him. One lawsuit in this Court involved a credit card dispute, Gillespie v. HSBC Bank, et al, Case No. 5:05-cv-362-Oc-WTH-GRJ, US District Court, Middle District of Florida, Ocala Division. The HSBC lawsuit was resolved a year later with a good result for the parties. Gillespie was able to work amicably with the counsel for HSBC Bank, Traci H. Rollins and David J. D'Agata, counsel with Squire, Sanders & Dempsey, LLP and the entire case was concluded in 15 months.

b. The other case Gillespie commenced in August 2005 is Neil J. Gillespie v. Barker, Rodems & Cook, PA, and William J. Cook, Case No. 05-CA-007205, Circuit Civil Division, Thirteenth Judicial Circuit, Florida. Six years later the case is subject to ongoing litigation in the Supreme Court of Florida, case no. SC11-1622. This case exceeded the time standards set by the Florida Rules of Judicial Administration:

> Rule 2.250, Fla. R. Jud. Admin., Time Standards For Trial and Appellate Courts And Reporting Requirements.
>
> (a) Time Standards. The following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial and appellate courts of this state. It is recognized that there are cases that, because of

their complexity, present problems that cause reasonable delays. However, most cases should be completed within the following time periods:

(1) Trial Court Time Standards.

(B) Civil. Jury cases — 18 months (filing to final disposition)

The difference in the two cases is Ryan Christopher Rodems. Mr. Rodems' exercise of independent professional judgment is materially limited by his personal conflict and interest in this lawsuit by a former client to recover $7,143 stolen by Barker, Rodems & Cook, PA and William J. Cook from Gillespie during prior representation on a matter that is the same or substantially similar as the prior representation.

Statement Of The Case - Procedural History

16. The Plaintiff commenced this action on the morning of September 28, 2010 by filing the Complaint with the Clerk, Ocala Division. (DKT 1). The Complaint shows a Clerk date and time stamp of "2010 SEP 28 AM 7:47". (DKT 1). The very next day, September 29, 2010 Mr. Rodems appeared pro se for himself as a Defendant, and on behalf of his law firm, Defendant Barker, Rodems & Cook, PA.

17. Gillespie served by mail October 30, 2010 *Notice Of A Lawsuit And Request To Waive Service Of A Summons* to the following Defendants, none of whom responded, and none of whom entered an appearance through counsel:

Thirteenth Judicial Circuit, Florida

Claudia Rickert Isom, Circuit Judge and individually

James M. Barton, II, Circuit Judge and individually

Martha J. Cook, Circuit Judge and individually

David A. Rowland, Court Counsel and individually

Gonzalo B. Casares, ADA Coordinator and individually

Gillespie is indigent and cannot afford to pay to have a summons served to each of the above Defendants, which is eleven (11) Defendants/summonses. Gillespie filed on the Court's form an affidavit of indigence to proceed in forma pauperis November 20, 2011 in related case 5:11-cv-00539 and is awaiting a decision. If found indigent Gillespie will seek a waiver of the fees to serve the Defendants listed above, and any others needing service in this case.

18. Gillespie served by mail October 30, 2010 *Notice Of A Lawsuit And Request To Waive Service Of A Summons* to Defendant Robert W. Bauer and Defendant The Law Office of Robert W. Bauer, PA. On November 29, 2010 attorney Jeffrey Alan Albinson called Gillespie, unsolicited, and claimed to represent Mr. Bauer. Mr. Albinson said Bauer lost or could not locate the *Notice Of A Lawsuit And Request To Waive Service Of A Summons* and asked could I provide another. But a conflict with Gillespie and Albinson's firm, Daniels, Kashtan, Downs, Robertson & McGirney, PA, apparently ended the proposed representation before Mr. Albinson entered his appearance. The next counsel to contact Gillespie about Mr. Bauer was Guilday, Tucker, Schwartz & Simpson, P.A. by way of a Motion to Dismiss the Complaint or Alternatively, a Motion to Strike and Motion for More Definite Statement, April 08, 2011. [DKT 27]. Catherine Barbara Chapman of Guilday entered appearance for Mr. Bauer and his firm, but did not return a signed waiver of service to Gillespie, as far as he knows. So it is unclear to Gillespie whether Mr. Bauer and his firm have been properly served, or if service was waived.

19. For the purpose of this response to Order To Show Cause, Gillespie divides the procedural history of this case in three (3) parts:

Part 1, DKT 1-26, September 28, 2010 through November 23, 2010.

Part 2, DKT 27-31, April 8, 2011 through June 1, 2011

Part 3, DKT 32-56, June 21, 2011 to the present

a. Part 1, DKT 1-26, September 28, 2010 through November 23, 2010. One day after the Complaint [DKT 1] was filed, September 29, 2010 Mr. Rodems appeared pro se for himself as a Defendant, and on behalf of his law firm, Defendant Barker, Rodems & Cook, PA and filed a Motion To Dismiss [DKT 3]. This lightening bolt, overzealous response is consistent with Mr. Rodems' "full nuclear blast approach" about which Mr. Bauer complained.

b. On the morning of September 28, 2010 the Gillespie commenced this action by filing the Complaint with the Clerk, Ocala Division. (DKT 1). The Complaint shows a Clerk date and time stamp of "2010 SEP 28 AM 7:47". (DKT 1).

> Rule 3, FRCP, Commencement of Action. A civil action is commenced by filing a complaint with the court.

After filing the Complaint in Ocala, Gillespie drove to Tampa and appeared at 11:00 AM for hearing on final summary judgment in Hillsborough Circuit Court before Judge Martha Cook in Gillespie v. Barker, Rodems & Cook, PA., et al., case no. 05-CA-7205. At that time the Thirteenth Circuit and Judge Cook were defendants in this action. The Plaintiff provided Judge Cook a copy of the Complaint (DKT 1) at the start of the hearing. Judge Cook refused to disqualify herself, and ordered the Plaintiff removed from the hearing by Hillsborough County Sheriff's Office (HCSO) Bailiff C.E. Brown. Judge

Cook then proceeded ex-parte with two hearings, one on final summary judgment, and another, a contempt hearing against Gillespie, who was not present and not represented by counsel. Judge Cook ruled against Gillespie on each matter. Judge Cook falsified her Order to show that Gillespie left the hearing voluntarily. [DKT 23]. The falsification by Judge Cook was later impeached by a letter from HCSO Major James Livingston, Commander of the Court Operations Division. Judge Cook continued to preside over the case, and made additional unlawful rulings, including one that prohibited Gillespie from appearing pro se, until the Plaintiff filed a petition for writ of prohibition in the Second District Court of Appeal, case no. 2D10-5529, November 18, 2010. Thereupon Judge Cook immediately recused herself sua sponte.

c. Because Judge Cook continued to preside over Gillespie's lawsuit while she was a Defendant in this action, Gillespie on October 1, 2010 filed "Plaintiff's Emergency Motion For An Order Of Protection and Order of Removal. [DKT 5]. Mr. Rodems filed a Response in Opposition. [DKT 10]. In his Response [DKT 10] Mr. Rodems misrepresented to this Court the sequence of events of September 28, 2010 and other facts in violation of Rule 11(b), FRCP. Plaintiff brought the general issue of Mr. Rodems' misrepresentations to the Court's attention June 1, 2011, in his Reply To Order Of May 9, 2011 [DKT 31] in paragraphs 3 and 4:

> 3. Mr. Rodems is unethically representing his firm against Gillespie, a former client in a matter that is the same or substantially similar to the prior representation, and Mr. Rodems' independent professional judgment is materially limited by his interest and conflict. Mr. Rodems has previously mislead this Court in violation of Rule 11 (b) in pleadings he submitted. In turn this Court relied upon Mr. Rodems' pleadings as correct and incorporated false or untrue statements in this Court's orders.

> 4. Gillespie seeks leave to move for sanctions against Mr. Rodems under Rule 11(C)(2) for making false or untrue statements to this Court in his pleadings.

d. On October 6, 2010 Mr. Rodems intentionally mislead this Court in violation of Rule 11(b) in his pleading "Defendants' Barker, Rodems & Cook, P.A. And Ryan Christopher Rodems, Response In Opposition To Plaintiff's Verified Emergency Motion For An Order Of Protection And Order Of Removal" [DKT 10]. Mr. Rodems made the following false factual contentions to gain advantage in the litigation:

(a) In Section I, Introduction, page 2, paragraph 2, Mr. Rodems represented to the Court the following as a factual contention which is in fact false:

> "Now, over five years later, and after all of Gillespie's claims were disposed of on judgment on the pleadings (fn1) or by summary judgment (fn2)..."

Rodems' statement to this Court is false because this action was filed BEFORE Gillespie's claims were disposed of by summary judgment, as set forth in 19b, this response, and in the Affidavit of Neil J. Gillespie of April 25, 2011, see Exhibit 14 in the Appendix. In addition, the copy of the September 28, 2010 Final Summary Judgment as to Count I of the State Court Action that Rodems attached as Exhibit 4 was signed AFTER this lawsuit was commenced. Also see Affidavits 3, 4 and 5 to Plaintiff's Notice of Filing Affidavits of Extraordinary Circumstances. [DKT 23].

(b) In Section I, Introduction, page 2, paragraph 2, Mr. Rodems represented to the Court the following as a factual contention which is in fact false:

> "[G]illespie filed an action in the United States District Court, attempting to allege various claims under the Americans with Disabilities Act (ADA) and under the United States Constitution and Florida Constitution against, among others, the four judges who at times presided over the State Court Action,..."

Mr. Rodems' statement to this Court is false because three, not four judges are a party to this action. Plaintiff did not name Judge Richard Nielsen because he also was deceived by Mr. Rodems' affidavit claiming that Gillespie planned an attack in the chambers of Judge Nielsen. Mr. Rodems' Affidavit was later proved false by an investigation of the Tampa Police Department. Furthermore, Judge Nielsen ruled in favor of Gillespie on Rodems' motion to dismiss and strike. But once Rodems' filed a false affidavit March 6, 2006, under the penalty of perjury, Judge Nielsen was hostile toward Gillespie, as set forth in the Complaint. [DKT 1]. But that was not sufficient to make him a defendant. In addition, this particular falsehood of Mr. Rodems was subsequently incorporated into the Order of Magistrate Judge Baker [DKT 18], page 1, last sentence.

(c) At footnote 7 on page 5 Mr. Rodems represented to the Court the following as a factual contention which is in fact false:

> "Gillespie was adjudged in contempt at the hearings held in the State Court Action on September 28, 2010, but he voluntarily left the hearing before Judge Cook adjudged him guilty of contempt. The written Order Adjudging Plaintiff Neil J. Gillespie in Contempt was entered on September 30, 2010, Exhibit 7, and therefore, Gillespie may have been unaware when he filed the instant motion on October 1, 2010 that he had already been adjudged in contempt."

Mr. Rodems' statement to this Court is false because Gillespie had NOT "voluntarily left the hearing before Judge Cook adjudged him guilty of contempt." Gillespie was forcibly removed from the hearing by HCSO Deputy C.E. Brown on the direct order of Judge Cook when Gillespie provided a copy of the Complaint [DKT 1] and as otherwise set forth in the Affidavit of Neil J. Gillespie of April 25, 2011, see Exhibit 14 in the

Appendix. Also see Affidavits 3, 4 and 5 to Plaintiff's Notice of Filing Affidavits of Extraordinary Circumstances. [DKT 23].

e. Gillespie moved to disqualify Mr. Rodems October 4, 2010. [DKT 8]. Gillespie made a number of motions, and time enlargements, to file an amended complaint. The Court denied the motion to disqualify Mr. Rodems. [20]. Gillespie believe the Court was incorrect in its failure to disqualify Mr. Rodems, but was unable to contest the order at the time due to Extraordinary Circumstances. Therefore Gillespie gave notice of voluntary dismissal as to Defendants Rodems and Barker, Rodems & Cook, PA under Rule 41(a)(1)(A) in lieu of an amended complaint October 29, 2010. [DKT 22]. Gillespie also set forth the Extraordinary Circumstances, page 3-5 [DKT 22] and filed supplemental Affidavits of Extraordinary Circumstances October 29, 2010 [DKT 23] documenting a departure from the rule of law by Judge Cook, and Gillespie's disability issues. Gillespie made another supplemental filing in support of voluntary dismissal November 1, 2010. [DKT 24]. The Court entered an order November 23, 2010 dismissing without prejudice claims against Mr. Rodems and his firm. [25]. Final Judgment was entered as to Mr. Rodems and his firm November 23, 2010. [26].

f. Part 2, DKT 27-31, April 8, 2011 through June 1, 2011. Catherine Barbara Chapman of Guilday entered appearance for Mr. Bauer and his firm and moved April 8, 2011 to Dismiss the Complaint or alternatively, moved to Strike and moved for a More Definite Statement. [DKT 27]. At all times Ms. Chapman, and the Guilday firm, acted with a high level of professionalism. On April 16, 2011 Gillespie gave notice of unavailability [DKT 28] during the time set by the Second District Court of Appeal, and

the Florida Rules of Appellate Procedure, to file Petitioner's Amended Initial Brief in Appeal No. 2D10-5197. Gillespie noted, paragraph 4, that the appeal is taking longer than usual due to problems with the Index and Record. Among other things, someone unlawfully removed pleadings from the lower tribunal record and now they cannot be located, according to the Clerk's Certificate provided as Exhibit B. Gillespie also on April 16, 2011 Gillespie moved to stay or enlarge time relative to time needed to prepare and file Petitioner's Amended Initial Brief in Appeal No. 2D10-5197. [DKT 29]. The Court granted in part the motion [30], but by this time Gillespie was under a "full nuclear blast attack" by Mr. Rodems to have him arrested on a writ of bodily attachment, as set forth in Gillespie's response to the Court June 1, 2011, which included a copy of his Rule 22 Application to US Justice Clarence Thomas. [DKT 31]. On June 2, 2011 Mr. Rodems caused Judge James Arnold to issue an arrest warrant for Gillespie on a writ of bodily attachment on civil contempt for his purported refusal to attend a full deposition while the case was on appeal. Mr. Rodems accomplished this by lying to Judge Arnold [DKT 35] about the deposition, and lying to Judge Arnold about Gillespie's disability [DKT 36] [DKT 37] and other aspects of the case.

g. Part 3, DKT 32-56, June 21, 2011 to the present. On June 21, 2011 Mr. Rodems moved to dismiss the Action pursuant to Fed. R. Civ. P 41(a)(2) [DKT 32]. Gillespie moved to strike or set aside Mr. Rodems' Notice of Assignment of Claims. [DKT 33]. There have numerous docket entries since which need not be recited now, but for the following. On October 6, 2011 Magistrate Judge Smith denied by Order [DKT 51] Gillespie's motion strike or set aside Mr. Rodems' Notice of Assignment of Claims.

[DKT 33]. Pursuant to the holding of Morgan v. Sears, Roebuck & Co., 700 F. Supp. 1574, 1576 (N.D. Ga. 1988)(noting that the proper method of challenging evidence is by filing a notice of objection), Plaintiff Gillespie challenges by Notice of Objection the evidence of settlement presented by Mr. Rodems to this Court, the so-called signed settlement agreement and general mutual release. This Court has jurisdiction to review evidence submitted in this case, including evidence of settlement submitted by Mr. Rodems in his Notice of Assignment of Claims and Motion for Dismissal of Action with Prejudice. [Docket 32]. Gillespie will show in his Notice of Objection a right of Cancellation and Recession under Florida law. Gillespie will also show that his counsel on June 21, 2011, Eugene P. Castagliuolo, was by his own admission disabled with both a kidney disorder and mental health issues. Gillespie will show that Castagliuolo is unfit to practice law, which may explain his trolling for clients on Craigslist [DKT 32]. Mr. Castagliuolo failed to represent Gillespie as agreed, and failed to disclose a conflict with his daughter, attorney Maria E. Castagliuolo who works for the public defender formerly appointed to represent Gillespie. [DKT 52]. It appears Mr. Castagliuolo acted in furtherance of his daughter's career, and not in the interest of Gillespie.

Statement Of The Facts - Historical Facts of the Dispute Between the Parties

20. a. It is important not to loose sight of the nature of the underlying claim to six (6) years of litigation. This case boils down to the veracity of a single sentence on the closing statement prepared and signed by Defendants Barker, Rodems & Cook, P.A. and William J. Cook as of October 31, 2001, attached to the original state court Complaint as Exhibit 2. The sentence states the following:

> "In signing this closing statement, I acknowledge that AMSCOT Corporation separately paid my attorneys $50,000.00 to compensate my attorneys for their claim against AMSCOT for court-awarded fees and costs."

This sentence was later determined false. The closing statement is a fraud. There were no court-awarded fees of $50,000. As a matter of law it was impossible to have court-awarded fees as claimed by Defendants because a federal court dismissed those claims with prejudice, as did at least two other federal courts. This is Defendants' fraud against there client Gillespie.

b. During the course of litigation Mr. Rodems argued that the "claim" for "court-awarded fees and costs" actually refers to a fee-shifting provision of the federal Truth In Lending Act (TILA). In fact, the $50,000 "claim against AMSCOT for court-awarded fees and costs" is a fraud, a deliberate misrepresentation by Mr. Rodems against Gillespie. There were no attorneys fees awarded under TILA in this case. There was no possibility of attorneys fees awarded under TILA in this case because of prior court decision, and in other cases known to Mr. Rodems. Therefore, there were no claims to attorneys fees awarded under TILA in this case.

c. Three (3) different federal courts ruled that the transactions complained about predated the TILA rule. This happened in all three (3) separate TILA lawsuits brought by Mr. Rodems' predecessor firm and acquired by Barker, Rodems & Cook. Judge Lazzara dismissed the TILA claims with prejudice August 1, 2001 in the underlying case, Clement et al. v AMSCOT, case no. 8:99-cv-2795-T-26-EAJ. I intervened in this lawsuit which had claims:

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.

In his Order August 1, 2001 Judge Lazzara rules as follows:

1. Plaintiffs' Renewed Motion for Class Certification (Dkt. 89) is denied as moot.

2. Count I is dismissed with prejudice.

3. Counts II and III are dismissed without prejudice to bringing them in state court.

4. The Clerk is directed to close this file.

d. Mr. Bauer outlined Mr. Rodems' fraud to Judge Barton October 30, 2007 during a hearing for judgment on the pleadings:

> (Transcript, October 30, 2007, page 39)
> 22 [MR. BAUER] Another issue to point out the fact this is for
> 23 their claim of court-awarded attorney's fees, there
> 24 was no claim. The claim had already been determined
> 25 by the court, denied. It didn't exist any more.
>
> (Transcript, October 30, 2007, page 39)
> 1 [MR. BAUER] Yes, there was an appeal outstanding, but that
> 2 doesn't resurrect any claim. The only thing that's
> 3 going to resurrect a claim is an overruling by the
> 4 appellate court. A claim no longer exist once it's
> 5 been denied, even if it's on appeal. So in
> 6 asserting there existed a claim for attorney's fees
> 7 is false. It -it's not there.

e. Not only did Judge Lazzara dismiss the TILA claims with prejudice, so did two other federal judges in similar cases filed by the Alpert firm and later assumed by BRC. In all three cases filed by Mr. Rodems' law partner the courts held that the transactions in question occurred before the law governing the transactions was effective.

TILA Claims Not Valid in Payday Express Lawsuit

Clement v. Payday Express, Inc. case no.: 8:99-cv-2768-T-23EAJ. On April 6, 2001, United States District Magistrate Judge Steven D. Merryday issued an Order in the Payday Express lawsuit that dismissed with prejudice the TILA and RICO claims, and dismissed without prejudice the remaining state law claims of usury and FDUTPA. Judge Merryday held that "Because TILA's mandatory disclosures were not required of the defendants before October 1, 2000, TILA cannot form a basis for relief of the plaintiff's claims."

TILA Claims Not Valid in ACE Cash Express Lawsuit

Clement & Gillespie v ACE Cash Express, case no.: 8:00-cv-593-T-26C. On December 21, 2000 United States District Court Judge James S. Moody, Jr. issued an Order in the ACE lawsuit that dismissed with prejudice Count I, Plaintiff's TILA claims, and remanded the case to the Circuit Court of the Thirteenth Judicial Circuit for Count II, the alleged violation of state usury laws pursuant to sections 687.02, 687.03, and 687.04 Florida Statutes, and Count III alleged violation of the Florida Deceptive and Unfair Trade Practices Act, sections 501.201 to 501.23 Florida Statutes. Judge Moody explained his decision to dismiss with prejudice the TILA claims on page 3, paragraph 3 of the Order. "On March 31, 2000, the Federal Reserve Board ("FRB") promulgated revisions

to a regulation that interprets TILA as applying to check-cashing transactions. See 65 Fed. Reg. 17129, 30 (2000), to be codified at 12 C.F.R. pt. 226. The revision to the regulation states, however, that the effective date of the new rule is March 24,2000, but that compliance is "optional" until October 1, 2000. Id. The Court agrees with Defendant that the plain language of the regulation means that compliance was not mandated until October 1, 2000. The transactions at issue in this case occurred prior to the FRB's regulation. Since Plaintiffs' transactions occurred prior to October 1, 2000, TILA is not applicable and cannot form a basis for relief against Defendant. Accordingly, Plaintiffs' claims under TILA are dismissed."

f. Gillespie prevailed on Mr. Rodems motion to dismiss filed August 29, 2005 where Rodems argued entitlement to $50,000 "claim against AMSCOT for court-awarded fees and costs". Judge Neilsen rejected that argument by Order January 13, 2006, as did three federal judges before. The doctrine of res judicata bars future action on matters that have been "definitively settled by judicial decision." The TILA claims were gone forever. Because of Mr. Bauer's incompetence, or to generate additional fees, he allowed Mr. Rodems to re-litigate entitlement to $50,000 "claim against AMSCOT for court-awarded fees and costs" in a motion for judgment on the pleadings, and a motion for summary judgment was also pending. That has been Mr. Rodems strategy throughout, to keep repeating the lie about entitlement to $50,000 "claim against AMSCOT for court-awarded fees and costs".

g. The Thirteenth Judicial Circuit, and every successor judge to Judge Richard Nielsen, has aided Mr. Rodems in his fraud and this complete miscarriage of justice, all

to save Mr. Rodems and his firm from paying $7,143 owned to Gillespie. The rest of this case has been Mr. Rodems' dishonesty, obstruction of justice, smoke and mirrors, and "full nuclear blast attack".

Independence of the Federal Courts

21. The promise of the federal courts, in contrast to the state court system, is judicial independence. The title of federal judge means a judge appointed by the President of the United States and confirmed by the United States Senate in accordance with the United States Constitution, also known as an Article III federal judge. Article III federal judges serve "during good behavior" and often paraphrased as appointed "for life". Judges hold their seats until they resign, die, or are removed from office. Federal judges have perhaps the best job security available in the United States. Moreover, the Constitution forbids Congress to diminish a federal judge's salary.

In the United States federal courts, magistrate judges are appointed to assist United States district court judges in the performance of their duties. Magistrate judges are authorized by 28 U.S.C. § 631. Magistrate judges are appointed by a majority vote of the federal district judges of a particular district and serve terms of eight years if full-time, or four years if part-time, and may be reappointed. Magistrate judges of limited tenure are sometimes referred to as Article I judges. Article I judges are not subject to the Article III protections. For example, these judges do not enjoy life tenure, and Congress may reduce their salaries.

Because Article III of the United States Constitution vests the judicial powers in courts to which the judges are appointed for life (and which are therefore called Article

III tribunals), decisions of a magistrate judge are subject to review and either approval, modification or reversal by a district judge of that court, except in civil cases where the parties consent in advance to allow the magistrate judge to exercise the jurisdiction of the district judge.

Local Rule 3.05

22. Pursuant to Local Rule 3.05, the Clerk designated this action as a Track Two Case September 30, 2010 for case management purposes. For case management purposes under Local Rule 3.05, Plaintiff believes this action is a complex litigation as set forth in this response. Local Rule 3.05(b)(3) describes complex litigation as follows:

> Track Three Cases shall include those cases involving class action or antitrust claims, securities litigation, mass disaster or other complex tort cases, or those actions presenting factual or legal issues arising from the presence of multiple parties or multiple claims portending extensive discovery procedures or numerous legal issues such that the management techniques recommended in the current edition of the Manual For Complex Litigation should be considered and applied as appropriate to the circumstances of the case. Track Three Cases shall also include any action so imminently affecting the public interest (e.g. legislative redistricting, school desegregation, voting rights) as to warrant heightened judicial attention or expedited treatment.

a. This action meets the criteria for complex litigation in that it presents factual and legal issues arising from the presence of multiple parties and multiple claims portending extensive discovery procedures and numerous legal issues. This action has multiple Defendants, most of whom refuse to waive service of process, and who are members of the bench and bar. The Thirteenth Judicial Circuit is arguably the worst circuit in Florida, and Florida is arguably the most corrupt state in America. As set forth herein, there is no meaningful regulatory oversight in Florida for the bench or the bar.

b. This action also imminently affects the public interest. After this case was filed on the morning of September 28, 2010, the Thirteenth Circuit continued to deny Gillespie his rights. Judge Cook entered an improper summary judgment; the order itself acknowledges a disputed material fact, the existence of a fee agreement. In addition, Plaintiff's First Amended Complaint was properly filed and docketed May 5, 2010, and presents many, many disputed material facts. See DKT 2 for Plaintiff's First Amended Complaint or DKT 24. Several Florida attorneys, and the Office of State Courts Administration, note the astronomical number of summary judgment cases in the Thirteenth Judicial Circuit. This issue alone potentially affects over 5,000 summary judgment rulings in just the past year alone. Furthermore, Gillespie can personally attest that the Thirteenth Judicial Circuit will issue an arrest warrant for an indigent, disabled, civil contemnor without counsel. The public defender was appointed to represent Gillespie but Judge Arnold dismissed the defender June 1, 2011 and issued an arrest warrant for Gillespie. Krista J. Sterken, Esq., of Foley & Lardner LLP, identified this issue as affecting the public interest. [DKT 49].

c. Pursuant to Local Rule 3.05(c)(2)(E) (relevant portion)

> A motion to amend any pleading or a motion for continuance of any pretrial conference, hearing, or trial is distinctly disfavored after entry of the Case Management and Scheduling Order.

The Complaint in this action must be amended. A motion by Ms. Chapman April 8, 2011 to Dismiss the Complaint or alternatively, moved to Strike and moved for a More Definite Statement. [DKT 27] states:

> "Alternatively, should this Court not dismiss Plaintiffs Complaint or dismiss Plaintiffs Complaint without prejudice, Defendants respectfully request this Court

> to enter an Order requiring Plaintiff to provide a more definite statement and striking any and all allegations or references concerning "a response to a bar (sic) inquiry" found in paragraph 94 of Plaintiffs Complaint."

This motion by Ms. Chapman is construed to require Plaintiff file an amended complaint. In addition, since the Complaint was filed September 28, 2010, the Thirteenth Judicial Circuit has engaged on additional wrongdoing toward Gillespie. The complaint must be amended to include that wrongdoing, and to add another Defendant, Judge James Arnold.

d. Gillespie served notice July 12, 2010 to the Thirteenth Judicial Circuit in compliance with the requirements of section 768.28(6)(a), Florida Statutes, which requires that prior to instituting any action on a tort claim against the state or one of its agencies or subdivisions, the claimant must present the claim in writing to the appropriate agency and the Department of Financial Services. Gillespie's tort claims against the Thirteenth Judicial Circuit and affiliated Defendants were not ripe when the complaint was filed, but they are now. Therefore Gillespie believes this action is a Track Three Case on the basis of a complex tort case.

e. Gillespie also notified the Court of two potential conflicts. [DKT 52]. It appears the assigned U.S. Magistrate, The Honorable Thomas B. Smith, was a partner at Holland & Knight during the same tenure as one of the Defendants, Circuit Judge Martha J. Cook. This raises a question as to his impartiality. Canon 3E(1) of the Florida Code of Judicial Conduct provides a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. The Commentary to 3E(1) states that under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(1) apply. The

question whether disqualification of a judge is required focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially. A judge has a duty to disclose information that the litigants or their counsel might consider pertinent to the issue of disqualification. A judge's obligation to disclose relevant information is broader than the duty to disqualify. Stevens v. Americana Healthcare Corp. of Naples, 919 So.2d 713, Fla. App. 2 Dist., 2006. Also, Gillespie has a legal dispute with Bank of America, which is also a financial holding of the trial judge, The Honorable William Terrell Hodges. As of today the Court has not responded.[DKT 52]. However this is not a motion to disqualify. Plaintiff believes such motions are generally not productive.

f. Given that US magistrate judges do not enjoy the independence of an Article III federal judge as set forth in paragraph 21, Gillespie believes a magistrate judge will not be truly independent or impartial as required under the canons and case law. This is especially true of a magistrate judge who formerly served as a Florida circuit court judge. It is understandable that Florida circuit court judges enjoy camaraderie amongst themselves, and it would be unreasonable to expect a former colleague to break that camaraderie, especially with regard to Judge Martha Cook, who belongs in prison for her misuse and denial of judicial process under the color of law.

g. Magistrate Judge David A. Baker was assigned to this case and made a number of rulings prior to the assignment of the Honorable Thomas B. Smith on July 29, 2011. [DKT 43]. Gillespie contacted by voice mail November 8, 2011 the chambers of Magistrate Judge Baker as provided on the Court's website for a conflict check with any

of the Defendants. As of today Magistrate Judge Baker has not responded. This is concerning, because Magistrate Judge Baker does not provide this information on the Court's website, other than his investment interests. In addition, Magistrate Judge Baker is assigned to the Orlando Division. It is unclear how Magistrate Judge Baker could view documents in this case that have not been put on the Court's Case Management and Electronic Case Filing ("CM/ECF") system, such as DKT 2, which are Exhibits 1-15 to the Complaint [DKT 1] and Gillespie's ADA Assessment and Report. It appears these documents are only viewable in person at the Ocala Division.

(i) On October 14, 2010 Magistrate Judge Baker denied Plaintiff's motion to file electronically. [DKT 17]. Gillespie has maintained a PACER account in good standing since 1999. Pursuant to local Rule 1.01(a) Gillespie moved to file electronically in this lawsuit. [DKT 6]. Magistrate Judge Baker's Order suggests that the reason for denial was based solely on Gillespie's pro se status. This appears prejudicial, and Gillespie notes Mr. Rodems appeared pro se as a Defendant and filed electronically. So Magistrate Judge Baker must mean that only lawyers may have access the Court's Case Management and Electronic Case Filing ("CM/ECF") system, except that Gillespie has maintained a PACER account in good standing since 1999, and routinely downloads documents from the Court's CM/ECF system in this action.

(ii) October 21, 2010 Magistrate Judge Baker entered an Order [DKT 18] denying Plaintiff's Verified Emergency Motion For An Order Of Protection and

Order Of Removal. In the Order the Court repeated a misrepresentation made by Mr. Rodems in violation of Rule 11(b), FRCP.

> "Now, more than five years later, Mr. Gillespie, who is proceeding *pro se*, filed the instant action in this Court alleging various claims...against the four judges who at times presided over the State Court Action..."

Clearly this action only names three judges, not four. This error suggest that the Court merely repeated whatever Mr. Rodems submitted, even a falsehood. Even a layman could read the case caption and see only three judges are named.

(iii) October 25, 2010 Magistrate Judge Baker entered an Order [DKT 20] denying Gillespie's motion to disqualify counsel. The Court's ruling is confusing when compared to Plaintiff's motion to disqualify counsel. [DKT 8]. For example, Mr. Rodems repeatedly claimed in the state action "We are being shaken down by Mr. Gillespie" with "we" referring to him, his law partners and law firm. This shows Mr. Rodems independent professional judgment was materially limited by the lawyer's own interest, but Magistrate Baker failed to see or understand this limitation of judgment. The practice of law is a profession the purpose of which is to supply disinterested counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain. Mr. Rodems is boiling with anger and believes he is being "shaken down". On the other hand, Mr. Bauer studied this case before entering his appearance and said "a jury would love to punish a slimy attorney" referring to the Defendants. Magistrate Baker failed to address the issue in his Order of Mr. Rodems

Strategic Maneuver To Intentionally Disrupt The Tribunal, Rodems' Affidavit [DKT 8, Exhibit 1] that was impeached by an investigation of the Tampa Police Department. [DKT 8, Exhibit 2]. On Pages 5-10 of Gillespie's motion to disqualify shows a transcript of the telephone call from Mr. Rodems in question. This call shows Mr. Rodems professional judgment was materially limited by the lawyer's own interest, and that he submitted a false affidavit to the state court.

> Florida case law prohibits lawyers from presenting false testimony or evidence. Kneale v. Williams, 30 So. 2d 284 (Fla. 1947), holds that perpetration of a fraud is outside the scope of the professional duty of an attorney and no privilege attaches to communication between an attorney and a client with respect to transactions constituting the making of a false claim or the perpetration of a fraud. Dodd v. The Florida Bar, 118 So2d 17 (Fla. 1960), reminds us that "the courts are ... dependent on members of the bar to ... present the true facts of each cause ... to enable the judge or the jury to [decide the facts] to which the law may be applied. When an attorney ... allows false testimony ... [the attorney] ...makes it impossible for the scales [of justice] to balance." See The Fla. Bar v. Agar, 394 So.2d 405 (Fla. 1981), and The Fla. Bar v. Simons, 391 So. 2d 684 (Fla. 1980).

For some reason Magistrate Baker failed to know that Florida case law prohibits lawyers from presenting false testimony or evidence, and this is Mr. Rodems' modus operandi.

> In Garcia v. Manning, 717 So.2d 59, the Court held that It is ethical responsibility of all judges to know the law and to faithfully follow it. West's F.S.A. Code of Jud. Conduct, Canon 3.

Magistrate Baker also wrote (page 3):

He also states that the "federal lawsuit alleges Mr. Rodems harassed Gillespie with malice aforethought and aggravated Gillespie's disability requiring ADA accommodation which the Court refused to provide." Doc. 8 at 13. Plaintiff has failed to offer any explanation as to how these allegations are "substantially related" to any alleged former representation of Plaintiff "on matters of disability and vocational rehabilitation."

For some reason Magistrate Baker failed to know about an important case on this issue from the US District Court, MD of Florida, Tampa Division:

> In McPartland v. ISI Investment Services, Inc., 890 F.Supp. 1029, (US District Court, MD of Florida, Tampa Division) the court held that [1] Under Florida law, attorneys must avoid appearance of professional impropriety, and any doubt is to be resolved in favor of disqualification. [2] To prevail on motion to disqualify counsel, movant must show existence of prior attorney-client relationship and that the matters in pending suit are substantially related to the previous matter or cause of action. [3] In determining whether attorney-client relationship existed, for purposes of disqualification of counsel from later representing opposing party, a long-term or complicated relationship is not required, and court must focus on subjective expectation of client that he is seeking legal advice. [5] For matters in prior representation to be "substantially related" to present representation for purposes of motion to disqualify counsel, matters need only be akin to present action in way reasonable persons would understand as important to the issues involved. [7] Substantial relationship between instant case in which law firm represented defendant and issues in which firm had previously represented plaintiffs created irrebuttable presumption under Florida law that confidential information was disclosed to firm, requiring disqualification. [8] Disqualification of even one attorney from law firm on basis of prior representation of opposing party necessitates disqualification of firm as a whole, under Florida law.

The motion to disqualify referred [at DKT 8, ¶13] to the "Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Baker, Rodems & Cook, PA" submitted July 9, 2010 in the state court action, and Exhibit 4 to the Complaint [DKT 1, DKT 2, Exhibit 4]. It appears Magistrate Baker did not have access to this exhibit in Orlando as the Clerk in the Ocala Division did not scan the document for inclusion on the Court's Case Management and Electronic Case Filing ("CM/ECF") system.

h. New claims and Defendants in this action necessitating an amended complaint include the following, who have been served pursuant to of section 768.28(6)(a), Florida Statutes, which requires that prior to instituting any action on a tort claim against the state or one of its agencies or subdivisions, the claimant must present the claim in writing to the appropriate agency and the Department of Financial Services. Copies of the notices are in the Appendix.

(i) The Florida Bar (Exhibit 15, Appendix)

(ii) Pat Frank, Clerk of the Circuit Court (Exhibit 16, Appendix)

(iii) Hillsborough County Sheriff's Office (Exhibit 17, Appendix)

Conclusion

23. This action should not be dismissed pursuant to Local Rule 3.10 for lack of prosecution due to the non-filing of a Case Management Report within the time prescribed by Local Rule 3.05. Gillespie proposes the following:

a. Designate the case complex litigation pursuant to Local Rule 3.05 as required by the facts in this action, and restart the clock.

b. Allow for an amended complaint to be served within 90 days.

c. Grant the pending affidavit of indigence to proceed in forma pauperis filed November 20, 2011 in related case 5:11-cv-00539 and awaiting decision. If found indigent Gillespie will seek a waiver of the fees to serve the Defendants as needed.

d. Referral for investigation of the astronomically high number of summary judgments in Hillsborough County/Thirteenth Judicial Circuit, as reported by the Office of State Court Administration, by the United States Justice Department or from someone,

anyone who has any ability or willingness to stand up and speak for justice, the Rule of Law and basic rights, as advocated by attorney Matt Weidner, a candidate for the Florida House of Representatives, and others.

e. Allow consolidation with a class-action lawsuit against the Thirteenth Circuit for the denial of judicial process over the astronomically high number of summary judgments in Hillsborough County/Thirteenth Judicial Circuit, as reported by the Office of State Court Administration.

f. Appoint Gillespie counsel as aspects of this lawsuit are in the public interest.

g. Sanction Mr. Rodems pursuant to Rule 11(b) for his violations set forth herein.

h. Grant the pending motion to extend time to file a Notice of Objection [54] to allow fourteen days (14) additional time from receipt of this response.

WHEREFORE, Plaintiff submits his written response to Order To Show Cause.

RESPECTFULLY SUBMITTED November 9, 2011.

Neil J. Gillespie, Plaintiff pro se
8092 SW 115th Loop
Ocala, Florida 34481
Telephone: (352) 854-7807

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was emailed November 9, 2011 to Catherine Chapman, counsel for The Law Office of Robert W. Bauer, P.A. and Robert W. Bauer. A copy was mailed to Ryan C. Rodems, 501 E. Kennedy Blvd., suite 790, Tampa, Florida 33602. No other party was served.

Neil J. Gillespie

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

NEIL J. GILLESPIE,

CASE NO.: 5:10-cv-503-Oc-10TBS

Plaintiff,

vs.

THIRTEENTH JUDICAL CIRCUIT, FLORIDA, et al.

Defendants.
_____/

APPENDIX, PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

1. Grand jury presentment of An Investigation Into Judicial Misconduct In Hillsborough County of December 8, 2000

2. Foreclosure and Economic Recovery Status Report, OSCA, 2010-2011

3. *Comparing Hillsborough's Dismissal rate to other Florida counties*, Mark Stopa

4. HILLSBOROUGH FORECLOSURE COURT- Very Disturbing Numbers, a system gone awry, Matt Weidner, October 29, 2011

5. ABA story by Debra Cassens Weiss "Criticism of the Foreclosure Process Brought Bar Probe of Two Fla. Lawyers" May 19, 2011

6. April 11, 2011 email to James Watson, Chief Branch Discp. Counsel, Tallahassee

7. "Florida's Judicial Protection Society", June Maxam, North County Gazette

8. May 5, 2010 Motion to Judge Barton to disclose ex-parte JNC communication

9. Communication about the JNC with Rick Figlio, General Counsel, Gov. Crist

10. Email with Pedro Bajo, "trash can" comment, June 15, 2010 JNC interview

11. Email with Pedro Bajo, "fire a bullet" comment, June 15, 2010 JNC interview

12. January 4, 2010 letter, Robert Bauer to Gov. Crist

13. Herald-Tribune, May 29, 2011, "Ethics reforms ignored by Florida lawmakers"

14. Affidavit of Neil J. Gillespie of April 25, 2011

15. Notice, section 768.28(6)(a), Florida Statutes, The Florida Bar

16. Notice, section 768.28(6)(a), Florida Statutes, Pat Frank, Clerk of Circuit Court

17. Notice, section 768.28(6)(a), Florida Statutes, Hillsborough County Sheriff's Office

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR HILLSBOROUGH COUNTY

IN RE: AN INVESTIGATION INTO JUDICIAL MISCONDUCT IN HILLSBOROUGH COUNTY.

PRESENTMENT

Late in the afternoon of Thursday, July 27, 2000, Bailiff Sylvia Gay used her key to enter the offices of Circuit Judge Gregory Holder in the Hillsborough County Courthouse. Gay who is assigned by the Hillsborough County Sheriff's Office to work for Judge Holder was there to retrieve some personal effects. When she entered the offices, she found to her surprise that they were occupied by Judge Robert Bonanno.

Behind this seemingly simple scenario lie many complicated legal and ethical issues which have captured the attention and affected the operation of the Hillsborough County judicial system since that July day. To sort out these issues, we the Grand Jury for Hillsborough County for the Fall Term of 2000, were asked to conduct an investigation into Judge Bonanno's conduct and other related matters. In the process, we met on six separate occasions, listened to the testimony of twenty-four witnesses, examined many items of documentary evidence, and made a visit to Judge Holder's offices. As a result of our investigation, we today recommend the resignation or removal of Judge Bonanno from his position as a judge of the Thirteenth Judicial Circuit. We will also have several other observations to make, but we begin with what is the primary focus of our inquiry. Based

EXHIBIT 1

App. B

on the testimony we heard, we make the following factual findings.

In addition to serving as a circuit judge, Judge Holder is a reserve military judge assigned to the United States Air Force Judiciary. From time to time this requires his presence at military trials held outside of the State of Florida. July 27, 2000, was such a day. However, his judicial assistant kept his office open throughout the day until she left at 4:30 p.m. At that time she turned off all the lights in Judge Holder's suite of offices and checked all of the doors leading into the suite. All of them were locked. In order to understand what followed, it is helpful to know the layout of the suite, and to that end a diagram is attached to this report as Exhibit A.

Because of Judge Holder's absence, Bailiff Gay was temporarily assigned to work for another judge on the twenty-seventh. However, as was her custom, she stored her personal effects in Judge Holder's break room. Thus, when her normal workday ended she returned to Judge Holder's offices at about 5:20 p.m. The third floor of the courthouse where they are located was quiet and as it was before 5:30 p.m. when the cleaning crew would clock in and begin its rounds, she expected to find no one there.

Using her key, Bailiff Gay unlocked the front door of the suite and entered into the waiting room. To her surprise and consternation, she saw that lights were on in the break room and Judge Holder's private office. She stood still for several seconds, but when she saw a reflection or shadow moving in a furtive manner on a picture hanging on the wall in the private office, she called out the word "hello" in a raised tone of voice. When this elicited no response, she again called out "hello" in an even louder tone. After a moment's pause, Judge Bonanno appeared through the door of the private office into the waiting

room. He said he was there to talk to Judge Holder about several matters and thought that Judge Holder was not leaving town until that evening. He then engaged Bailiff Gay in a few moments of idle conversation before they both left the suite together.

Upset by the incident, Bailiff Gay sought to inform Judge Holder of what had happened. With the help of Judge Holder's wife, she was successful. Judge Holder was equally concerned. Although he knew that Judge Bonanno, like all the other judges with offices on the third floor of the courthouse, had a key to his office, he could think of no good reason for him to be there under the conditions in which Bailiff Gay found him. As a consequence, he contacted the Chief Judge and requested a meeting with the Chief Judge and Bonanno. That meeting was scheduled for the following Monday.

At the Monday meeting, Judge Bonanno immediately attacked Judge Holder for implying that he might have done anything wrong. Affronted by this attitude, Judge Holder terminated the meeting and requested an official investigation of the matter, which led to our involvement.

The investigation of Judge Bonanno's entry into Judge Holder's offices was undertaken by the Hillsborough County Sheriff's Office and the Florida Department of Law Enforcement. While we need not review that investigation in detail, there are certain points which are relevant to our conclusions. Primarily they concern statements given by Judge Bonanno to investigators and others relating to how he entered the offices of Judge Holder, how he found the offices, how he responded to Bailiff Gay's entry, and why he went there. As to his entry into Judge Holder's offices, he told investigators that he entered through the side hall door into Judge Holder's private office which he found to be ajar. This is

significant because of the credible testimony we received which indicated that the door was locked. Moreover, the evidence we received, as well as our own physical examination of the door, demonstrated that because of a closing bar at its top, it is impossible for that door to remain ajar. On the issue of how Judge Bonanno found the offices, he said in his statement to investigators that lights were on in the private office and hearing room but nowhere else. This flies in the face of Bailiff Gay's assertion that lights were on only in the private office and the break room. Another conflict between his story and Bailiff Gay's account is that he told investigators he called out Judge Holder's first name when he heard someone enter through the front door while Bailiff Gay heard only silence until Judge Bonanno walked into the waiting room. From our visit to Judge Holder's offices, we conclude that if Judge Bonanno had spoken at anything above a whisper, Bailiff Gay would have heard him.

The most significant part of the investigation dealt with the reason or motive for Judge Bonanno entering Judge Holder's offices. On that point, the evidence we received establishes that Judge Bonanno himself has at various times given conflicting answers to that question. For example, the Tuesday after the incident, he told a lawyer that he was in the offices to deliver statistics. Yet in various statements he told investigators that he went to the offices to discuss a particular case with Judge Holder. In other statements he mentioned not only a discussion of the case but also a need to discuss courthouse politics.

The evidence we heard establishes that others have very different opinions as to why Judge Bonanno went to Judge Holder's offices. Judge Holder has a reputation for being a forthright man who is willing to speak his mind and who takes a dim view of misbehavior

on the part of his colleagues. Thus, many people believed that Judge Bonanno went to Judge Holder's offices looking for written material or evidence of the misconduct of other judges who were friends of Judge Bonanno. In particular, they surmised that he might have been looking for material on Judge Gasper Ficarrotta.

While Judge Bonanno remains the primary focus of our report, we think it is important at this point to also examine the conduct of Judge Ficarrotta who has recently resigned from his position as a circuit judge. As can be seen from the evidence which we have just related, our inquiry into Judge Ficarrotta's conduct flows naturally from our investigation of Judge Bonanno. Moreover, we think that the parallels between Judge Ficarrotta's actions and those of Judge Bonanno are instructive. Finally, we believe that the public deserves some explanation as to the reasons behind Judge Ficarrotta's resignation.

The evidence which we heard establishes that Judge Ficarrotta conducted an extramarital affair with a Hillsborough County Bailiff, Tara Pisano, which lasted for more than a year. While we do not believe it is necessary for us to chronicle the details of their relationship, we think it is important to note that sexual relations occurred between them in the courthouse during normal business hours.

In addition, we find from the evidence that Judge Ficarrotta assisted with Hillsborough County Sheriff Cal Henderson's 2000 election campaign by helping to organize a fund raising party given by several lawyers on the Sheriff's behalf. Judge Ficarrotta was aided in this endeavor by Bailiff Pisano and by Corporal Michael Sheehan who is also employed by Sheriff Henderson. Again, we think it should be noted that both engaged in these activities while on duty. We should add that we heard no evidence that Sheriff

Henderson knew of or would have approved of Judge Ficarrotta's involvement in his campaign or of the fact that Pisano and Sheehan were doing campaign work on county time.

After the relationship ended between Bailiff Pisano and Judge Ficarrotta, she brought Judge Ficarrotta's activities to the attention of the Judicial Qualifications Commission which initiated a secret investigation of him. That investigation has been terminated without its results being made public as a result of Judge Ficarrotta's resignation from the Bench. While we in no way condone the conduct of Judge Ficarrotta, we believe that his resignation was an honorable act which saved the taxpayers of this county and the state an untold amount of money.

We now return to our discussion of Judge Bonanno and the ways in which his situation parallels Judge Ficarrotta's. In the course of our investigation we found incontrovertible evidence that Judge Bonanno, like Judge Ficarrotta, conducted an illicit courthouse affair. This affair lasted for approximately five years and involved a person who was then an employee of the Hillsborough County Clerk's Office. The two spent much time together in Judge Bonanno's private offices and once attended a judicial conference together in Fort Lauderdale. While we acknowledge that a judge's private life is not public property, we think that improprieties committed on public time and public property are properly subject to public scrutiny.

What then are we to say about Judge Bonanno? First we must examine the issue of whether he committed a crime by entering Judge Holder's offices as he did. Based on the law as we understand it, we conclude that he did not. While we do not condone his conduct, we think that the fact that he, like many others, was assigned a key to Judge

Holder's offices gave him the legal if not moral right to enter as he did.

Having decided that issue, we turn to the question of what if any impact Judge Bonanno's conduct has had on his ability and right to hold office. Quite simply, we conclude, based on the evidence we have heard, that Judge Bonanno has violated Florida's Code of Judicial Conduct by demeaning his judicial office. Moreover, we believe that he has lost the credibility necessary for a judge. It is important that the public understand that we reach this conclusion based not only on the fact of his having been found in Judge Holder's offices under suspicious circumstances, which while poor form was not, as we have noted, a crime. Rather, we are more concerned about the incredible and conflicting accounts he has given about the incident. Whether his observation and memory are faulty or he is just plain lying, we cannot determine. What we can determine is that because of his lack of credibility and his conduct of his personal life, he is no longer fit to be a judge. We ask him to follow Judge Ficarrotta's commendable example and immediately resign his position as a judge of the Thirteenth Judicial Circuit. However, if he should fail to do so, we urge the Judicial Qualifications Commission and the Florida Supreme Court to take action to immediately suspend him and then remove him from office after appropriate proceedings.

Before concluding, we believe it proper to make three observations about matters which while not directly related to our conclusions about Judge Bonanno were presented by the evidence we heard. The first deals with Bailiff Tara Pisano and Corporal Michael Sheehan. As we have noted, the evidence we heard established that she had sexual relations with Judge Ficarrotta in the courthouse during working hours and that both she and Sheehan engaged in campaign activities while on duty. Although we do not know what

discipline this might command, we strongly recommend that the Sheriff initiate an internal affairs investigation. Given the price which Judge Ficarrotta has paid, we believe simple fairness demands that the conduct of his partners not go unexamined.

Our second observation deals with the Judicial Qualifications Commission. This is the agency charged with investigating misconduct on the part of judges and making recommendations to the Florida Supreme Court for appropriate discipline. As in the case of Judge Ficarrotta, they operate in secrecy during their investigative stage and should a judge resign prior to being formally charged, the investigation remains secret even if it contains evidence of a crime. Consequently, in the case of Judge Ficarrotta the public would never have known of the nature of his misdeeds but for our investigation. We do not believe that these rules instill confidence in the judiciary or otherwise serve the public well. Therefore, we would urge the Supreme Court and other appropriate authorities to examine the secrecy rules of the Judicial Qualifications Commission so as to bring the proceedings and records of that body into the sunshine.

The third observation which we wish to make focuses on Chief Judge Dennis Alvarez and the office of Chief Judge of the Circuit. Opinion evidence we received indicated a concern with the practice of a chief judge serving an unlimited number of terms, as has long been the case in Hillsborough County, and with the ability of a long serving chief judge such as Judge Alvarez to effectively deal with problems like the ones we have examined in this report. On the other hand, others who testified before us thought that the current system works well. Based then on the record before us, while we might wish that the Chief Judge had taken a more active role in preventing the embarrassment our justice system has

suffered, we are simply not in a position to make a finding on this issue. However, we do believe it is an issue which deserves further examination, and we would strongly encourage our local judiciary as well as the Florida Supreme Court to undertake a careful study of the matter.

In closing, we think it is vitally important to say that there are many fine, hard-working judges in the Hillsborough County judicial system. We find it unfortunate that their reputations have been tarnished by the antics of a few, but we are certain that once this process is concluded, they will be able with a concerted effort to restore the public's confidence in its judiciary.

This report of the Hillsborough County Grand Jury made in open court this 8th Day of December, 2000.

NELDA SUZANNE LYNN, VICE FOREMAN

MICHELE L. SAKELLARIS, CLERK

FLOYD L. ACE

JON M. BELL

ROBERT E. BENSON

VICKI A. BENSON

CAROL J. BYRNES

WILLIAM H. CROSBY

CATHY D. ELTZROTH

KIMBERLYN G. GRAY

BARBARA R. KALT

KEITH E. KIPLINGER

STEVEN JEROME LEWIS

JOE A. LOVERING

JOAN E. LYNCH

MICHAEL J. MADALENA

EVEANN M. MCBRIDE

VALERIE W. MEYER

SUSAN M. REILLY

KEVIN H. WALKER

CERTIFICATE OF STATE ATTORNEY

I, JERRY HILL, State Attorney of the Tenth Judicial Circuit being assigned to the Thirteenth Judicial Circuit by order of the Governor of Florida, do hereby certify that as authorized and directed by law, I have advised the Grand Jury in regards to returning this presentment.

THIS 8TH Day of December, 2000.

JERRY HILL
STATE ATTORNEY
TENTH JUDICIAL CIRCUIT

PRESENTED by the Grand Jury and filed in open court in Tampa, Hillsborough County, Florida, this 8 Day of December, 2000.

Becky Rogers
CLERK OF THE CIRCUIT COURT

JUDGE'S CHAMBERS
BREAK ROOM
RECEPTION OFFICE
PRIVATE OFFICE
ENTRY
ROOM 370
N
EXHIBIT A
NOT TO SCALE

Foreclosure and Economic Recovery Status Report

Number of Additional Real Property/Mortgage Foreclosure Cases Added to Backlog and Percent of Cases Disposed

Quarter Ending September 2006 through June 2011

Quarter	Number of Additional Backlog Cases Added[1]	Clearance Rate[2]
July - September 2006	4,184	78.6%
October - December 2006	8,689	64.5%
January - March 2007	13,748	57.0%
April - June 2007	16,808	54.7%
July - September 2007	26,192	45.9%
October - December 2007	38,778	39.8%
January - March 2008	49,989	38.5%
April - June 2008	50,937	43.9%
July - September 2008	52,864	45.9%
October - December 2008	49,103	50.4%
January - March 2009	50,025	53.7%
April - June 2009	36,397	63.2%
July - September 2009	35,012	64.0%
October - December 2009	28,887	69.5%
January - March 2010	13,392	83.7%
April - June 2010	-17,393	127.6%
July - September 2010	-16,508	125.4%
October - December 2010	-17,866	154.4%
January - March 2011	-24,790	191.5%
April - June 2011	-30,946	205.0%

EXHIBIT 2

[1] Number of Additional Backlog Cases Added was determined by subtracting the number of SRS dispositions from the number of SRS filings for the quarters ending September 30, 2006 through June 30, 2011.

[2] Clearance Rate was determined by dividing the number of SRS dispositions by the number of SRS filings for the quarters ending September 30, 2006 through June 30, 2011.

Note: The backlog of mortgage foreclosure cases was significantly reduced during the year-long initiative. With more than 200,000 cases disposed, the backlog fell from more than 462,000 cases to under 261,000 cases. The clearance rates, as can be seen above, jumped dramatically during the initiative.

It is important to note that beginning in the second quarter of the year, the number of cases disposed decreased significantly and that trend continued for the rest of the year. However, this was due in large part to the voluntary moratorium imposed by some of the major lenders in Florida. In addition, it was reported that almost half of scheduled hearings were cancelled due to the voluntary moratorium in late 2010.

It is also important to note that half of the total cases disposed during the year were dismissed. Dismissals, which can occur for a number of reasons, may take place after a hearing by a judge, at the request by the plaintiffs' attorney or following a review by a case manager. Variances in case management practices may influence which cases are scheduled for hearings, which would affect the number of dismissals and summary/final judgments.

Foreclosure and Economic Recovery Status Report
Balance of Backlog
First, Second, Third, and Fourth Quarters in FY 2010-11

Circuit	Real Property/ Mortgage Foreclosure Backlog as of June 30, 2010[1]	First Quarter in FY 2010-11 Initiative Dispositions[2] (July 2010 to September 2010)	Second Quarter in FY 2010-11 Initiative Dispositions[2] (October 2010 to December 2010)	Third Quarter in FY 2010-11 Initiative Dispositions[2] (January 2011 to March 2011)	Fourth Quarter in FY 2010-11 Initiative Dispositions[2] (April 2011 to June 2011)	Total FY 2010-11 Initiative Dispositions[2]	Balance of Backlog After FY 2010-11 Initiative[3]
1	10,979	1,098	983	842	1,433	4,356	6,623
2	3,460	417	370	399	335	1,521	1,939
3	1,115	220	211	245	152	828	287
4	17,916	2,436	1,739	3,407	2,768	10,350	7,566
5	16,281	1,008	1,105	1,084	800	3,997	12,284
6	31,791	3,575	1,750	868	745	6,938	24,853
7	18,440	3,792	2,086	1,643	1,854	9,375	9,065
8	1,926	536	519	446	375	1,876	50
9	39,700	7,816	5,322	4,478	4,747	22,363	17,337
10	11,045	3,159	1,614	1,378	1,805	7,956	3,089
11	75,326	5,553	5,154	8,177	12,164	31,048	44,278
12	21,617	2,305	3,122	1,405	2,048	8,880	12,737
13	32,843	4,207	1,720	449	380	6,756	26,087
14	3,897	854	506	388	546	2,294	1,603
15	46,438	10,234	3,948	3,949	4,582	22,713	23,725
16	2,259	183	233	372	245	1,033	1,226
17	48,675	9,651	3,768	3,670	3,838	20,927	27,748
18	27,117	3,557	2,375	1,767	2,152	9,851	17,266
19	19,061	1,273	501	932	800	3,506	15,555
20	32,453	9,707	4,717	6,210	4,322	24,956	7,497
Total	**462,339**	**71,581**	**41,743**	**42,109**	**46,091**	**201,524**	**260,815**

[1] Real Property/Mortgage Foreclosure Backlog as of June 30, 2010 was determined by subtracting the number of SRS dispositions from the number of SRS filings for July 1, 2006 through June 30, 2010.

[2] Initiative Dispositions are based on data that is provided to the OSCA on a monthly basis by each trial court. First, second, third, and fourth quarter data are the reported information on cases disposed using the new resources. Total represents the sum of the first, second, third, and fourth quarters. In addition, Desoto County and Okeechobee County did not receive Foreclosure and Economic Recovery funding and are not included above.

[3] Balance of Backlog After FY 2010-11 Initiative was determined by subtracting the Total FY 2010-11 Initiative Dispositions from the number of Real Property/Mortgage Foreclosure Backlog as of June 30, 2010.

Foreclosure and Economic Recovery Status Report

Type of Dispositions[1]

July 1, 2010 through June 30, 2011

Circuit	Dismissed	Summary/ Final Judgment	Trial	Other[2]	Unidentified	Total Disposed
1	2,727	1,624	3	2	0	4,356
2	794	676	4	47	0	1,521
3	512	309	0	7	0	828
4	5,531	4,615	1	1	202	10,350
5	2,877	1,082	3	35	0	3,997
6	1,329	5,602	1	6	0	6,938
7	4,254	5,103	11	7	0	9,375
8	931	759	6	180	0	1,876
9	8,830	13,529	3	1	0	22,363
10	3,517	4,430	1	8	0	7,956
11	23,794	7,224	30	0	0	31,048
12	5,067	3,728	79	6	0	8,880
13	226	6,530	0	0	0	6,756
14	1,187	1,107	0	0	0	2,294
15	11,638	11,044	31	0	0	22,713
16	729	303	1	0	0	1,033
17	8,838	12,088	1	0	0	20,927
18	5,695	4,075	19	62	0	9,851
19	2,042	1,454	4	2	4	3,506
20	13,608	11,348	0	0	0	24,956
Total	**104,126**	**96,630**	**198**	**364**	**206**	**201,524**

[1] Type of Dispositions are based on the initiative data that is provided to the OSCA on a monthly basis by each trial court. These data represent the reported information on cases disposed from July 1, 2010 through June 30, 2011 using the new resources. In addition, Desoto County and Okeechobee County did not receive Foreclosure and Economic Recovery funding and are not included above.

[2] Other is used to report cases disposed when they are: administratively dismissed, consolidated into a primary case, transferred or have a change of venue, etc.

Note: Numerous methods are used by the circuits to calendar real property/mortgage foreclosure cases which could affect the number of dismissals and summary/final judgments within a circuit. These methods are: 1) following a review by a case manager; 2) at the request of the plaintiffs' attorney; and 3) after hearing by a judge. The majority of circuits calendar hearings following a case review by a case manager. These cases are calendared for either a case management or lack of prosecution hearing. A number of circuits also calendar cases at the request of the plaintiffs' attorneys. These cases are either calendared based upon the request alone or based upon the request and ensurance that the case meets the threshold for a summary/final judgment.

Foreclosure and Economic Recovery Status Report

Case Status[1]

As of June 30, 2011

Circuit	Cases Disposed	Cases Active[2]	Cases Inactive[3]	Cases Stayed[4]
1	4,356	113	6,586	61
2	1,521	1,190	1,407	15
3	828	184	249	35
4	10,350	11,743	6,557	304
5	3,997	705	13,431	1
6	6,938	5,332	24,178	218
7	9,375	5	10,721	389
8	1,876	1,466	641	21
9	22,363	7,154	31,273	16
10	7,956	6,020	4,614	168
11	31,048	50,785	1,730	0
12	8,880	3,390	10,405	166
13	6,756	26,757	379	9
14	2,294	2,461	1,380	54
15	22,713	32,157	5,619	142
16	1,033	1,040	755	26
17	20,927	24,781	28,202	0
18	9,851	103	22,466	26
19	3,506	16,757	4,017	91
20	24,956	4,069	5,570	518
Total	**201,524**	**196,212**	**180,180**	**2,260**

[1] Cases Status is based on the initiative data that is provided to the OSCA on a monthly basis by each trial court. Cases Disposed represent the reported information on dispositions from July 1, 2010 through June 30, 2011 using the new resources and the status of the remaining pending cases. In addition, Desoto and Okeechobee Counties did not receive Foreclosure and Economic Recovery funding and are not included above.

[2] Cases Active represents those cases the court is actively working to resolve. Court administration may not be made aware immediately when a case moves from inactive to active status.

[3] Cases Inactive represents cases where judicial action cannot be concluded due to extenuating circumstances. This includes, but is not limited to, cases inactive due to attorney inactivity, cases with insufficient pleadings or documentation, cases involved in mediation/settlement negotiations, and other similar matters. It is important to note that all cases at the beginning of the initiative in July 2010 were identified as inactive.

[4] Cases Stayed includes bankruptcy cases, cases pending resolution of another case, cases where there is an agreement of the parties, and cases pending appeal.

Foreclosure Defense & Strategic Default
Stopa Law Blog – Florida Homeowners

Comparing Hillsborough's Dismissal rate to other Florida counties

Posted on October 29, 2011 by Mark Stopa

My colleague, foreclosure defense attorney Matt Weidner, just re-posted the Foreclosure and Economic Recovery Status Report which came out a few months back, openly wondering how Hillsborough County could have had only 226 foreclosure cases dismissed in the 12-month period from July 1, 2010 through June 30, 2011.

This got me looking closer at the report, and something really, really jumped out at me.

Take a close look at page 3. Do you see, not only that the Hillsborough court dismissed just 226 cases, a very low number compared to other counties, but also that it entered 6,530 summary judgments?

Think about that ratio for a minute. 226 dismissals versus 6,530 summary judgments. That's 29 summary judgments for every dismissal – a ratio of 29:1.

Now look at the other counties on the chart. Do you see any other counties with that type of ratio? I sure don't – there aren't any.

In the Seventeenth Judicial Circuit (Broward), the ratio is less than 2:1.

In the Fifteenth Judicial Circuit (Palm Beach), the ratio is approximately 1:1.

In the Twelfth Judicial Circuit (Manatee and Sarasota), there were more dismissals than summary judgments!

In the Sixth Judicial Circuit (Pinellas and Pasco), the ratio is 4:1.

Incredibly, 4:1 is the highest ratio of any county in Florida other than Hillsborough, and the ratio in Hillsborough is 29:1.

Think about that for a minute, and ask yourself... with 20 judicial circuits in Florida, why does Hillsborough have such an astronomically higher ratio of summary judgments to dismissals than every other circuit in Florida? Simply from a statistical standpoint, an outlier like this cannot be a coincidence ... can it?

Mark Stopa
www.stayinmyhome.com

This entry was posted in Main. Bookmark the permalink

2 Responses to *Comparing Hillsborough's Dismissal rate to other Florida counties*

CASECLARITY *says:*
October 29, 2011 at 9:15 pm

EXHIBIT
3

One view of this 29:1 summary judgment/dismissal ratio is that Hillsborough County will likely have many more defective real property titles than other Florida counties. Buyers beware.

Reply

Mark Stopa *says:*
October 29, 2011 at 9:37 pm

Good point.

Reply

Foreclosure Defense & Strategic Default
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HILLSBOROUGH FORECLOSURE COURT- Very Disturbing Numbers, a system gone awry | Matt Weidner - Fighting For The American People

Foreclosure and Economic Recovery Status Report
Type of Dispositions1
July 1, 2010 through June 30, 2011

13th Judicial Circuit= 226 Dismissals 6,530 Summary Judgments 0
Trials 6,756 Cases Disposed Of

ReportCard

The numbers detailed above are very, very disturbing. They reflect a court system that is out of whack, and I don't like the way the numbers are tilted. These numbers come from the Office of State Court Administrator and they are so far out of line from every other judicial circuit that they warrant high level review from the United States Justice Department or from someone, anyone who has any ability or willingness to stand up and speak for justice, the Rule of Law and basic rights. But we have very much thrown the towel in on those concepts in this country now, haven't we? And defendants in foreclosure especially, what rights are they entitled to. I mean, after all, this country is owned by the banks, right? Right~!

These numbers simply cannot be ignored and they certainly cannot be explained away. And the execution of the procedures that lead to these numbers are even more disturbing that must be investigated....if only anyone with authority would look into them. But again, the government in this country has lost its way and forgotten that it was meant to serve The People and not The Banks and The Corporations. **These numbers are very real and concrete examples of just how far lost this country has become.**

Another 800 Pound Gorrilla that sits smack dab in the middle of these numbers is the alleged investigations of the foreclosure industry by Florida's Attorney General. There were nine, count 'em nine separate investigations into improper practices and many of those issues relate directly to the cases identified above, but this state's attorney general has just walked away from those investigations.

It's beyond disturbing. It's tyranny. It's treason. It's the kind of abject corruption and repression that leads to people rioting in the streets and Revolution. There simply is no choice when things become so bad.

Mark Stopa ran a post this morning about the inability to appeal Motions to Dismiss and the problems this causes in foreclosure cases and frankly throughout all of our civil court case law because the inability to directly appeal Motions to Dismiss prevents any sort of clear case law or guidance that would develop clear standards for Motions to Dismiss.

Like Mark, I am terribly frustrated by the practice that has been instituted in Hillsborough County where I am not entitled to have my Motions to Dismiss heard, they are ruled on without a hearing and more often than not, Motions to Dismiss are DENIED. Now I believe the entire ex parte consideration of Motions to Dismiss is improper...especially when the very same motions are routinely granted in virtually every other county. (One judge commented, "We never grant these kind of motions over here.)

The practice that has developed is the foreclosure mill sends directly to the judge a copy of my Motion to Dismiss (on a black and white issue such as Failure to Verify) along with an Order

EXHIBIT 4

Denying my Motion to Dismiss. A few days later, the judge sends back the pre-printed Order signed, DENIED, answer the complaint. My response is the same every single time, MOTION FOR RECONSIDERATION. And the response is the same every time, DENIED.

Well my job as an attorney is to use every tool in my disposal to defend my clients and to protect the law. Mark makes a very good point and it's one every single one of us needs to consider. "Losing" the MTD is a real gut punch...some attorneys just blow it off, but I take every single loss at a hearing very hard and I don't take kindly to losing a properly plead Motion to Dismiss....beyond the short term impact for me, the real problem is this is chipping away at the foundation of our entire legal system....and we cannot let this continue.

So I am committing to being prepared to file appeals in every case where these situations come up. Now granted an appeal is not yet timely in most cases. And the fact of the matter is, I've only "lost" like three summary judgments (each of which were reversed), but we're just going to lay here in wait with these MTD denials and keep on re-hearing and documenting the error in the ex parte denial of MTD. If the case ever gets to an improper judgment, this will all just be added together with all the other procedural errors that are going to be made along the way and will make fertile grounds for a nice big appeal.

Given the current state of the law in some jurisdictions, we must begin to view the case as ripe for appeal from the inception...and the file must be treated and documented that way from the very begining.

Now for all you pro-se people out there, PLEASE, PLEASE, PLEASE do not try this yourselves. You know I am the biggest supporter of consumer and citizen rights and I affirm the principles that The People and not lawyers own the courthouses and The Law, but bad appellate decisions destroy our laws and improperly taken appeals cannot be reversed.

And so I ask my colleagues out there to consider this....make a stand, let's make the point. The foreclosure mills need to understand that if they buy into these improper procedures, they may get a short term, "win", but they're only buying longer term problems down the road.

On a very real and practical level, I'm appealing more and have just made financial and structural commitments to make sure I have the ability to put more effort into appeals. These are horribly short term business propositions for any lawyer, but The Law is not selling widgets, it's a profession with higher values that must take precedence over short term business decision making.

There are no shortcuts here. Verify complaints. State capacity. Attach documents that show standing. These are not affirmative defenses, these are not summary judgment issues, they are threshold pleading matters. And if you don't fix them now, your client will be paying the very steep appellate price years and years and years down the road.

I also believe that is the appellate courts and foreclosure mills are inundated with new filings, these improper trial court practices will start to diminish.

Until they do, I am prepared to take appeals on every single issue supported by sound appeals that will lead to the development of good law.

Scridb filter

Legal Ethics

Criticism of the Foreclosure Process Brought Bar Probe of Two Fla. Lawyers

Posted May 19, 2011 6:53 AM CST
By Debra Cassens Weiss

Two Florida lawyers who criticized mass foreclosures found themselves under investigation by the state bar for their comments.

The bar dropped one probe and was expected to drop the second after former ABA President Talbot "Sandy" D'Alemberte intervened on the lawyers' behalf, the Daily Business Review reports. D'Alemberte is also a former president of Florida State University.

"We saw possible implications for free speech," D'Alemberte told the publication.

One of the complaints stemmed from a CNN interview with foreclosure defense lawyer Chip Parker of Jacksonville, the story says. He told the network, "Foreclosure courts throughout the state of Florida have adopted a system of ramming foreclosure cases through the final judgments and sale—with very little regard to the rule of law." He also complained of "an attack upon the citizens of the state of Florida by retired judges."

The other foreclosure lawyer, Matthew Weidner of Tampa, was investigated for "exercising free speech in the courtroom," the story says.

So far the Florida Bar has received 58 complaints against foreclosure defense lawyers and closed 29 without charges. The bar has received 272 complaints against foreclosure plaintiff lawyers and closed 46 without charges.

EXHIBIT
5

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Jim Watson" <jwatson@flabar.org>
Cc: "James A G Davey, Jr." <jdavey@flabar.org>; "Brian Stuart Kramer" <kramerb@sao8.org>; "Melissa Jay Murphy" <melissam@salterlaw.net>; "Carl B Schwait" <cschwait@dellgraham.com>
Sent: Monday, April 11, 2011 4:46 PM
Attach: NOTICE OF GRIEVANCE PROCEDURES.pdf; 2009, 04-22-09, Salter, Feiber reply.pdf
Subject: Re: Complaint, Gillespie v Robert W. Bauer, The Florida Bar File No. 2011-00,073(8B)

Dear Mr. Watson:

Thank you for your response. I trust that your trial is complete and you are back in the office.

Attached is a "Notice of Grievance Procedures" provided to me by the Florida Bar July 30, 2010. The relevant portion to our discussion is paragraph 4:

4. The grievance committee is the Bar's "grand jury." Its function and procedure are set forth in Rule 3-7.4. Proceedings before the grievance committee, for the most part, are nonadversarial in nature. However, you should carefully review Chapter 3 of the Rules Regulating The Florida Bar.

The claim that that the grievance committee is the Bar's "grand jury" is misleading. The grievance committee bears little in common with an actual grand jury.

As previously noted, an actual grand jury issues a finding of fact or presentment that is signed by all the members. The presentment is filed with the clerk of the court and is a public record.

While the grievance committee has nonlawyer members, only a quorum is needed for a vote, and the quorum is not requited to have any nonlawyer members. A grievance committee could be composed entirely of lawyers. An actual grand jury would not be composed entirely of lawyers.

The selection and composition of an actual grand jury is different than the Bar's "grand jury". Actual grand juries are larger, usually 15 to 21 members.

In an actual grand jury, jurors are selected at random and their names are taken from lists prepared by the clerk of the circuit court. Most government officials are disqualified to serve on an actual grand jury. An elected public official is not eligible to be a grand juror.

In contrast, the Bar's "grand jury" draws from a small pool of self-selected members. The Eighth Circuit Grievance Committee "B" consists of ten members; seven lawyers and three nonlawyers. The Bar's "grand jury" requires a quorum (in my case 5 members), non of whom are required to be nonlawyers. I know of no prohibition on government or elected officials serving on a grievance committee. For example, I believe that Mr. Kramer, as an Assistant State Attorney, is a government official. This is not permitted on an actual grand jury.

In an actual grand jury witnesses will be called one by one and placed under oath to tell the truth, and subject to penalties for perjury. Under Rule 3-7.4(d) grievance committees may be informal in nature and the committees shall not be bound by the rules of evidence. Under Rule 3-7.4(h) the respondent may be required to testify and to produce evidence...and given an opportunity to make a written statement, sworn or unsworn, explaining, refuting, or admitting the alleged misconduct. No one is placed under oath nor subject to the penalties for perjury in the Bar's

EXHIBIT
6

"grand jury".

Given the result of the grievance committee in my case, I believe Messrs. Bauer and Rodems (and perhaps others) made false statements and misrepresentations prejudicial to the administration of justice. In an actual grand jury, witnesses must be truthful of face penalty of perjury. In the Bar's "grand jury" providing false information appears commonplace, and it appears that lying goes unchecked and unpunished. From what I see, it is a routine part of the process to allow the respondent to avoid justice. Even former adversaries such as Mr. Rodems can, in essence, join with the respondent against the complainant.

I found nothing in the rules that would prevent the respondent, the respondent's counsel or designee, a witness, or a third party, from independently contacting members of the grievance committee to influence their vote.

The following are events in my bar complaint against Mr. Bauer: (please correct if needed)

Pursuant to Rule 3-7.3(a) bar counsel Annemarie Craft (ACAP) reviewed my complaint/inquiry against Mr. Bauer and determined that the alleged conduct, if proven, would constitute a violation of the Rules Regulating The Florida Bar warranting the imposition of discipline. Ms. Craft notified me (October 13, 2010) that she forwarded the complaint to The Florida Bar's Tallahassee Branch Office for consideration. Ms. Craft was the second bar counsel assigned; the initial bar counsel, William Kitchen, was removed from the inquiry.

Pursuant to Rule 3-7.3(c) my complaint (July 29, 2010) was in writing and under oath, although the response from Mr. Bauer, and a 13 page diatribe from attorney Ryan C. Rodems were not made under oath. (Note: The Bauer and Rodems correspondence contained a number of false statements and misrepresentations prejudicial to the administration of justice.)

Pursuant to Rule 3-7.3(b) bar counsel James A G Davey, Jr. in the Tallahassee Branch Office decided to pursue an inquiry, opened a disciplinary file as a complaint, and investigated the allegations contained in the complaint.

Pursuant to Rule 3-7.3(f) Mr. Davey referred the complaint (November 5, 2010) to Melissa Murphy, Chair Eighth Judicial Circuit Grievance Committee "B" for its further investigation. Mr. Davey instructed Ms. Murphy assign the complaint to a grievance committee member for investigation and enclosed a Notice of Assignment of Investigating Member and/or Panel form. Mr. Kramer was assigned as investigating member (November 15, 2010.

Pursuant to Rule 3-7.4(j) Finding of No Probable Cause (1) the grievance committee terminated the investigation by finding that no probable cause exists to believe that the respondent has violated these rules.

In a letter dated March 18, 2011, you wrote me stating that: "Pursuant to Rule 3-7.4(k), this document serves as a Letter Report of No Probable Cause Finding. On the basis of a diligent and impartial analysis of all the information available, on March IS, 2011, the grievance committee found no probable cause for further disciplinary proceedings in this matter. The membership of the committee is made up of both attorneys and non-attorneys. This case is now closed." (relevant portion)

Rule 3-7.4(k) states: "(k) Letter Reports in No Probable Cause Cases. Upon a finding of no probable cause, bar counsel will submit a letter report of the no probable cause finding to the complainant,

presiding member, investigating member, and the respondent, including any documentation deemed appropriate by bar counsel and explaining why the complaint did not warrant further proceedings." (relevant portion)

It appears that your letter of March 18, 2011 fails to comply with Rule 3-7.4(k) because it failed to explain why the complaint did not warrant further proceedings given the overwhelming evidence of misconduct. You also failed to include any documentation explaining why the complaint did not warrant further proceedings.

The second paragraph of your March 18, 2011 letter states: "Because the Bar only has the authority to address questions of ethics, the committee could not address any legal issues about which you may feel concerned. If you have further concerns about what your legal remedies may be, you must consult with legal counsel of your choice. The Florida Bar is unable to provide legal advice in this respect."

Consult with legal counsel of your choice? That statement belies the fact that Mr. Bauer, a referral from the bar, was my counsel to represent me against prior counsel Barker, Rodems & Cook, PA. Subsequent to Mr. Bauer, I retained attorney Seldon J. Childers to review the representations or Mr. Bauer and Barker, Rodems & Cook, PA. Mr. Childers prepared but refused to sign the following documents (September 17, 2009) regarding the prior representation, and dropped the matter when I would not agree to a "walk-away" settlement with the prior attorneys.

Analysis of Case and Recommendation
Economic Analysis Spreadsheet
Case Spreadsheet

So it appears your suggestion to "consult with legal counsel of your choice" is not tenable.

Subsequent to the closure of the complaint, I learned that Melissa Murphy, Chair Eighth Judicial Circuit Grievance Committee "B", is with the firm Salter, Feiber, Murphy, Hutson & Menet, P.A.. Attached you will find correspondence dated April 22, 2009 from Kristine Van Vorst of Salter Feiber, addressed to me, declining representation in a mortgage matter. When I called Ms. Van Vorst for a referral April 27, 2009, she was not available and I spoke with Kimberly, an assistant. Kimberly suggested Robert Bauer, then Barbara Cusumando. So it appears that Salter Feiber is biased in favor of Mr. Bauer, a fact that may have prevented a fair consideration of the complaint by Ms. Murphy, the presiding member of the grievance committee.

While a complainant has no right of appeal (Rule 3-7.4(i)) I ask that the designated reviewer request a review by the disciplinary review committee (Rule 3-7.5(a)(2)) and make a recommendation of probable cause that further disciplinary proceedings are warranted. (Rule 3-7.5(a)(5)(G). Rule 3-7.5 refers to a "disciplinary review committee" but this term is not defined in Rule 3-2.1 so please explain. I do not believe a review by the grievance committee would be useful since it ruled 5-0 against action and appears Salter Feiber is biased in favor of Mr. Bauer, but do not reject such review out of hand.

In my view the grievance process is a parody of justice. Thank you.

Sincerely,

Neil Gillespie
8092 SW 115th Loop
Ocala, FL 34481

cc: Mr. James A G Davey, Jr.
Mr. Brian Kramer
Ms. Melissa Murphy
Mr. Carl B Schwait

----- Original Message -----
From: Jim Watson
To: Neil Gillespie
Sent: Wednesday, March 23, 2011 1:36 PM
Subject: Re: Complaint, Gillespie v Robert W. Bauer, The Florida Bar File No. 2011-00,073(8B)

Mr. Gillespie:

I did not state that the grievance commitee operated like a grand jury....what I said was that their deliberations were confidential like those of a grand jury.

It is not necessary that there be non-lawyer members present to constitute a quorum....as my original email said a quorum requires three or more members and
two of those three members must be lawyers.

Mr. Schwait is one of the Board of Governors members for the 8th Judicial Circuit. He represents the interests of the attorneys who practice in the 8th circuit
as well as takes part in the review of Greivance Committee actions and any disciplinary matters that are referred to the Board of Governors for actions required under our
rules.

Any further matters which you might raise will have to wait until next week as I am preparing for a trial that begins on Friday. Thanking you for you consideration..Jim Watson

---

Jim Watson, Chief Branch Discipline Counsel
The Florida Bar
Tallahassee Branch Office of Lawyer Regulation
651 E. Jefferson Street
Tallahassee, FL 32399-2300
(850)561-5783 / (850)561-5829 (fax)
jwatson@flabar.org

NOTICE OF GRIEVANCE PROCEDURES

1. The enclosed letter is an informal inquiry. Your response is required under the provisions of The Rules Regulating The Florida Bar 4 8.4(g), Rules of Professional Conduct. Failure to provide a written response to this complaint is in itself a violation of Rule 4 8.4(g). If you do not respond, the matter will be forwarded to the grievance committee for disposition in accordance with Rule 3-7.3 of the Rules of Discipline.

2. Many complaints considered first by staff counsel are not forwarded to a grievance committee, as they do not involve violations of the Rules of Professional Conduct justifying disciplinary action.

3. "Pursuant to Rule 3-7.1(a), Rules of Discipline, any response by you in these proceedings shall become part of the public record of this matter and thereby become accessible to the public upon the closure of the case by Bar counsel or upon a finding of no probable cause, probable cause, minor misconduct, or recommendation of diversion. Disclosure during the pendency of an investigation may be made only as to status if a specific inquiry concerning this case is made and if this matter is generally known to be in the public domain."

4. The grievance committee is the Bar's "grand jury." Its function and procedure are set forth in Rule 3-7.4. Proceedings before the grievance committee, for the most part, are non-adversarial in nature. However, you should carefully review Chapter 3 of the Rules Regulating The Florida Bar.

5. If the grievance committee finds probable cause, formal adversarial proceedings, which ordinarily lead to disposition by the Supreme Court of Florida, will be commenced under 3-7.6, unless a plea is submitted under Rule 3-7.

SALTER, FEIBER, MURPHY, HUTSON & MENET, P.A.

ATTORNEYS AT LAW

JAMES G. FEIBER, JR.*
DENISE LOWRY HUTSON
DAVID E. MENET
MELISSA JAY MURPHY
JAMES D. SALTER
KRISTINE J. VAN VORST

*CERTIFIED CIVIL MEDIATOR

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WWW.SALTERLAW.NET

April 22, 2009
VIA CERTIFIED MAIL

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Fl 34481

RE: Representation

Dear Mr. Gillespie:

Thank you for your correspondence dated April 20, 2009 including attachments thereto.

On the basis of our preliminary review of the facts of your claim, we have concluded that we are not interested in pursuing the possibility of handling of your claim. Of course, we are not passing judgment on the merits of any claims that might be made on your behalf.

This letter confirms that we have not been retained as attorneys for you on any basis. However, we do urge you to retain an attorney as soon as possible if you want to pursue any claims that might exist to recover damages on your mother's behalf.

We have not undertaken to advise you concerning any statutes of limitation that might be applicable to your claim. Again, if you want to pursue any claims, you should retain an attorney as soon as possible and obtain advice from that attorney concerning the applicable statutes of limitation. We suggest that you contact The Florida Bar Referral Service at 1-800- 342-8011 in getting a referral for an attorney in your area.

We appreciate the opportunity to discuss your case with you.

Very Truly Yours,

Kristine Van Vorst

KVV/kmc

North Country Gazette

Florida's Judicial Protection Society

Posted on Monday, 22 of February , 2010 at 9:45 pm

COMMENTARY

By June Maxam

Can you believe that the 764 judges in Florida are so ethical that there are disciplinary complaints pending against only three of them?

In fact, since 2001, the Florida Judicial Qualifications Commission has accepted only 38 cases for judicial disciplinary action, less than half of 1% of the state's judges.

Only one of the three cases still awaiting final disposition involves alleged judicial misconduct on the bench and that judge had been arrested for possession of cocaine and driving under the influence. The other two cases concern improper political activity during the judges' election campaigns.

It's almost as if the JQC only disciplines judges whose egregious conduct they can't hide or those who aren't part of the good ole boy network.

One of the most controversial cases of judicial discipline in the state concerned Judge Michael Allen of the First District Court of Appeals. In an unprecedented move that egregiously raped the First Amendment and effectively served to stifle dissent within the judiciary to the public detriment, the Florida Supreme Court voted to discipline Allen for criticizing a fellow judge in a written opinion and in essence, calling that judge corrupt.

But instead of opening an injury into the alleged corrupt judge, the JQC and Florida Supreme Court went after Allen.

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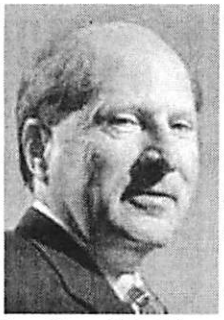
The so-called oversight system of judges in Florida, as well as in many states, has been and is a farce. In looking at the docket of disciplinary cases currently open by the JQC, one would think that the state's judges are among the most ethical in the entire country.

With Pinellas County judges the likes of George W. Greer, Jack Helinger and Pamela A.M. Campbell, is the public to believe that only three judges in the entire state have violated the Code of Judicial Conduct? Do Florida officials really believe that the people are that gullible?



Schiavo death judge George Greer has been protected and insulated from accountability at all levels. He's defied the President, Congress, the Vatican, the Department of Children and Families and the Governor.

He's violated the Constitution, the Bill of Rights, state statutes, the Code of Judicial Conduct and Code of Professional Responsibility. He didn't even legally qualify for office.

Greer, the probate court judge in Pinellas County who issued the death verdict for Terri Schiavo, the severely brain damaged woman who was injured 15 years prior to her court ordered dehydration death in March, 2005, was ethically and statutorily prohibited from acting in the dual role of judge and guardian that he gave himself.

Canon 5(E) 1 and 2 of the Florida judicial code specifically prohibit a judge, all judges including Greer, from serving as a guardian except for a member of his family. He was statutorily prohibited from being the guardian of Terri Schiavo.

Section 744.309(b) of Florida statutes specifically states "no judge shall act as guardian after this law becomes effective, except when he or she is related to the ward by blood, marriage or adoption or has maintained a close relationship with the ward or the ward's family and serves without compensation.

The Florida Supreme Court has routinely upheld Canon 5(E) that a judge cannot serve in the capacity of a trustee, executor or guardian except for a member of the judge's family.

So how did George Greer escape accountability for flagrantly and intentionally violating judicial canons? Could he have been protected by his friends and associates serving as members of the JQC? Would the JQC ever discipline Greer and admit that he acted unethically and unlawfully?
http://www.northcountrygazette.org/2008/12/19/corrupt_judge/

How can the JQC pick and choose who they're going to discipline and who they aren't?

The Second District Court Of Appeals was as much responsible, if not more, for the dehydration death of brain injured Terri Schiavo in March 2005 and in addition, DCA judge Morris Silberman is a member of the Florida Judicial Qualifications Commission, the same commission which refused to sanction Greer despite his blatant and egregious violations of judicial ethics rules.

Gov. Jeb Bush appointed Silberman to the 2nd DCA in November 2000, just in time for the Schiavo appeals to be heard at the 2nd DCA. Prior to going into private practice with his wife, Silberman was a senior litigation associate with the law firm of Richards, Gilkey, Fite, Slaughter, Pratesi & Ward.

According to the records of the Florida Division of Elections, Silberman's former law firm contributed the maximum in campaign contributions to Greer and firm principals Slaughter, Richards and Gilkey also made individual contributions to Greer.

Silberman's wife, Nelly Khouzam, who was a judge in the Sixth Judicial Circuit with Greer from 1994 until she was appointed to the District Court of Appeals in June by Gov. Charlie Crist, was briefly assigned to the Schiavo case in 2003 with Judge Douglas Baird.

In January, 2004, Baird who ultimately declared Terri's Law unconstitutional, the law enacted by the Florida Legislature at the behest of Gov. Jeb Bush to reinsert the feeding tube which had been removed from Terri Schiavo in October, 2003, was rotated from Pinellas County's civil bench to its criminal bench. His caseload was transferred to Judge Khouzam.

Although Judge Khouzam's assistant initially confirmed that the Schiavo case had been transferred to Khouzam, Baird retained the case and ultimately declared Terri's Law unconstitutional, setting the stage for Greer's third and final death order.

Charlie Crist as Florida's attorney general during the Schiavo case failed to protect the civil rights of the vulnerable Terri Schiavo and allowed a Medicaid fraud to occur, refusing to investigate the matter.

Silberman, along with his compatriots on the bench, witnessed and allowed disabled Terri Schindler Schiavo to be murdered in Florida before the eyes of the world, a capital punishment that civil libertarians would have decried long and loud as being cruel and unusual punishment had a death penalty by dehydration and starvation been imposed by the courts upon a convicted killer rather than a disabled 41-year-old woman.

Anyone who starves and dehydrates an animal would be arrested for animal cruelty, not lauded by members of the bar.

In May, 2005, less than 10 weeks after Terri Schiavo's death, members of the West Pasco Bar Association honored Greer, in part for his handling of the Schiavo case, awarding him the "Special Justice Award", one of many awards bestowed upon Greer in the efforts trying to justify his act of judicial homicide.

The guest speaker for the evening was none other than Silberman, lauding Greer for his decision and order to kill Terri Schiavo.

If Silberman sees no ethical problems with Greer touring with Michael Schiavo and his clique in advocating euthanasia as he did after Terri's death, no wonder the Judicial Qualifications Commission has failed to hold Greer and many other judges in the state accountable.

Silberman lauded Greer for his "selfless devotion and service" during the Terri Schiavo case and his career on the bench, never mind his violations of guardianship laws, ignoring federal subpoenas, failure to enforce orders except for his death order and other violations.

He didn't follow the rule of the law, he followed "Greer's Law". No wonder the JQC refused to open any disciplinary hearing against Greer. No wonder there's only three pending cases of judicial misconduct in Florida.

It's hard to have confidence in the judiciary, in the court system, in the agencies which are supposed to be providing oversight when they're all protecting each other, all stroking each other such as Silberman and his fellow members of the JQC did with Greer and continue to do with other jurists.

The JQC is authorized to investigate allegations of misconduct by any state court judge, from the county court up through the Supreme Court. If the judges are held accountable, they are subject to suspension and removal.

The JQC appears to be little more than an agency designed to make it appear that there is oversight of the state's judiciary, just more smoke and mirrors, and Silberman is just one of the puppets. Although acknowledging that they receive an average of over 500 complaints a year, indicating that the public perceives a serious existing in Florida's judiciary, since its formation in 1970, in 36 years only 80 judges have been disciplined and less than 15 removed from the bench, according to The Florida Bar. http://www.weblocator.com/attorney/fl/law/fllegal.html

The 2008 Judicial Accountability Report Card issued by HALT (Help Abolish Legal Tyranny—an Organization of Americans for Legal Reform Inc.) ranked Florida's system for holding judges accountable as 17th in the nation overall, giving them an overall grade of C.

While the system was given an A for consumer friendliness, they flunked with a D in public participation. The state code contains no gift restrictions, rating them an F and the system rated a C for transparency, availability of meaningful sanctions, online outreach and financial disclosure. http://www.halt.org/jip/2008_jarc/pdf/FL_RC.pdf

Ordinary citizens have only a token role in the decision making process. Judges and attorneys outnumber public members on the JQC by a two to one ratio and there is no availability to the public of the names of the 15 commission members. The names of the members aren't published except in court filings.

The commission's "website" is obscure at best. The site is difficult to navigate.

Florida law requires judges to annually report their financial holdings but some the information, such as the judge's business interests, is concealed from the public. The state's Code of Judicial Conduct does not place meaningful limitations on the reimbursements and compensation that judges may accept in connection with corporate and special interest funded trips.

Of the three cases currently pending before the JQC, the cases against Leon County Circuit Court Judge Angela Dempsey and Seminole County Judge Ralph E. Eriksson are in their final stages as the Florida Supreme Court has upheld the determinations of misconduct by the JQC and recommended that both be publicly reprimanded.

Angela Dempsey	09-1747	Docket	Leon	02-04-10
Ralph E. Eriksson	07-1648	Docket	Seminole	02-11-10
N. James Turner	09-1182	Docket	Osceola	02-08-10

Formal charges against Osceloa County Judge N. James Turner were brought last July and the matter is in the motions and hearing stage.

The JQC claims its autonomous, that it is a body answerable only to itself, saying that the Supreme Court cannot supervise it, investigate it, fire or select its members or order it to perform any official act.

The JQC claims that because the agency was established in the Florida Constitution as a body independent of the courts or other branches of government, the only way anyone can stop it would be for state legislators to impeach the judges who are members and the governor to suspend members who are not judges.

There are 15 members of the JQC. Two must be district court of appeal judges chosen by all the judges of the five district courts. Two must be circuit court judges chosen by all the judges of the 20 judicial circuits. Two must be county court judges chosen by all the judges of the 67 county courts. Four must be registered voters who also are lawyers, chosen by the Board of Governors of The Florida Bar. The final five must be non-lawyers who are registered voters, chosen by the Governor.

As the saying goes, the more things change, the more they remain the same and the Good Ole Boys Club is still at work in Florida—in particular, Pinellas County. F. Wallace Pope Jr. and Jennifer Reh of the law firm Johnson, Pope, Bokor, Ruppel & Burns of Clearwater served as the special counsel for the JQC against Allen while Silberman served as chairman of the JQC in their vendetta against Allen.

A partner in Pope's firm, Timothy A. Johnson Jr., is Greer's former campaign aide in Greer's 1984 campaign for Pinellas County commissioner.

In May 2005, after Greer had killed Terri Schiavo, the Clearwater Bar Association, chaired by Pope, created the George W. Greer Judicial Independence Award, lauding Greer and celebrating "Greer's resolve" to murder an innocent disabled woman.

In mid 2004, Pope had bestowed the John U. Bird award upon Greer, the Clearwater bar's highest honor a judge. In Greer's 2004 reelection campaign, the attorneys in Pope's law firm led the way in contributions with nearly half of the 38 attorneys in the firm contributing to Greer, most of the contributors giving the maximum $500 donation for a total of more than $7,250 to ensure Greer's reelection.

With Pope and Silberman leading the JQC, is it any wonder that the agency is a judicial protection agency, targeting only individuals who aren't part of their clique or those with real independence such as Michael Allen who calls a corrupt judge a corrupt judge.

http://www.northcountrygazette.org/articles/022006GoodOleBoys.html

http://www.northcountrygazette.org/2007/05/09/commentary-scarlet-letter-of-shame/

In the Florida judicial system, they most all hang together or most assuredly, they will all hang separately. Until there's a long overdue restructuring of the Florida JQC, there will never be any meaningful judicial disciplinary system in the state and the unethical judges now will just become more unethical. 2-22-10

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
GENERAL CIVIL DIVISION

NEIL J. GILLESPIE,

Plaintiff,

vs.

BARKER, RODEMS & COOK, P.A., a Florida corporation; WILLIAM J. COOK,

Defendants.
_____/

CASE NO.: 05-CA-7205

DIVISION: C

PLAINTIFF'S MOTION TO DISCLOSE EX PARTE COMMUNICATION WITH JNC

Plaintiff pro se, Neil J. Gillespie, moves the Honorable James M. Barton, II to disclose any ex parte communication with Mr. S. Cary Gaylord, an attorney and commissioner on the 13th Circuit Judicial Nominating Commission (JNC), and states:

1. In a March 15, 2010 email by Mr. Gaylord to Mr. Robert R. Wheeler, General Counsel to the Governor, Mr. Gaylord wrote "I have personally spoken with Mr. Gillespie, with judges presiding over various cases mentioned in his complaints and with other lawyers who have been involved in litigation mentioned by Mr. Gillespie and involving Mr. Rodems."

2. Plaintiff wrote to and asked Mr. Gaylord if he spoke with the Honorable James M. Barton, II presiding in this lawsuit, and if so what was the substance of the conversation. Mr. Gaylord responded by letter dated April 13, 2010 that "I recall that there were judges I talked to but I can't recall which ones." and that he has no notes to refresh his memory.

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3. Plaintiff is concerned that Mr. Gaylord spoke with the Court and that the communication is prejudicial to Plaintiff receiving a fair and impartial consideration of his lawsuit before the Court.

WHEREFORE, Plaintiff moves the Court to disclose any ex parte communication as set forth herein.

RESPECTFULLY SUBMITTED May 5, 2010.

Neil J. Gillespie, Plaintiff pro se
8092 SW 115th Loop
Ocala, Florida 34481
Telephone: (352) 854-7807

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand on May 5, 2010 to Ryan Christopher Rodems, attorney for the Defendants Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602.

Neil J. Gillespie

VIA FAX (850) 488-9810
Email and First Class Mail

June 29, 2010

Mr. Erik M. Figlio, General Counsel
Executive Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399

RE: Complaint against Chris A. Barker, Thirteenth Circuit JNC

Dear Mr. Figlio,

Thank you for your letter and enclosure of June 22, 2010 informing me that the Chief Inspector General has concluded its investigation of my complaint against Mr. Barker. I also thank your predecessor Mr. Robert Wheeler for having the integrity to appoint Chief Inspector General Melinda Miguel to investigate this matter. Her efforts and those of Deputy Inspector General Dawn E. Case and DBPR Inspector General Ned Luczynski were of the highest level of professionalism and courtesy.

What happens at this point? Mr. Wheeler's email to the parties March 4, 2010 stated "After the report is issued, this office will hold a hearing so that the parties can present any additional evidence or argument." A copy of the email accompanies this letter.

Otherwise here are my comments:

The Chief Inspector General has concluded its investigation into my complaint against Mr. Barker with a finding of "unfounded" (page 2, Overall Conclusion; page 8, Findings) and made the following recommendation: "It is recommended that the Commission consider expanding the current practice of disclosing conflicts of interest and obtaining recusals from the process to include a written disclosure and written documentation of the recusal for each selection process." (page 15)

The Chief Inspector General said the "Evidence supports that Mr. Barker has not been able to participate fully in Commission activities during those occasions when Mr. Rodems applied for judicial vacancies in the Thirteenth Judicial Circuit." (page 8, ¶4) The Findings show conflicting testimony: "Although testimony is conflicting as to whether Mr. Barker's recusal was from all duties and responsibilities of the Commission on those occasions when Mr. Rodems applied for a Judicial Vacancy, all Commissioners testified that Mr. Barker recused himself entirely from any activities concerning Mr. Rodems." (page 8, ¶2). The witness testimony of Mr. Bajo shows "[h]e could not recall any other current Commission member who has had to recuse themselves because of a conflict with a law partner, and Mr. Barker's recusal just means that there is a little more work for the other Commissioners but that it is not a hardship." (page 9, ¶5, to page 10)

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The Findings reported that "Both Mr. Barker and Mr. Rodems denied that Mr. Barker provided information to Mr. Rodems about the judicial selection process." In my opinion this part of the inquiry is not credible in view of their personal and professional relationship of at least 17 years. Mr. Barker and Mr. Rodems may have told that to the investigator, but in my view it is either false, nuance, or word parsing. In my ten year experience with Mr. Barker and Mr. Rodems, they are unable to conduct themselves honestly when it involves matters of conflict and their behavior.

I found the statement of Ms. Barbara Wilcox credible. She is a nonlawyer member of the JNC. Ms. Wilcox agreed with me that this situation has brought discredit on the process. "When asked if she believed that Mr. Barker's recusal due to his potential conflict of interest has brought discredit to the Thirteenth Judicial Nominating Commission, Ms. Wilcox said "yes" adding that it was starting to look that way." (page 12, ¶5).

Mr. Barker did not attend the last set of JNC interviews held June 15, 2010 due to conflict with Mr. Rodems who applied for the vacant circuit judge position previously held by Judge Black. I attended the interviews as a member of the public. Mr. Rodems was one of six applicants nominated. Within a week I will forward to you a detailed letter about those interviews which I covered from start to finish for my justice network. In my view there were three better qualified applicants and I will set forth the reasons in my letter.

As for the Chief Inspector General's conclusion, I do not agree with it but think they did a good job with the information available. I agree with Ms. Wilcox that Mr. Barker's recusal due to his potential conflict of interest has brought discredit to the JNC. In my opinion the Governor should remove Mr. Barker form the commission, and I will provide information from the last set of JNC interviews held June 15, 2010 to support removal.

The recommendation of the Chief Inspector General should be implemented. "It is recommended that the Commission consider expanding the current practice of disclosing conflicts of interest and obtaining recusals from the process to include a written disclosure and written documentation of the recusal for each selection process."

Thank you, the Governor, and the Chief Inspector General for investigating my complaint in a professional manner.

Sincerely,

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

cc: Ms. Melinda Miguel, Chief Inspector General (by email only)
cc: Mr. Pedro F. Bajo, Jr., Chair, Thirteenth Circuit JNC (by email only)
Enclosure

Neil Gillespie

From: "Wheeler, Rob" <Rob.Wheeler@eog.myflorida.com>
To: <neilgillespie@mfi.net>; <cbarker@barkerrodemsandcook.com>; <pedro.bajo@akerman.com>
Sent: Thursday, March 04, 2010 10:49 AM
Subject: JNC Complaint against Barker and Bajo

This correspondence memorializes my recent telephone conversations with Mr. Gillespie, Mr. Barker and Mr. Bajo regarding Mr. Gillespie's JNC Complaint against Mr. Barker and Mr. Bajo.

Mr. Gillespie had withdrawn his complaint against Mr. Bajo.

The Governor's Chief Inspector General will conduct an investigation of Mr. Gillespie's allegations against Mr. Barker. The investigation is anticipated to take between 45 – 60 days. The Chief Inspector General will issue a report of the investigation that contains findings and fact and conclusions. After the report is issued, this office will hold a hearing so that the parties can present any additional evidence or argument.

All parties have agreed to waive the requirement provided by the rules that "[a]ction shall be taken within 60 days of receipt of any written complaint . . ."

Thanks to all for your cooperation.

Robert R. Wheeler
General Counsel
Executive Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399
Phone: 850-488-3494
Fax: 850-488-9810
Rob.Wheeler@myflorida.com

CHARLIE CRIST
GOVERNOR

STATE OF FLORIDA
Office of the Governor
THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001
www.flgov.com
850-488-7146
850-487-0801 fax

July 12, 2010

Mr. Neil J. Gillespie
8092 Southwest 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

I am in receipt of your letter dated June 29, 2010, in which you inquire as to what further action this office intends to take in regards to your complaint against Chris A. Barker following the Chief Inspector General's ("CIG's") investigation and report. I understand that this office previously indicated to you that a hearing could be conducted following the release of the report. However, after reviewing the Uniform Rules of Procedure for Circuit Judicial Nominating Commissions (the "Uniform Rules"), I am unclear as to the jurisdiction of this office to conduct such a hearing.

Section IX of Uniform Rules provides that a complaint alleging "the misconduct of one or more commissioners (other than the chair) within a single judicial nominating commission shall be reported in writing *to the chair of the affected commission for action*." R. Proc. Cir. JNC § IX (emphasis added). The section then further provides the chair of the affected commission with plenary authority, and apparently exclusive jurisdiction, to determine the complaint's legal sufficiency. *Id.* If a complaint is determined *by the chair* to be legally sufficient, the chair has three procedural options for the complaint's ultimate disposition: (1) the chair may dispose of each charge in the complaint himself or herself; (2) the chair may refer any charge for disposition by the Governor exclusively; or (3) the chair may refer any charge for disposition by the Governor and the chair concurrently. *Id.* Absent from the Uniform Rules is any mechanism authorizing the Governor to unilaterally investigate complaints against commission members except in circumstances where the chair of the affected commission is personally implicated by the complaint.

In short, although I believe that this office's decision to forward your complaint to the CIG was appropriate, as it is within the purview of the CIG's independent statutory authority, I am unclear as to what authority this office would have under the circumstances presented to provide you with a hearing when the Uniform Rules contemplate exclusive jurisdiction remaining with the affected nominating commission. In the absence of any such authority, I am reluctant to pursue this matter further, for fear of treading into the exclusive jurisdiction of the nominating commission, which is a separate constitutional body.

If you believe that the analysis above is in error, you are welcome to submit to this office a letter memorandum outlining its flaws. The memorandum does not need to comply with rules of civil procedure in terms of form. However, I do ask that you serve the memorandum on chair of the Thirteenth Circuit Judicial Nominating Commission and on the subject of your complaint, Chris Barker. I will take no further action in this matter until the chair and Mr. Barker have received service and have had a reasonable opportunity to respond.

Sincerely,

Rick Figlio
General Counsel

RF/dml

cc:
Mr. Pedro Bajo
Mr. Chris A. Barker

VIA FAX (850) 488-9810
Email and First Class Mail

July 19, 2010

Mr. Erik M. Figlio, General Counsel
Executive Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399

RE: 13th Circuit JNC interviews held Tuesday, June 15, 2010

Dear Mr. Figlio:

This letter is a follow-up to my June 29, 2010 response to your letter of June 22, 2010 informing me that the Chief Inspector General had concluded its investigation of my complaint against Mr. Barker. I attended the JNC interviews June 15, 2010. On June 29th I wrote you that "Within a week I will forward to you a detailed letter about those interviews which I covered from start to finish for my justice network. In my view there were three better qualified applicants and I will set forth the reasons in my letter."

Please forgive my delay in responding. It is due to ongoing misconduct by Mr. Rodems in our lawsuit[1], specifically his unlawful representation[2] of his firm against a former client[3] in a matter that is the same or substantially related to the former client's representation.

On Tuesday June 15, 2010 I attended the 13th Circuit JNC interviews. The following applicants were nominated: Robert A. Bauman, Herbert M. Berkowitz, Scott Farr, Nick Nazaretian, Cheryl K. Thomas and Mr. Rodems. In my opinion there were three better qualified applicants that Mr. Rodems who were not nominated.

After listening to all the interviews, I believe Patrick Bowler Courtney, Kim Suzanne Seace and Christopher D. Watson were strong applicants and would have made better nominations than Mr. Rodems. I believe the reason Mr. Rodems continues to receive gratuitous support is due to the prestige of his law partner, JNC Commissioner and Vice-Chair Chris A. Barker. Influence is not always overt or intentional. In police forensics for example, there is a growing movement in law enforcement to use a double blind procedure in which the officer who shows police lineup photos to the witness does not know which photo is of the suspect, in effort to remove a source of bias.

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[1] Gillespie v. Barker, Rodems & Cook, PA, et. al, case no. 05-CA-7205, Civil Div., 13th Judicial Circuit
[2] See Emergency Motion To Disqualify Defendants Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA. submitted July 9, 2010.
[3] I am the former client of Barker, Rodems & Cook, PA.

On June 15, 2010 Mr. Barker again recused himself from the JNC process due to a conflict with his friend and law partner Mr. Rodems who applied for vacancy of Judge Black. Other JNC members absent were Edward Gerecke and Barbara Wilcox.

Six members of the JNC were present: Mr. Bajo, Ronald Hanes, Bing Kearney, William Schifino, Cary Gaylord, and John McLaughlin.

The following comments are based on the interviews alone, except that I read the written applications of Mr. Rodems[4] and Mr. Lovell submitted for previous vacancies.

Mr. Courtney, Ms. Seace and Mr. Watson all appeared energetic and optimistic. All had a strong background of public service. All appeared to have good "judicial temperament".

Mr. Courtney is a former state attorney. He said a judge should understand the case at hand, act with humility, and control the courtroom. Mr. Courtney said it is important to make litigants feel as through they were treated fairly. That is what the system is about he said. He sees himself as an experienced trial lawyer who can run a trial docket.

Ms. Seace spent 16 years as a prosecutor in traffic homicide, and has been in private practice many years. She is an experienced litigator who has handled 7,000 cases (including second chair) many of them homicide, and has done 105 jury trials. Ms. Seace stressed the importance of treating people with respect and noted they will reciprocate, which in turn makes the court and judges effective in their mission. Ms. Seace is eager for the job and said she wants to spend the next 20-25 years on the bench.

Mr. Watson was a prosecutor for 15 years, and has been a public defender for the past six years. Mr. Watson stressed the importance of staying even tempered. He gave an example of a client who yelled at him but he remained calm and did not take it personally. He also said it is important to listen to and consider to both sides in a case.

In contrast to the above applicants, Mr. Rodems has no background of public service. His application shows he has not worked outside the legal profession. Mr. Rodems told the JNC there is "nothing civil about civil law" and lawsuits are about "taking people's money and property". He also said you "need a thick skin" to participate in the process, and he believes one should "hit hard until the whistle blows."

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[4] I was surprised that Mr. Rodems did not disclose in prior applications the fact that he filed a libel counter claim against me January 19, 2006. On May 28, 2010 I provided notice to Mr. Bajo that I opposed Mr. Rodems for the circuit court vacancy of Judge Black, and informed Mr. Bajo that Mr. Rodems was recently added as a defendant in our lawsuit. I provided Mr. Bajo a PDF copy of Plaintiff's First Amended Complaint submitted May 5, 2010, which included count 11, Abuse of Process, showing that Mr. Rodems' counterclaim for libel against me is a willful and intentional misuse of process for the collateral purpose of making me drop my claims against him and settle our lawsuit on terms dictated by him. Mr. Rodems perverted the process of law for a purpose for which it was not by law intended. Mr. Rodems is using his counterclaim as a form of extortion. The filing of a counterclaim may constitute issuance of process for the purpose of an abuse of process action. (Peckins v. Kaye, 443 So.2d 1025).

Mr. Rodems read a letter to the JNC dated January 4, 2010 sent by my former lawyer Robert W. Bauer to Gov. Crist in support of Mr. Rodems for judge[5]. In response to a question from the JNC as to what kind of hours he would keep as a judge, Mr. Rodems repeated criticism he heard on the street that one could "fire a bullet" in the courthouse it was so empty on Friday since judges either leave early or take the day off, but he would keep a schedule similar to what he currently works, 7:30 AM to 6:30 PM, plus nights and weekends, but he would not try and "blaze a trail" by working too hard. Mr. Rodems said he prefers the federal practice approach to deciding motions, to which Mr. Gaylord responded that federal judges have three law clerks and circuit court judges do not.

Apart from his misconduct in our lawsuit, Mr. Rodems' behavior in another recent case shows his character better than my admittedly biased comments. Mr. Rodems lost a jury trial in September 2009, WrestleReunion, LLC v. Live Nation, Television Holdings, Inc., US District Court, MD of Florida, Case No. 8:07-cv-2093-T-27. Rodems subsequently defamed witness Eric Bischoff in a writing (Exhibit A) that is posted on the Internet at http://www.declarationofindependents.net/doi/pages/corrente910.html. In my view this letter shows very poor judgment and indicates Mr. Rodems lacks judicial temperament.

People such as myself bring disputes to court for fair adjudication. As Mr. Courtney noted, that is what the system is supposed to be about. But that did not happen in my case with Mr. Rodems, and given the responses by applicants to the JNC on June 15, 2010, there is a wider problem obtaining justice or fair treatment in the 13th Judicial Circuit.

One question from the JNC to applicants asked if they had seen behavior from a judge in court that was unprofessional. The following responses were provided to the JNC:

> Applicant responded that one judge said to a woman who was obviously pregnant and about to give birth, words to the effect "would you like this garbage can moved closer to you in case you have the baby?" The judge was referring to a trash can in the courtroom.
>
> Applicant noted an instance in traffic court where a pro se litigant was "destroyed" by clearly inadmissible evidence from law enforcement. The applicant said a judge should step in for pro se litigants where appropriate.
>
> Applicant noted some judges willfully embarrass lawyers in open court, ask to see their bar card, or inquire where they went to law school.
>
> Applicant complained about angry judges "yelling" at participants during litigation.

[5] I responded to Mr. Bauer's comments in a letter to Gov. Crist dated June 21, 2010.

My notes show that applicants who described bad behavior by judges to the JNC may be nominated at a rate lower than applicants who did not described bad behavior by judges to the JNC. I do not think this is an intentional result by the JNC in making the inquiry.

None of the above referenced judges who allegedly acted unprofessionally in court were identified, and the applicants did not say if the misconduct was reported under FL Bar Rule 4-8.3(b). The JNC did not inquire further about any of the judges either.

The JNC asked applicants what work schedule they planned if appointed judge. A number of applicants made or repeated comments about current judges working short schedules. Mr. Rodems described criticism he heard about judges leaving work early on Fridays, a situation so pervasive that one could "fire a bullet" in the courthouse it was so empty he said. Another applicant wants to work Fridays if appointed, and said the courthouse is "desolate" on Friday, some judges do not arrive for work until 10:00 AM, and given the backlog of cases, judges leaving work at 5:00 PM is "wrong".

Thank you for considering my comments.

Sincerely,

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Telephone: (352) 854-7807
Email: neilgillespie@mfi.net

cc. Mr. Pedro F. Bajo, Jr., Chairman, 13th Circuit JNC (with enclosures)

Enclosures:

Exhibit A, Mr. Rodems defamatory writing about witness Eric Bischoff

CD with PDF of this letter, and the following two pleadings in Gillespie v. Barker, Rodems & Cook, PA, et. al. Case No. 05-CA-7205, Civil Div., 13th Judicial Circuit:

Plaintiff's First Amended Complaint, submitted May 5, 2010; and

Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, submitted July 9, 2010

Sal Corrente of WrestleReunion had a lawsuit against Clear Channel/Live Nation because they reneged on a contract with him. The case went before a jury and Mr. Corrente lost the case, which many feel was unjust. But Eric Bischoff made a statement on wrestlezone.com, which is below, that caused Sal's lawyer to send his statement:

In my last post regarding the WrestleReunion/Live Nation lawsuit, I suggested that Bill Behrens and Eric Bischoff were expert witnesses for WrestleReunion. That was not the case as they were actually witnesses for the Clear Channel/Live Nation side. I just spoke with Eric Bischoff who said he agreed to be an expert witness after reading and taking interest in the case, however he was not called to the stand.

"The case was wrapped up quickly," Bischoff told Wrestlezone.com, *"the jury didn't waste any time and came back with what I felt was the correct decision".*

Eric was happy with the outcome, to say the least. ***"Rob Russen and Sal Corente give the wrestling business a bad name," he stated, "so I'm glad justice prevailed and the bottom feeders didn't win one".***

Bischoff wanted to make sure that everyone knew his comments and opinions were solely his and did not reflect those of Clear Channel/Live Nation.

In regards to the above statement, we have a statement from Mr. Corrente's lawyer:

"It is odd that Eric Bischoff, whose well-documented incompetence caused the demise of WCW, should have any comment on the outcome of the WrestleReunion, LLC lawsuit. The expert report Bischoff submitted in this case bordered on illiteracy, and Bischoff was not even called to testify by Clear Channel/Live Nation because Bischoff perjured himself in a deposition in late-July 2009 before running out and refusing to answer any more questions regarding his serious problems with alcohol and sexual deviancy at the Gold Club while the head of WCW. To even sit in the room and question him was one of the most distasteful things I've ever had to do in 17 years of practicing law. In fact, we understand that Bischoff was afraid to even come to Tampa and testify because he would have to answer questions under oath for a third time about his embarrassing past.

The sad state of professional wrestling today is directly attributable to this snake oil salesman, whose previous career highlights include selling meat out of the back of a truck, before he filed bankruptcy and had his car repossessed. Today, after running WCW into the ground, Bischoff peddles schlock like "Girls Gone Wild" and reality shows featuring B-listers.

Sal Corrente, on the other hand, has always been an honorable man, and he delivered on every promise and paid every wrestler while staging the three WrestleReunion events. Unlike the cowardly Bischoff, Mr. Corrente took the stand in this case. Although his company did not prevail, Sal Corrente proved that he was man enough to fight to the finish -- something Bischoff could never understand."

Sincerely,

Ryan Christopher Rodems
Barker, Rodems & Cook, P.A.
400 North Ashley Drive, Suite 2100
Tampa, Florida 33602
813/489-1001
E-mail: rodems@barkerrodemsandcook.com

We just wanted to give Mr. Corrente's lawyer a chance to speak his mind.

Georgie GMakpoulos@aol.com

Since I have always had wrestlers autograph signings as a speciality for any website I worked for, I know for sure, Mr. Corrente is an honest promoter who has NEVER stiffed a wrestler working for his shows or conventions. I would have heard about it.
There are many promoters who do that in this business, which is very sad.

EXHIBIT
tabbies
A

Neil Gillespie

From: "Pedro Bajo" <pedro.bajo@bajocuva.com>
To: "Neil Gillespie" <neilgillespie@mfi.net>
Sent: Thursday, July 01, 2010 8:08 PM
Subject: RE: see attached letter to Rick Folio

Dear Mr. Gillespie

I recall the question and the answer, but I do not recall who asked the question or which court was referred to by Ms. Hooper. I am sorry that I cannot be more help in that regard.

Pedro

Bajo
Cuva
ATTORNEYS AT LAW

Pedro F. Bajo, Jr., Esq.
Bajo Cuva, P.A.
100 N. Tampa Street
Suite 1900
Tampa, FL 33602
813-443-2199 (telephone)
813-443-2193 (fax)
813-785-6653 (cell)
pedro.bajo@bajocuva.com

From: Neil Gillespie [mailto:neilgillespie@mfi.net]
Sent: Thursday, July 01, 2010 1:00 PM
To: Pedro Bajo
Subject: Re: see attached letter to Rick Figlio

Dear Mr. Bajo,

Thanks, appreciate your response. I have another question about the interviews on June 15, one committee member asked applicant Carolle Hooper if she had seen any behavior from a judge in court that was unprofessional.

The applicant responded that one judge said to a woman who was obviously pregnant and about to give birth, words to the effect "would you like this garbage can moved closer to you in case you have the baby?" The judge was referring to a trash can in the courtroom.

I plan to include this in my comments to Gov. Crist (without identifying Ms. Hooper) and want

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to know if you recall which committee member asked the question (great question) and if you recall in what kind of court this allegedly occurred, i.e. criminal, family, etc. or any of the circumstances about the matter or statement? Thank you.

Sincerely,

Neil Gillespie

----- Original Message -----
From: Pedro Bajo
To: Neil Gillespie
Sent: Wednesday, June 30, 2010 7:19 PM
Subject: RE: see attached letter to Rick Figlio

Mr. Gillespie

You are correct that the three listed members were not able to attend.

Pedro

Bajo
Cuva
ATTORNEYS AT LAW

Pedro F. Bajo, Jr., Esq.
Bajo Cuva, P.A.
100 N. Tampa Street
Suite 1900
Tampa, FL 33602
813-443-2199 (telephone)
813-443-2193 (fax)
813-785-6653 (cell)
pedro.bajo@bajocuva.com

From: Neil Gillespie [mailto:neilgillespie@mfi.net]
Sent: Tuesday, June 29, 2010 6:30 PM
To: Pedro Bajo
Subject: Re: see attached letter to Rick Figlio

Dear Mr. Bajo,

Thank you for the information about the amended press release. Going over my notes from the interviews of June 15, 2010, I show three members missing, Mr. Barker, Mr. Gerecke and Ms. Wilcox, is that right? As noted in my letter to Rick Figlio today, I plan to submit a letter in opposition to Mr. Rodems for judge based on the information learned by my attendance at the interviews. I want the

Sincerely,

Neil Gillespie

----- Original Message -----

From: Pedro Bajo
To: Neil Gillespie
Sent: Monday, July 05, 2010 5:41 PM
Subject: RE: see attached letter to Rick Folio

Mr. Gillespie

I did not take Mr. Rodems comment as complaining as much as it was a response to a question about what kind of hours he would keep. My recollection of the comment was more in line with a criticism he had heard on the streets rather than his own personal feeling. Of course, that is just my recollection.

My opinion of what effect videotaping the interviews would have on the applicants responses is just that, my opinion. But since you asked, I would expect that it would have a chilling effect on the responses and would likely lead to a less open and free flowing exchange which I believe provides us with more insight. What would actually occur is something we will all find out because throughout my tenure on the JNC, the interviews have never been videotaped. As you saw with the applicants reluctance to submit to your interview requests, the video camera is not something that any of the applicants are going to necessarily find as something that is going to make them more comfortable than they would be in the normal interview setting.

Pedro

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9/16/2010

pedro.bajo@bajocuva.com

From: Neil Gillespie [mailto:neilgillespie@mfi.net]
Sent: Sunday, July 04, 2010 12:11 AM
To: Pedro Bajo
Subject: Re: see attached letter to Rick Folio

Mr. Bajo,

Thank you, that was a memorable exchange. The other surprising statement was when Mr. Rodems complained about judges leaving work early on Fridays and his metaphor that one could "fire a bullet" in the courthouse it was so empty.

Do applicants often make those kinds of statements? What effect, if any, do you think video taping the interviews would have on responses from applicants?

Sincerely,

Neil Gillespie

----- Original Message -----
From: Pedro Bajo
To: Neil Gillespie
Sent: Thursday, July 01, 2010 8:08 PM
Subject: RE: see attached letter to Rick Folio

Dear Mr. Gillespie

I recall the question and the answer, but I do not recall who asked the question or which court was referred to by Ms. Hooper. I am sorry that I cannot be more help in that regard.

Pedro

Pedro F. Bajo, Jr., Esq.
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The Law Offices of

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www.bauerlegal.com

Robert W. Bauer, Esq.
David M. Sams, Esq.

Phone: (352)375.5960
Fax: (352)337.2518

January 4, 2010

Honorable Charlie Crist
Office of the Governor
The Capitol, PL05
Tallahassee, FL 32399-0001
Fax: 850-487-0801

Ref: Ryan Christopher Rodems

Dear Governor Crist,

I have recently become aware that Ryan Rodems has been nominated for both a County Court judgeship and Circuit Court judgeship. I had the opportunity of meeting and getting acquainted with Mr. Rodems in a case in which we served as opposing counsel. The case to which I refer is Gillespie v. Baker, Rodems, and Cook, PA. et al. Case No. 2D08-2224. I would like to also take the opportunity to give you my opinion of Mr. Rodems and the professional relationship we shared in connection with the aforementioned case.

While there were times when Mr. Rodems and I strongly disagreed during the course of litigation, I believe that Mr. Rodems consistently performed in an honorable and professional manner. Even in the most contentious moments of the case, Mr. Rodems never wavered in his civility or composure towards me or my client. I found Ryan Rodems to be a zealous advocate while still maintaining a professional approach in his efforts to bring the case to a resolution. Throughout litigation, Mr. Rodems displayed an exceptional knowledge of both procedural and substantive law, including the areas of contracts, fraud, and fiduciary duty with which the case dealt. Overall, my professional relationship with Ryan Rodems was rewarding, enjoyable, and exemplary of the relationship that I hope to achieve with any opposing counsel that I may encounter. I say this even thou our styles are very different and often in complete opposition.

It is my personal opinion that Ryan Christopher Rodems is an honorable and honest gentleman capable of satisfying the duties and responsibilities of a judgeship should he be appointed to such a position in either County or Circuit Court.

Should you have any questions regarding my experiences of working with Mr. Rodems, please contact me at 352-375-5960.

Sincerely,

Robert W. Bauer, Esq.

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Herald-Tribune

Ethics reform ignored by Florida lawmakers

By Zac Anderson
zac.anderson@heraldtribune.com
Published: Sunday, May 29, 2011 at 2:07 p.m.

For all the major reforms Florida lawmakers took on this year, they failed to enact stronger ethics standards for public officials despite a rash of corruption cases from South Florida to Sarasota.

The inaction is even more glaring in the wake of an unusual statewide grand jury last December that issued 127 pages of recommended changes in state law after declaring that "corruption is pervasive at all levels of government" in Florida.

Florida entered this spring's legislative session reeling from years of major scandal at the state and local level. More than 800 public officials were convicted in Florida on various charges between 1997 and 2007, making Florida the top state for government corruption, according to the grand jury.

Among the more egregious recent cases, two county commissioners, the sheriff and a school board member in Broward County pleaded guilty to charges ranging from bribery to money laundering and unlawful compensation.

And three Palm Beach County commissioners were jailed over the last few years for taking gifts ranging from luxury hotel stays to $50,000 worth of poker chips from developers.

The Palm Beach corruption sting led to Sarasota County's ongoing contracting scandal that ultimately cost County Administrator Jim Ley his job this week. Investigators discovered $15,000 in gifts from sewer-repair company Chaz Equipment Co. to Sarasota County utilities worker Rodney Jones while investigating similar problems with Chaz in Palm Beach.

The statewide grand jury was particularly critical of government officials' efforts to circumvent competitive bidding rules designed to save taxpayers' money — one of the key problems in Sarasota. The panel also called for a stronger state Ethics Commission with the power to initiate its own investigations rather than simply respond to complaints, rules requiring state lawmakers to abstain from voting on items of personal or family benefit and more scrutiny of private vendors with government contracts.

Despite the call to action, no legislation was proposed to deal with the local government corruption issues. Two bills that were filed — designed to prevent state lawmakers from voting on issues that would directly benefit them or their families — went nowhere.

Citing the grand jury report, the trial this spring of former House Speaker Ray Sansom and the local government scandals, long-time Florida government watchdog Ben Wilcox said he had never seen a moment in state history when stronger anti-corruption laws seemed like such an obvious and necessary issue for lawmakers to tackle.

"It was the most momentum that I've ever seen for ethics reform and it just fell flat with the Legislature," said Wilcox, a member of the Common Cause Florida board of directors. "After all these scandals it's shocking to see just complete inaction and

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complete lack of interest in doing anything to restore the confidence of our citizens in their government."

The lawmakers' disregard for the statewide grand jury's recommendations was unusual. Such inquiries by a grand jury are rare and typically prompt action. For example, a 2007 statewide grand jury report resulted in tougher penalties for street gangs.

Former Gov. Charlie Crist appointed the grand jury in November 2009 after the corruption scandals in Broward and Palm Beach Counties and Sansom's indictment.

But Florida legislative leaders reacted with apathy, and in some cases open hostility to reform. Senate President Mike Haridopolos, who has struggled with his own ethics issues, let the two proposed bills die in committee.

House leaders ignored the bills altogether.

"Quite simply, the leadership did not want ethics legislation to pass," one of the bills' sponsors, Sen. Paula Dockery, R-Lakeland, said.

Haridopolos was formally reprimanded by the Senate at the beginning of this year's session for failing to include an investment home and consulting income on his financial disclosure forms. And critics questioned the academic value of A book Brevard Community College paid Haridopolos $152,000 to write.

When asked in a recent interview with the Herald-Tribune why ethics reform did not pass, Haridopolos said, "I think it should have."

Dockery said some of her colleagues were aggressively "adversarial" to her ethics bill, which would have forced legislators to recuse themselves from voting on a bill if it directly benefited them or their family members.

"It's almost taboo for a member of the Legislature to broach a subject like this," Dockery said.

Lawmakers pointed to Sansom's case in opposing the ethics legislation. Sansom was indicted in April 2009 and later charged with conspiracy to commit grand theft after he inserted $6 million into the state budget for a facility that was billed as an emergency operations center. Prosecutors alleged the building was actually an airport hanger for Sansom's friend and political benefactor.

Prosecutors dropped the charges halfway through the trial this spring, leading some lawmakers to assert that Sansom was targeted by an overzealous legal system looking for corruption where it did not exist.

But the statewide grand jury noted that Florida has weak corruption laws that make it difficult to bring cases to court.

Dockery's legislation would have made it clear that lawmakers could not "put something in an appropriations bill that has a personal benefit for them," she said.

A bill filed by Sen. Mike Fasano, R-New Port Richey, would have required tougher penalties for lawmakers convicted of corruption, given the state commission on ethics power to initiate investigations and forced state lawmakers to recuse themselves from voting when a business associate or employer would benefit from their vote.

Neither of the ethics bills addressed the local corruption scandals that helped spark the grand jury investigation, but Dockery said cracking down on state lawmakers would have been "a good start" and might have encouraged local municipalities to tighten their own ethics rules.

Dockery said she plans to keep pushing the legislation next year but has little hope it will pass since the same lawmakers will be in leadership positions.

Wilcox agreed.

"It will be difficult to recapture the momentum we had this year for ethics reform," he said. "I think Floridians will be waiting a long time."

Some scandal-ridden counties are taking matters into their own hands.

Palm Beach County adopted tighter ethics rules last week. Broward County also strengthened its ethics code.

Sarasota County is still in the early stages of dealing with its scandal. Local leaders have not taken steps to initiate reforms similar to the ones adopted in South Florida and recommended by the grand jury.

Jones, the Sarasota County worker, is accused of rigging bids to help Chaz, and six other Sarasota workers have been fired for using credit cards in a manner that circumvented competitive bidding.

Sarasota County Commissioner Joe Barbetta said he was unaware of the grand jury recommendations. He plans to review the report — and the new ordinances in Broward and Palm Beach – to see what might be relevant to Sarasota County.

"The public's trust is very fractured right now," Barbetta said. "If there are best practices out there that seem to be working we should be looking at them."

Staff Writer Jeremy Wallace contributed to this report

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
GENERAL CIVIL DIVISION

NEIL J. GILLESPIE,

Plaintiff, CASE NO.: 05-CA-7205

vs.

BARKER, RODEMS & COOK, P.A., a Florida corporation; and WILLIAM J. COOK, DIVISION: J

Defendants.
_____/

AFFIDAVIT OF NEIL J. GILLESPIE

Neil J. Gillespie, under oath, testifies as follows:

1. My name is Neil J. Gillespie, and I am over eighteen years of age. This affidavit is given on personal knowledge unless otherwise expressly stated. At all times pertinent I am a disabled adult as defined by, but not limited to, section 825.101(4), Florida Statutes, and as further described in documents in this lawsuit.

2. The Thirteenth Judicial Circuit ("Court") has jurisdiction of this lawsuit and responsibility under federal and state law for compliance with the Americans with Disabilities Act ("ADA").

3. Plaintiff retained at his own expense Dr. Karin Huffer as his ADA program designer and advocate. Plaintiff applied to the Court February 19, 2010 for reasonable accommodation under the ADA. An ADA disability report was submitted by Dr. Huffer. Court Counsel David Rowland denied Plaintiff's ADA accommodation request.

4. Attorney Ryan Christopher Rodems is unlawfully representing his firm against Plaintiff, a former client, on a matter that is the same or substantially similar to the prior

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representation, specifically their litigation with AMSCOT Corporation. ("AMSCOT"). Mr. Rodems knows about Plaintiff's disability from his firm's other representation of him on disability matters. Mr. Rodems separately commenced a counterclaim against Plaintiff for libel over his letter to AMSCOT about the prior litigation. AMSCOT's attorney Charles L. Stutts of Holland & Knight, LLP wrote Plaintiff February 13, 2007 that "This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A." A copy of Mr. Stutts' letter is attached as Exhibit A.

5. Since March 3, 2006 Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward Plaintiff that has aggravated his disability, caused substantial emotional distress, and serves no legitimate purpose, in violation of § 784.048, Florida Statutes. Mr. Rodems engaged in other abuse calculated to harm Plaintiff in violation of chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Plaintiff was formerly represented by attorney Robert Bauer in this case. Mr. Bauer complained on the record about Mr. Rodems unprofessional behavior: "...Mr. Rodems has, you know, decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner. It is my mistake for sitting back and giving him the opportunity to take this full blast attack." (Aug-14-08, transcript page 16, line 24).

6. This case was commenced August 11, 2005. There have been five trial court judges, four appeals to the 2dDCA, and a Petition for Writ of Prohibition. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems' independent professional judgment is materially limited by his own interest and conflict, as further

described in Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010.

7. Judge Martha Cook presided over this lawsuit from May 24, 2010 through November 18, 2010. While presiding over this case Judge Cook misused and denied the Plaintiff judicial process under the color of law. Plaintiff moved to disqualify Judge Cook five times, all of which were all denied. Plaintiff filed a Petition for Writ of Prohibition to remove Judge Cook November 18, 2010, Case No. 2D10-5529, Second District Court of Appeal. Judge Cook recused herself from the case the same day.

8. Because of the forgoing Plaintiff concluded that he could not obtain justice in this Court and commenced a Federal Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida et. al, Case No. 5:10-cv-503-oc-10-DAB, US District Court, Middle District of Florida, Ocala Division. Plaintiff lives in Ocala. The complaint was stamped FILED at 7:47 AM September 28, 2010 by the US District Court Clerk. Plaintiff planned to file the suit weeks earlier by was delayed by his worsening disability. A copy of the Clerk-stamped cover page of the complaint is attached as Exhibit B. Judge Cook is named as a Defendant in the lawsuit in her capacity as a judge and personally.

9. After filing the federal lawsuit described in the preceding paragraph, Plaintiff drove to the Court in Tampa for a 11:00 AM hearing before Judge Cook for a "Court-Ordered Hearing On Defendants' Motion For Final Summary Judgment". A second matter heard was a contempt on an alleged violation of the "Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010.

10. When Plaintiff arrived in Tampa for the hearing before Judge Cook at 11:00 AM she was unaware of the Federal Civil Rights lawsuit against the Court and herself.

Plaintiff had a duty to inform Judge Cook of the lawsuit prior to the hearing, and did so by handing a copy of the complaint to Deputy Henderson prior to the hearing and asked him to give it to the judge in chambers. This was not for service of process, but to inform Judge Cook that she was a defendant in a lawsuit. Rule 3, FRCP, Commencement of Action, a civil action is commenced by filing a complaint with the court.

11. Deputy Henderson refused to take the complaint from Plaintiff, and he refused to hand it to Judge Cook in chambers. As such Plaintiff had no choice but to address the issue in open court as shown in the record. A transcript of the hearing shows the following: (Exhibit C, Transcript, Sep-28-10, pages 1-5; 19)

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 3)

16 MR. GILLESPIE: Your Honor, this morning I
17 filed a federal lawsuit against you. I have a
18 complaint here if you would like to read it. I
19 move to disqualify you.
20 THE COURT: Your motion to disqualify
21 based on a federal lawsuit is legally
22 insufficient and is denied.
23 Please continue with your Motion for
24 Summary Judgment.
25 MR. RODEMS: Thank you, Your Honor.

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 4)

1 MR. GILLESPIE: I move to disqualify you
2 on the basis that I have a financial
3 relationship with your husband.

THE COURT: All right. Your motion to disqualify me on that basis is denied.
MR. GILLESPIE: I move to disqualify you --
THE COURT: Sir --
MR. GILLESPIE: -- on the basis of an affidavit that you made misrepresentations at the last hearing about whether or not I was --
THE COURT: Sir, file a written motion. I'm not going to allow you to disrupt these proceedings again. The last proceedings you feigned illness. You left this courtroom --
MR. GILLESPIE: No, I did not feign illness.
THE COURT: Sir, if you interrupt me you will be escorted out.
MR. GILLESPIE: Well, I'm leaving.
THE COURT: This is your last warning, sir.
MR. GILLESPIE: I'm leaving.
THE COURT: All right, sir. Escort the gentleman out. He's leaving. All right.

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 5)

Continue with your motion, please. The hearing will continue.

MR. GILLESPIE: For the record, I'm leaving because I didn't get my ADA accommodation.
THE COURT: That's not true, sir.
MR. GILLESPIE: I'm leaving the federal lawsuit on this table for you.
THE COURT: You must go, sir. It's not proper service. Leave.
(THEREUPON, Mr. Gillespie exited the courtroom)
THE COURT: Go ahead.
MR. RODEMS: Thank you, Your Honor.

12. The transcript of the hearing shows Judge Cook ordered Plaintiff removed prior to any discussion of Defendants' Motion For Final Summary Judgment. Plaintiff was escorted out of the courthouse by the bailiff, Deputy Christopher E. Brown, of the Hillsborough County Sheriff's Office (HCSO). The transcript shows Judge Cook cut Plaintiff the first two times he attempted to say "I'm leaving the federal lawsuit on the table for you" (page 4, lines 20 and 23; Page 5 lines 7 and 8). The hearing continued without Plaintiff and he had no representation.

13. Later during the hearing September 28, 2010 Judge Cook announced on the record that Plaintiff "elected" to leave the hearing voluntarily:

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 19)

[THE COURT]...[A]s you know, this is a Motion for an Order of Contempt and Writ of Bodily Attachment. And let the record

> 9 reflect that Mr. Gillespie elected to leave
> 10 even though he was advised that the hearing
> 11 would continue in his absence...

14. Judge Cook signed "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" September 30, 2010. On page 1, footnote 1, Judge Cook wrote "Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return." (Exhibit D). This statement is false. Judge Cook ordered Plaintiff removed from the courtroom prior to Defendants' motion for summary judgment. The rest of the order is equally bogus and is currently on appeal to the Second District Court of Appeal, Case No. 2D10-5197.

15. Major James Livingston, HCSO, is Commander of the Court Operations Division for the Court. Major Livingston provided Plaintiff a letter dated January 12, 2011 that impeaches Judge Cook's assertion the Plaintiff left the hearing voluntarily September 28, 2010. Major Livingston wrote: "Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance." (Exhibit E).

16. Dr. Huffer assessed the foregoing in a letter dated October 28, 2010. (Exhibit F). Dr. Huffer wrote in part:

> "As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like

threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter." (p1, ¶2). "He [Gillespie] is left with permanent secondary wounds" (p2, top). "Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates." (p2, ¶1). "It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem." (p2, ¶1).

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 25th day of April 2011.

NEIL J. GILLESPIE

STATE OF FLORIDA
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, personally appeared NEIL J. GILLESPIE, known to me, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal this 25th day of April 2011.

CECILIA ROSENBERGER
Commission DD 781620
Expires June 6, 2012
Bonded Thru Troy Fain Insurance 800-385-7019

Notary Public
State of Florida

Holland+Knight

Tel 813 227 8500
Fax 813 229 0134

Holland & Knight LLP
100 North Tampa Street, Suite 4100
Tampa, FL 33602-3644
www.hklaw.com

Charles L. Stutts
813 227 6466
charles.stutts@hklaw.com

February 13, 2007

VIA FEDEX

Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Re: Gillespie v. Barker, Rodems & Cook, P.A., et al.; Case No. 05-CA-7205

Dear Mr. Gillespie:

Amscot Corporation has asked me to respond to your letter of February 10, 2007 in which you request that Mr. Ian MacKechnie, President of Amscot, agree to his deposition in the above-referenced matter.

The U.S. District Court for the Middle District of Florida in 2001 dismissed all claims brought by you, Eugene R. Clement and Gay Ann Blomefield, individually and on behalf of others, against Amscot in connection with its deferred deposit transactions. This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.

Mr. MacKechnie views the prior litigation as closed, and neither he nor others at Amscot have any interest in voluntarily submitting to deposition or otherwise participating in the pending matter. Accordingly, Mr. MacKechnie must decline your request.

Please contact me if you have questions or care to discuss the matter.

Sincerely yours,

HOLLAND & KNIGHT LLP

Charles L. Stutts

cc: Ian MacKechnie

EXHIBIT
A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

NEIL J. GILLESPIE,

Plaintiff,

vs.

CASE NO.: 5:10-CV-503-OC-10-DAB

DEMAND FOR JURY TRIAL

THIRTEENTH JUDICAL CIRCUIT. FLORIDA,
GONZALO B. CASARES, ADA Coordinator. and individually.
DAVID A. ROWLAND. Court Counsel. and individually.
CLAUDIA RICKERT ISOM. Circuit Court Judge, and individually.
JAMES M. BARTON. II, Circuit Court Judge. and individually.
MARTHA J. COOK, Circuit Court Judge. and individually,

BARKER, RODEMS & COOK, P.A.,
RYAN CHRISTOPHER RODEMS,

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

Defendants.
_____/

COMPLAINT FOR VIOLATION OF THE AMERICANS WITH DISABILITIES ACT (ADA), AND CIVIL RIGHTS VIOLATIONS

Plaintiff pro se NEIL J. GILLESPIE sues the Defendants and alleges as follows:

JURISDICTION AND VENUE

1. This lawsuit arises under the Americans With Disabilities Act ("ADA"). 42 U.S.C., Chapter 126, Equal Opportunities for Individuals with Disabilities, Subchapter II. Public Services, Part A, §§ 12131 - 12134. Subchapter III. Public Accommodations and Services Operated by Private Entities, §§ 12181 - 12189, Subchapter IV, §§12201 - 12213. including the ADA Amendments Act of 2008 (ADAAA) updates. Plaintiff also

EXHIBIT
B

C-8835 $350

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL LAW DIVISION
CASE NO. 05-CA-007205

NEIL J. GILLESPIE, Plaintiff, and BARKER, RODEMS & COOK, P.A. A Florida Corporation, and WILLIAM J. COOK, Defendants.	Division: G

BEFORE: THE HONORABLE MARTHA J. COOK

PLACE: Hillsborough County Courthouse
800 East Twiggs Street
Tampa, Florida 33602

DATE: September 28, 2010

TIME: 11:04 a.m. - 11:28 a.m.

REPORTED BY: Robbie E. Darling
Court Reporter

DEFENDANTS' MOTION FOR FINAL SUMMARY JUDGMENT; CORRECTED TRANSCRIPT

Pages 1 - 26

DEMPSTER, BERRYHILL & ASSOCIATES
1875 NORTH BELCHER ROAD, SUITE 102
CLEARWATER, FLORIDA 33765
(727) 725-9157

ORIGINAL

EXHIBIT
C

APPEARANCES

RYAN CHRISTOPHER RODEMS, ESQUIRE
Barker, Rodems & Cook, P.A.
400 North Ashley Drive, Suite 2100
Tampa, Florida 33602

Attorney for Defendants

NEIL GILLESPIE
Pro Se

PROCEEDINGS

THE COURT: Good morning, folks. All right. I believe we're here today on a Motion for Final Summary Judgment -- or, Motion for Summary Judgment filed by the defendant; is that correct?

MR. RODEMS: Yes, Your Honor. There is two other matters as well.

THE COURT: Well, let's address the one that has been scheduled first, which is the Motion for Summary Judgment.

MR. GILLESPIE: Your Honor --

THE COURT: Please be seated. Folks, you don't need to stand to argue. Both of you. Please be seated.

MR. GILLESPIE: Your Honor, this morning I filed a federal lawsuit against you. I have a complaint here if you would like to read it. I move to disqualify you.

THE COURT: Your motion to disqualify based on a federal lawsuit is legally insufficient and is denied.

Please continue with your Motion for Summary Judgment.

MR. RODEMS: Thank you, Your Honor.

MR. GILLESPIE: I move to disqualify you on the basis that I have a financial relationship with your husband.

THE COURT: All right. Your motion to disqualify me on that basis is denied.

MR. GILLESPIE: I move to disqualify you --

THE COURT: Sir --

MR. GILLESPIE: -- on the basis of an affidavit that you made misrepresentations at the last hearing about whether or not I was --

THE COURT: Sir, file a written motion. I'm not going to allow you to disrupt these proceedings again. The last proceedings you feigned illness. You left this courtroom --

MR. GILLESPIE: No, I did not feign illness.

THE COURT: Sir, if you interrupt me you will be escorted out.

MR. GILLESPIE: Well, I'm leaving.

THE COURT: This is your last warning, sir.

MR. GILLESPIE: I'm leaving.

THE COURT: All right, sir. Escort the gentleman out. He's leaving. All right.

Continue with your motion, please. The hearing will continue.

MR. GILLESPIE: For the record, I'm leaving because I didn't get my ADA accommodation.

THE COURT: That's not true, sir.

MR. GILLESPIE: I'm leaving the federal lawsuit on this table for you.

THE COURT: You must go, sir. It's not proper service. Leave.

(THEREUPON, Mr. Gillespie exited the courtroom)

THE COURT: Go ahead.

MR. RODEMS: Thank you, Your Honor.

The plaintiff filed a two-count complaint against the two defendants; Barker, Rodems and Cook and Cook. Count One alleged breech of contract, Count Two alleged fraud.

By orders dated November 28th, 2007 and July 7th, 2008 the Court granted judgment in favor of Cook on both counts and for Defendant BRC on the fraud count. The only count remaining by plaintiff against Defendant BRC is for Breech of Contract against BRC, and we're moving for Summary Judgment.

The following facts that are in my motion

THE COURT: This can be mailed, and I believe you can give this back to counsel. There were only two conformed copies, one for Mr. Gillespie -- all right.

You can make a record. I did have your motion, it was noticed for today. As you know, this is a Motion for an Order of Contempt and Writ of Bodily Attachment. And let the record reflect that Mr. Gillespie elected to leave even though he was advised that the hearing would continue in his absence. You have noticed him for deposition, you indicate, several times?

MR. RODEMS: Yes, Your Honor. Prior to the order of July 29th, 2010 we noticed Mr. Gillespie twice for deposition, and both times he failed to appear.

The second -- and this is all reflected in the motion. On the second occasion he did file some sort of motion for protection, but he never made any effort to have it heard or anything.

So, when the Court entered the order on July 29th, 2010 denying his Motion for Order of Protection the Court was fairly clear that

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
GENERAL CIVIL DIVISION

NEIL J. GILLESPIE,

Plaintiff,

vs.

Case No.: 05CA7205
Division: G

BARKER, RODEMS & COOK, P.A., a Florida corporation; and WILLIAM J. COOK,

Defendants.
_____/

ORDER ADJUDGING PLAINTIFF NEIL J. GILLESPIE IN CONTEMPT

THIS CAUSE came before the Court on Tuesday, September 28, 2010, on Defendants' Motion for an Order of Contempt and Writ of Bodily Attachment,[1] and the proceedings having been read and considered and counsel having been heard, and the Court being otherwise fully advised in the premises, the Court finds and concludes that Plaintiff Neil J. Gillespie has wilfully and with contumacious disregard violated the Court's Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010 by refusing to appear for a duly noticed deposition on September 3, 2010.

On July 29, 2010, the Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, which stated: "The Plaintiff's 'Motion for Order of Protection,' (no date provided in Judge Barton's order) renewed in his 'Motion to Cancel Deposition' (6-16-10) is DENIED. The Plaintiff has repeatedly been the subject of Motions to

[1] Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return.

EXHIBIT
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Compel by the Defendants during the course of these proceedings, and has ignored Court orders requiring his participation. The Court will not accept these or any further attempts by the Plaintiff to avoid the Defendant's right to discovery in this case and to bring this matter to a close. Non-compliance with the Court's orders is grounds for dismissal of the Plaintiff's remaining count with prejudice." (Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, ¶8).

The record shows that Plaintiff previously failed to appear for two properly noticed depositions. Defendants served a notice of deposition on October 13, 2009, scheduling Plaintiff's deposition on December 15, 2009. On June 1, 2010, Defendants served another notice of deposition, scheduling Plaintiff's deposition on June 18, 2010. While Plaintiff served "Plaintiff's Motion to Cancel Deposition Duces Tecum June 18, 2010 and for an Order of Protection" on June 14, 2010, he did not attempt to have it heard before the deposition, and did not appear at the deposition.[2]

After the Court's Order entered July 29, 2010, Defendants served a notice of deposition on August 17, 2010, scheduling the deposition for September 3, 2010. Plaintiff did not respond until September 3, 2010, asserting that he would not be attending the deposition for three reasons: First, Plaintiff asserted that "[t]he court has not responded to nor provided accommodations requested under the Americans with disabilities Act . . .." Second, he asserted that "the Oath of Office for judges in this matter [ ] are not legally sufficient, calling into question rulings in this matter." Finally, Plaintiff again asserted that Defendants' counsel's

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[2] As stated above, on July 29, 2010, this Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, denying the Plaintiff's motions for protection from being deposed.

representation of Defendants is "unlawful." Defendants contend that each of these reasons is either specious or has been expressly rejected by the Court. The Court agrees. Based on these findings

IT IS ORDERED AND ADJUDGED that the Plaintiff Neil J. Gillespie is guilty of contempt of this Court for failing to appear for deposition on September 3, 2010 and he will continue to be guilty of contempt unless and until the Plaintiff is deposed in this matter.

IT IS FURTHER ORDERED that Plaintiff shall submit to a deposition in Tampa, Florida, within 45 days. Plaintiff is directed to propose to Defendants' counsel, in writing, three dates on which his deposition may be taken on or before November 12, 2010.

IT IS FURTHER ORDERED that, if Plaintiff violates this Order by failing to submit to a deposition on or before November 12, 2010, then the Court will enter an Order to Show Cause requiring Plaintiff's appearance before the Court, and the Court will consider appropriate sanctions.

The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.

DONE AND ORDERED in Chambers this 30 day of September, 2010.

Martha J. Cook
Circuit Judge

Copies to:

Mr. Neil J. Gillespie, pro se
Ryan Christopher Rodems, Esquire (Counsel for Defendants)

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE IN MY OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS 2nd DAY OF October 2010

PAT FRANK
CLERK OF CIRCUIT COURT
BY Joseph Counsel D.C.

David Gee, Sheriff
Jose Docobo, Chief Deputy

Hillsborough County
Tampa, Florida 33601

P.O. Box 3371
Phone (813)247-8000
www.hcso.tampa.fl.us

January 12, 2011

Mr. Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

In response to your letter dated November 13, 2010, I made contact with Deputy Christopher E. Brown concerning your request for an explanation regarding why he escorted you out of the courthouse on September 28, 2010 after a hearing with Judge Martha Cook. Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance. Other than the official records maintained by the Court, I am not aware of any other records related to the hearing before Judge Cook.

As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns.

Sincerely,

James P. Livingston

James P. Livingston, Major
Court Operations Division

EXHIBIT
E

DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082
ADAAA Titles II and III Specialist
Counseling and Forensic Psychology
3236 Mountain Spring Rd. Las Vegas, NV 89146
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigantís ability to maintain health while pursuing justice in our courts. Neil Gillespieís case is one of those. At this juncture the harm to Neil Gillespieís health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

EXHIBIT
F

cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While ìpublic entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons.î (*Townsend v. Quasim* (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely ìregardedî as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services.î (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) ß II-3.3000.) A successful ADA claim does not require ìexcruciating details as to how the plaintiff's capabilities have been affected by the impairment,î even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it ñ particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.

USPS FIRST CLASS MAIL
and Email to phill@flabar.org

October 3, 2011

Paul F. Hill, General Counsel
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

Dear Mr. Hill:

This is my notice in compliance with the requirements of section 768.28(6)(a), Florida Statutes, which requires that prior to instituting any action on a tort claim against the state or one of its agencies or subdivisions, the claimant must present the claim in writing to the appropriate agency and the Department of Financial Services.

1. Claimant: Neil J. Gillespie ("Gillespie")
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807

2. Parties: The Florida Bar; The Florida Bar Lawyer Referral Service (LRS)
651 East Jefferson Street
Tallahassee, FL 32399-2300

3. Claim Against The Florida Bar, and The Florida Bar Lawyer Referral Service:

Gillespie made a number of meritorious complaints to The Florida Bar against lawyers guilty of multiple breaches of the Bar's Rules, which complaints the Bar has failed to honestly adjudicate. Initially Gillespie's complaint was against William J. Cook of Barker, Rodems & Cook, PA (BRC). Subsequently Mr. Bauer, a referral from the LRS, determined that the Bar was incorrect in failing to proceed against Mr. Cook. Mr. Bauer encourage and reinstated a dismissed civil case against Cook and BRC, then dropped the mater when it became too difficult. The case Mr. Bauer reinstated was Neil J. Gillespie v Barker, Rodems & Cook, PA and William J. Cook, Circuit Civil Court, case number 05-CA-007205, in the Thirteenth Judicial Circuit Hillsborough County, Florida.

Gillespie made a meritorious complaint to The Florida Bar about Mr. Bauer, Bar File No. 2011-073(8B). Before Mr. Bauer responded to complaint, Mr. Rodems submitted a thirteen page diatribe to the Bar in Bauer's defense that was a false and misleading, and a palpable conflict of interest, since he is a partner with William Cook in BRC. The information provided by Mr. Rodems, and incorporated into Mr. Bauer's response, resulted in new breaches of the ethics rules, specifically:

Rule 4-8.4(c), conduct involving dishonesty, fraud, deceit, and misrepresentation

Rule 4-8.4(d), conduct prejudicial to the administration of justice

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The Florida Supreme Court has delegated to the Florida Bar the function of disciplining its members. The Supreme Court and the Bar have a fiduciary duty to protect members of the public harmed by the unethical practice of law and lawyers. The Florida Bar unfortunately is being operated, and demonstrably so, in a fashion as to protect itself and bad lawyers rather than the public. For example, the Bar's claim that the grievance committee is its "grand jury" is profoundly misleading as set forth in Gillespie's April 11, 2011 email to James Watson, Tallahassee Chief Branch Discipline Counsel.

The Florida Bar and LRS owed a legal duty to Gillespie. The Florida Bar and LRS was negligent in the performance of that duty. Gillespie suffered injury. The Florida Bar and LRS was the proximate cause of Gillespie's injury. Damages arise under negligence, civil rights, the Americans With Disabilities Act (ADA), and other law.

4. Damages: The damages caused to Gillespie by The Florida Bar and LRS are substantial, as set forth in a federal Civil Rights and ADA lawsuit, Gillespie v. The Thirteenth Judicial Circuit, et. al., case no. 5:10-cv-00503-oc-10TBS, US District Court, Middle District of Florida, Ocala Division; a wrongful death lawsuit, Estate of Penelope Gillespie v. Thirteenth Judicial Circuit, Florida, et al, Case No. 5:11-cv-539-oc-10TBS, US District Court, Middle District of Florida, Ocala Division; and numerous meritorious complaints to The Florida Bar against lawyers guilty of multiple breaches of the Bar's Rules, which complaints the Bar has failed to honestly adjudicate.

Sincerely,

Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807
email: neilgillespie@mfi.net

cc: Mark Stemley, Division of Risk Management (USPS First Class Mail only)
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0336

VIA EMAIL frankp@hillsclerk.com
and USPS FIRST CLASS MAIL

October 3, 2011

Pat Frank, Clerk of the Circuit Court
Hillsborough County, Florida
601 East Kennedy Boulevard, 13th Floor
P.O. Box 1110
Tampa, Florida 33601

Dear Ms. Frank:

This is my notice in compliance with the requirements of section 768.28(6)(a), Florida Statutes, which requires that prior to instituting any action on a tort claim against the state or one of its agencies or subdivisions, the claimant must present the claim in writing to the appropriate agency and the Department of Financial Services.

1. Claimant: Neil J. Gillespie ("Gillespie")
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807

2. Parties: Pat Frank, Clerk of the Circuit Court ("Clerk")
Hillsborough County, Florida
601 East Kennedy Boulevard, 13th Floor
P.O. Box 1110
Tampa, Florida 33601

Donna Healy, Associate Courts Director
Others to be determined

3. Claim Against The Clerk: Claimant Gillespie commenced a civil lawsuit against his former lawyers August 11, 2005, case style Neil J. Gillespie v Barker, Rodems & Cook, PA and William J. Cook, Circuit Civil Court case number 05-CA-007205, in the Thirteenth Judicial Circuit Hillsborough County, Florida. The Clerk owed a legal duty to Gillespie. The Clerk was negligent in the performance of that duty. Gillespie suffered injury. The Clerk was the proximate cause of Gillespie's injury. Damages arise under negligence, civil rights, the Americans With Disabilities Act (ADA), and other law.

The Clerk was negligent relative to Circuit Civil case no. 05-CA-007205 as follows:

a. On June 21, 2010 Donna Healy, Associate Courts Director, docketed claimant Gillespie's confidential disability health information, his Americans With Disabilities Act (ADA) information, and placed the confidential information in the public court file, according to the demand case docket entry information.

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b. Claimant Gillespie applied to the Clerk of the Court for relief under section 57.082 Florida Statutes, Determination of civil indigent status. The Clerk denied the request contrary to the statute on May 26, 2011, which requires a determination of civil indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court. The Clerk refused to provide Gillespie the form. The Clerk denied Gillespie contrary to section 57.082(d), the duty of the clerk in determining whether an applicant is indigent is limited to receiving the application and comparing the information provided in the application to the criteria prescribed in this subsection. The determination of indigent status is a ministerial act of the clerk and may not be based on further investigation or the exercise of independent judgment by the clerk. As a result of the Clerk's negligence, Gillespie was not able to serve four subpoenas needed for a hearing June 1, 2011. As a result, a Writ of Bodily Attachment issued June 1, 2011 against Gillespie.

May 27, 2011 claimant Gillespie applied for the services of the Public Defender and was found indigent by Allison Raistrick of the Clerk's Indigent Screening Unit pursuant to section 27.52 Florida Statutes to appoint the public defender. However the Public Defender objected to the representation and the Court relieved it of the representation.

c. Interference with business relationship. Upon information and belief, the Clerk, its counsel, or employees interfered with a relationship between claimant Gillespie and legal representation offered by Krista J. Sterken, Esq., an associate of Foley & Lardner LLP. Ms. Sterken was co-counsel with attorney Michael D. Leffel, Esq., a partner at Foley & Lardner LLP. As a result Gillespie was not represented at a hearing June 1, 2011, and a Writ of Bodily Attachment issued against Gillespie.

d. The Clerk failed to provide claimant Gillespie a copy of a public record upon his request, a Writ of Bodily Attachment issued June 1, 2011. The Clerk also refused to provide Gillespie's agent, James Worley, a copy of the writ on June 7, 2011. The Clerk again refused to provide Gillespie's agent, Affordable Courier Solutions, a copy of the writ on June 10, 2011. Gillespie's counsel, Eugene Castagliuolo was not able to obtain a copy of the writ from the Clerk.

e. The Clerk failed to file the following pleadings submitted by claimant Gillespie. In doing so the Clerk purportedly relied upon Judge Cook's Order Prohibiting Plaintiff From Appearing Pro Se of November 15, 2010, but this Order is a sham on its face, as it was issued prior to the expiration of time for a response. The Order by Judge Cook was an unlawful effort to suppress information that showed Judge Cook's financial affairs violated the Code of Judicial Canons 2, 3, 5 and 6 set forth in "Plaintiff's 4th Motion To Disqualify Judge Martha J. Cook", filed November 10, 2010.

Judge Cook was essentially insolvent while presiding over Gillespie's case due to a near-collapse of the family business, Community Bank of Manatee, which was operating under Consent Order, FDIC-09-569b and OFR 0692-FI-10/09. Judge Cook's small

($276M) nonmember FDIC insured bank lost over $10 million dollars in 2009 and 2010. In 2009 the bank sold a controlling interest to a foreign national, who during the review process in Florida, failed to disclose that his past employer ABN AMRO Bank faced one of the largest Money Laundering and Trading With The Enemy cases ever brought by the Department of Justice. Gillespie believes this matter is currently under investigation.

In addition, opposing counsel Mr. Rodems and defendant William J. Cook, partners at Barker, Rodems & Cook, P.A., have made campaign contributions to Judge Cook, who in return for their cash has favored Rodems and Wm. Cook who paid money to her. Gillespie did not pay cash to Judge Cook, who denied fair consideration of his claims.

(1) In a letter dated July 11, 2011 the Clerk returned Gillespie's pleadings submitted July 6, 2011 and filed July 7, 2011. The Clerk struck her own "filed" stamp. The Clerk returned to Gillespie his Motion to Strike or Set Aside Joint Stipulation For Dismissal With Prejudice, and Motion to Strike or Set Aside Settlement Agreement, and Appendix 1, Appendix 2, and cover letter.

(2) In a letter dated September 22, 2011the Clerk returned Gillespie's pleading submitted September 12, 2011 and filed September 14, 2011. The Clerk struck her own "filed" stamp. The Clerk returned to Gillespie his Motion To Amend And Correct his *Affidavit And Inventory Of Personal Property Of Neil J. Gillespie And Designated Exemptions.*

The Clerk was negligent in failing to file the above pleadings. A pleading in a cause after filing becomes a part of the record and should not be altered, amended, or destroyed without permission of the court, on due notice to the opposite party, and should be kept by the clerk in files of his office. Gracy v. Fielding, 83 Fla. 388, 91 So. 373. Gillespie did not receive notice that his pleading would be struck by the Clerk after the Clerk filed the pleadings. The Clerk has a legal duty to maintain and to provide access to the records contained in its files unless the records are legally exempt from disclosure. Radford v. Brock, App. 2 Dist., 914 So.2d 1066 (2005). The Clerk has failed her duty to maintain the file in this case.

4. Damages

The damages caused to Gillespie by the Clerk are substantial. Among other things, the Clerk denied Gillespie the ability to present evidence at a contempt hearing June 1, 2011 that resulted in a warrant for his arrest on a Writ of Bodily Attachment, the service of witness subpoenas under § 57.082. Then the Clerk refused to provide a copy of the writ to Gillespie, as well as two different agents for Gillespie, and his attorney of record. As a result Gillespie was hunted by law enforcement for 21 days, taken into custody at the Edgecomb Courthouse, and held without disability accommodation under the pretext of a deposition until he suffered hypoglycemia, became disoriented, and agreed to a settlement in the instant case, and a related federal Civil Rights and ADA lawsuit,

Gillespie v. The Thirteenth Judicial Circuit, et. al. case no. 5:10-cv-00503, US District Court, MD Florida, Ocala Division.

An review of this lawsuit by attorney Seldon J. Childers produced *An Economic Analysis Spreadsheet* draft dated September 17, 2009 that states the following:

> "Non-Pecuniary Cost of Litigation. Plaintiff is likely suffering from physical and emotional ill effects resulting from the litigation, as described in Legal Abuse Syndrome, the book provided to me by Plaintiff. It is always difficult to put a dollar figure on the non-pecuniary costs of any case, and this case is no different. In attempting to evaluate the physical and emotional costs of going forward with the litigation, I considered both short and long-term effects, and the opportunity cost caused not just by direct time invested in the case but also by loss of energy related to physical and emotional side-effects. My estimate was $100,000, but this figure is subjective and the Plaintiff may wish to adjust this figure upwards or downwards. There is 100% probability these costs will be incurred regardless of the outcome of the litigation." (p.4, ¶4).

Gillespie's out-of-pocket expenses in this lawsuit exceed $100,000.

Sincerely,

Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807
email: neilgillespie@mfi.net

cc: Mark Stemley, Division of Risk Management (USPS First Class Mail only)
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0336

cc: Dale Bohner, Legal Counsel to the Clerk (via email: bohnerd@hillsclerk.com)

VIA EMAIL frankp@hillsclerk.com
and USPS FIRST CLASS MAIL

October 6, 2011

Pat Frank, Clerk of the Circuit Court
Hillsborough County, Florida
601 East Kennedy Boulevard, 13th Floor
P.O. Box 1110
Tampa, Florida 33601

Dear Ms. Frank:

This is an addendum to my notice provided October 3, 2011 in compliance with the requirements of section 768.28(6)(a), Florida Statutes.

Additional parties:

Attorney Mark Ware, Director of Appeal, Jury, Mental Health and Probate
Lisa Mann, Associate Director of Appeals Department

Additional claims against the Clerk:

1. The Clerk was negligent in the preparation of the record and index in Appeal No. 2D10-5197, Second District Court of Appeal. The Clerk provided Gillespie the index and record January 25, 2011, but there were a number of errors, omissions and duplications. Also, a number of items were substantially out of chronological order. And an Order by Judge Cook prevented Gillespie from appearing pro se or filing pleadings in the lower tribunal. These issues prevented Gillespie from filing the initial brief in accordance with the Florida Rules of Appellate Procedure, specifically to properly cite to the record in the brief in compliance with Fla. R. App. P. 9.200.

Gillespie contacted Mr. Bohner, Counsel to the Clerk, about the foregoing. In response Mr. Bohner, based upon the authority of G.W. v. Karen Rushing, Clerk of Circuit Court, 22 So.3d 819 (Fla. 2d DCA 2009), advised the director of the Clerk's appellate division to provide all administrative services of the Clerk's office under the Florida Rules of Appellate Procedure in the captioned case.

Because of the foregoing, a number of motions were required in the appellate court, some of which are described below. The Clerk eventually provided a new, corrected index and record March 22, 2011 with the assistance of Mark Wear and Lisa Mann. In the meantime Gillespie filed his initial brief February 7, 2011, to which the Appellees filed their answer brief February 14, 2011. Both briefs were eventually struck by the 2dDCA (with leave to refile) due to the negligence of the Clerk in preparing the initial index and record January 25, 2011, and issues related to citing to the record in the briefs in compliance with Fla. R. App. P. 9.200.

Motions and Orders in the 2dDCA, 2D10-5197 relative to the Clerk's negligence:

Feb-03-2011, Appellant's Motion for Extension of Time, Record & Index; granted

Feb-07-2011, Appellant's Initial Brief (later struck, with leave to refile)

Feb-14-2011, Appellees' Answer Brief (later struck, with leave to refile)

Mar-17-2011, Appellant's motion for leave file amended brief; granted

Mar-17-2011, Appellant's Motion To Compel Clerk; the Clerk complied

Mar-23-2011, ORDER, Clerk to respond in 10 days

Apr-08-11, ORDER, Granted appellant's motion file amended initial brief

Because of the forgoing, the Clerk delayed Gillespie in preparing his appeal, and filing his amended initial brief, to the benefit of opposing counsel who used the opportunity created by the Clerk to wrongfully obtain an arrest warrant for Gillespie on a Writ of Bodily Attachment. As a result Gillespie was hunted by law enforcement for 21 days, taken into custody at the Edgecomb Courthouse, and held without disability accommodation under the pretext of a deposition until he suffered hypoglycemia, became disoriented, and agreed to a settlement in the instant case, and a related federal Civil Rights and ADA lawsuit, Gillespie v. The Thirteenth Judicial Circuit, et. al. case no. 5:10-cv-00503, US District Court, MD Florida, Ocala Division.

2. The Clerk refused to follow Rule 9.430, Fla. R. App. P., Proceedings by Indigents, and section 57.082 Fla. Stat., Determination of civil indigent status

RULE 9.430. PROCEEDINGS BY INDIGENTS
(a) Appeals. A party who has the right to seek review by appeal without payment of costs shall, unless the court directs otherwise, file a signed application for determination of indigent status with the clerk of the lower tribunal, using an application form approved by the Supreme Court for use by circuit court clerks. The clerk of the lower tribunal's reasons for denying the application shall be stated in writing and are reviewable by the lower tribunal. Review of decisions by the lower tribunal shall be by motion filed in the court.

The Second District Court of Appeal declared Gillespie insolvent within the meaning of chapter 57, Florida Statutes (2009) and notified the Clerk November 22, 2010. But an invoice from the Clerk of January 25, 2011 demanded $585.77 and stated "all above costs are due. If found indigent, these costs are still due and will be assessed to your case as owed. You may contact the Collections Department for information on Partial Payments".

During a February 4, 2011 telephone call between Gillespie, Mark Ware and Lisa Mann, Mr. Ware stated that Rule 9.430 does not apply in this appeal because Rule 9.430 is for criminal cases only, and under section 27.52 a criminal defendant's costs completely waived. Wear said the costs for the index and record "are always calculated under Florida Statutes section 28.24". Mr. Wear refused to provide Gillespie the application for determination of indigent status with the Clerk, the application form approved by the Supreme Court for use by circuit court clerks.

Mr. Wear is a Florida licensed attorney and should have known that Rule 9.430 does not apply only in criminal cases. Mr. Wear should have also known that Gillespie's request was an application to the Clerk for relief under section 57.082 Florida Statutes, Determination of civil indigent status. The Clerk/Mr. Wear denied the request contrary to the statute, which requires a determination of civil indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court. The Clerk/Mr. Wear refused to provide Gillespie the form. The Clerk/Mr. Wear denied Gillespie contrary to section 57.082(d), the duty of the clerk in determining whether an applicant is indigent is limited to receiving the application and comparing the information provided in the application to the criteria prescribed in this subsection. The determination of indigent status is a ministerial act of the clerk and may not be based on further investigation or the exercise of independent judgment by the clerk. As a result of the Clerk's negligence, Gillespie is currently improperly indebted to the Clerk in the amount of $585.77.

3. The Clerk was negligent with regard to all litigants in her failure to provide an online Case Management/Electronic Case Files (CM/ECF) system like the federal PACER system. This is a substantial barrier to justice. For Gillespie it requires a 200 mile trip to obtain a document from the case file. (or a protracted, burdensome effort to get the documents by mail that takes weeks). Furthermore, Florida charges $1.00 a page for case documents, but the cost for a document on PACER is only 0.08 cents per page, accessed from the comfort of home. The cost to access a single document on PACER is capped at $2.40, the equivalent of 30 pages. By Judicial Conference policy, if your PACER usage does not exceed $10 in a quarter, fees for that quarter are waived, effectively making the PACER service free for most users.

4. Clarification relative to the Clerk's interference with a business relationship between Gillespie and legal representation offered by Krista J. Sterken, Esq., an associate of Foley & Lardner LLP, and co-counsel Michael D. Leffel, Esq., a partner at Foley. In an email dated October 4, 2011, Mr. Bohner responded:

> "The Clerk's office has searched the public records in the custody of the Clerk for records or evidence of communications by the Clerk, or its counsel or employees, with Ms. Sterken, Mr. Leffel, or anyone at Foley & Lardner LLP relative to your contact with Ms. Sterken, Mr. Leffel, and Foley & Lardner LLP, and their offer, and subsequent decline of your legal representation within the time frames you

> describe in your September 28, 2011 e-mail to me. Our search of the public records in the custody of the Clerk did not identify any public record to produce. The only public records within the time frames of your request that contain the names of the referenced attorneys or law firm are your several inbound e-mail dated May 26, 2011 and my internal email to Doug Bakke forwarding your inbound e-mail. There were no outbound e-mail or other form of communication from the Clerk's office that meet your public records request."

Mr. Bohner's response does not rule out communication that does not involve records, such as phone calls. In any event, Gillespie's assertion of interference with a business relationship is based on evidence that the Clerk failed to follow the rules and statutes applicable in the case, thereby making representation by Foley & Lardner impossibly difficult. (as Mr. Castagliuolo later learned).

5. Correction as to Gillespie's assertion that his out-of-pocket expenses in this lawsuit exceed $100,000. Gillespie's expenses are an estimate, and include direct and indirect expenses, as well as expenses billed but not yet paid.

6. Possible criminal violations by the Clerk. Gillespie is disabled as defined by chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. The Clerk may have violated criminal law in her negligence and other wrongdoing relative to Gillespie.

Sincerely,

Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807
email: neilgillespie@mfi.net

cc: Mark Stemley, Division of Risk Management (USPS First Class Mail only)
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0336

cc: Dale Bohner, Legal Counsel to the Clerk (via email: bohnerd@hillsclerk.com)

USPS FIRST CLASS MAIL

October 3, 2011

Sheriff David Gee
Hillsborough County Sheriff's Office (HCSO)
P.O. Box 3371
Tampa, FL 33601

Dear Sheriff Gee:

This is my notice in compliance with the requirements of section 768.28(6)(a), Florida Statutes, which requires that prior to instituting any action on a tort claim against the state or one of its agencies or subdivisions, the claimant must present the claim in writing to the appropriate agency and the Department of Financial Services.

1. Claimant: Neil J. Gillespie ("Gillespie")
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807

2. Parties: Sheriff David Gee
Major James Livingston, Commander of the Court Operations Division
Hillsborough County Sheriff's Office ("HCSO")
Others to be determined

3. Claim Against The HCSO: Claimant Gillespie commenced a civil lawsuit against his former lawyers August 11, 2005, case style Neil J. Gillespie v Barker, Rodems & Cook, PA and William J. Cook, Circuit Civil Court, case number 05-CA-007205, in the Thirteenth Judicial Circuit Hillsborough County, Florida. Major James Livingston serves as the Commander of the Court Operations Division of the Hillsborough County Sheriff's Office (HCSO). The Division is responsible for all aspects of security at the Courthouse Complex, which includes the Edgecomb Courthouse. The HCSO owed a legal duty to Gillespie. The HCSO was negligent in the performance of that duty. Gillespie suffered injury. The HCSO was the proximate cause of Gillespie's injury. Damages arise under negligence, Section 950.09, Florida Statutes, Malpractice by Jailers, civil rights, the Americans With Disabilities Act (ADA), and other law.

The HCSO was negligent relative to Circuit Civil case no. 05-CA-007205 as follows:

a. Section 950.09, Florida Statutes, Malpractice by jailers.—If any jailer shall, by too great duress of imprisonment or otherwise, make or induce a prisoner to disclose and give evidence against some other person, or be guilty of willful inhumanity and oppression to any prisoner under his or her care and custody, the jailer shall be punished by removal from office and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

EXHIBIT
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b. Major James Livingston serves as the Commander of the Court Operations Division of the Hillsborough County Sheriff's Office (HCSO). The Division is responsible for all aspects of security at the Courthouse Complex, which includes the Edgecomb Courthouse. The Division also includes the Civil Process Section which serves approximately 150,000 court-related documents each year.

c. According to the HCSO website, Major Livingston previously worked for the Federal Bureau of Investigation (FBI) where he retired as a Supervisory Special Agent after a 22-year career. Major Livingston also earned a Law Degree in 1983 and a Bachelor's Degree in Criminal Justice in 1977, both from the University of Memphis.

d. Gillespie first contacted Major Livingston November 13, 2010 by certified mail about Circuit Judge Martha Cook who knowingly and willfully falsified[1] records in this case, including falsification of the Order Adjudging Plaintiff Neil J. Gillespie Contempt, September 30, 2010, the order that forms the basis for the warrant to arrest Gillespie on a writ of bodily attachment. Judge Cook falsely wrote in the contempt order that Gillespie voluntarily left the hearing when in fact Judge Cook ordered Gillespie removed by HCSO Deputy C.E. Brown after Cook learned Gillespie filed a federal lawsuit against her and the Thirteenth Judicial Circuit[2].

e. Gillespie originally brought the problem of Judge Cook's falsification of records to the attention of Colonel James Previtera[3], Commander of the Department of Detention Services, and supervisor of Major Livingston. Previtera did not respond. Gillespie spoke by telephone with Major Livingston November 23, 2010 about Judge Cook's falsification of the Order Adjudging Plaintiff Neil J. Gillespie Contempt, and Major Livingston agreed to investigate the matter.

f. Major Livingston emailed Gillespie January 12, 2011 and provided a letter that stating he made contact with Deputy Christopher E. Brown and Brown advised that Judge Cook ordered Gillespie to leave the courtroom. This impeached Judge Cook's

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[1] Gillespie accused Judge Cook of a violation chapter 839, Florida Statutes, section 839.13(1) if any judge shall falsify any record or any paper filed in any judicial proceeding in any court of this state, or conceal any issue, or falsify any document filed in any court or falsify any minutes or any proceedings whatever of or belonging to any public office within this state the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

[2] Gillespie v Thirteenth Judicial Circuit, et al, Case No. 5:10-cv-00503, US District Court, MD Florida, Ocala.

[3] Gillespie initially provided Col. Previtera on September 27, 2010 his affidavit showing Judge Cook falsified a record about Gillespie's panic attack during a hearing July 12, 2010. Gillespie followed up with a fax letter to Col. Previtera October 7, 2010 with a new accusation that Judge Cook falsified the Order Adjudging Plaintiff Neil J. Gillespie Contempt, September 30, 2010.

order where she wrote Gillespie voluntarily left the hearing. Major Livingston also wrote the following:

> "As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel[4]. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns."

g. Gillespie made an affidavit April 25, 2011 attesting to the fact that Major Livingston provided a letter that impeached Judge Cook's Order Adjudging Plaintiff Neil J. Gillespie In Contempt.

h. Gillespie requested by letter April 20, 2011 to Major Livingston a criminal investigation of Judge Martha J. Cook and Attorney Ryan Christopher Rodems under chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Livingston responded by email May 2, 2011 in part:

> "You are under a misunderstanding concerning my official role at the Courthouse—my primary responsibility is to ensure the safety and security of the Courthouse Complex facilities, its occupants, and members of the public who are visiting or conducting business here. Any investigation of Judge Cook will have to be done by another investigative entity."

Major Livingston did not respond to Gillespie's question about what investigative entity would consider the complaint.

i. Because Major Livingston provided a letter impeaching Judge Cook's Order Adjudging Plaintiff Neil J. Gillespie Contempt, Gillespie obtained the following subpoenas for the June 1, 2011 Evidentiary Hearing before Judge Arnold on the Order Adjudging Plaintiff Neil J. Gillespie Contempt. The following subpoenas were issued by the Clerk of the Court after Gillespie paid the $2.00 fee each.

(1) Subpoena Duces Tecum, Major James P. Livingston, to bring his letter of January 12, 2011 to the hearing and testify; to impeach Judge Cook's Order Adjudging Plaintiff Neil J. Gillespie Contempt.

(2) Subpoena Duces Tecum, Ryan Rodems, to bring Gillespie's letter of November 8, 2010 agreeing to appear for a deposition, and to testify; to impeach Rodems' prior testimony that Gillespie refused to appear for a deposition unless arrested on writ of bodily attachment.

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[4] Ryan Christopher Rodems, Florida Bar ID No. 947652.

(3) Subpoena, Deputy Christopher E. Brown, to appear and testify that that he removed Gillespie from the hearing before Judge Cook; to impeach Judge Cook's Order Adjudging Plaintiff Neil J. Gillespie Contempt.

(4) Subpoena, Donna Healy, Associate Courts Director, to appear and testify that Judge Cook instructed Healy to docket and file Gillespie's confidential ADA disability information in the public court file.

j. Gillespie was not able to serve the subpoenas in the preceding paragraph because he is indigent. Gillespie could not afford to pay $40 each ($160 total) to serve the four subpoenas. Gillespie applied to the Clerk of the Court for relief under section 57.082 Florida Statutes. The Clerk denied the request contrary to the statute, which requires a determination of civil indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court. The Clerk refused to provide Gillespie the form. The Clerk referred Gillespie to Judge Arnold to appeal its denial. The Clerk denied Gillespie contrary to section 57.082(d), the duty of the clerk in determining whether an applicant is indigent is limited to receiving the application and comparing the information provided in the application to the criteria prescribed in this subsection. The determination of indigent status is a ministerial act of the clerk and may not be based on further investigation or the exercise of independent judgment by the clerk.

k. Because of the forgoing, Major Livingston knew or had reason to believe that the Order Adjudging Plaintiff Neil J. Gillespie In Contempt was not accurate and should not be relied upon to cause the arrest of Gillespie on a writ of bodily attachment. Major Livingston was also provided emailed copies of the following:

(1) Petition for Writ of Prohibition, Motion for Change of Venue, 2dDCA, to remove J. Arnold and the Thirteenth Judicial Circuit, May 2, 2011, Case No. 2D11-2127

(2) Petition for Writ of Prohibition and Habeas Corpus, Florida Supreme Court, to remove J. Arnold and the Thirteenth Judicial Circuit, May 3, 2011, Case No. SC11-858.

l. Major Livingston is sworn to support, protect, and defend the Constitution and Government of the United States and of the State of Florida. Major Livingston attended law school and earned a law degree, and knows or should know that Judge Cook falsified records and denied Gillespie due process, and that the Court misused or denied Gillespie judicial process under the color of law in an effort to incarcerate him. Because of the foregoing Major Livingston had an affirmative due to act to prevent the wrongful issuance of an arrest warrant for Gillespie on a writ of bodily attachment. Major Livingston failed to act and is negligent.

m. Major Livingston was present June 21, 2011 at the Edgecomb Courthouse and personally met Gillespie, who voluntarily appeared for the deposition. Gillespie provided Major Livingston a copy of Mr. Rodems' email sent Monday 1:22 PM June 20, 2011 which Livingston immediately read. Mr. Rodems' email showed that he intended to

misuse the deposition to force Gillespie to settle the lawsuit on terms favorable to Rodems and the Defendants.

n. Following the deposition Gillespie emailed Major Livingston June 22, 2011 and provided a draft copy of a motion to set aside the settlement, raised policy concerns, and asked "...how far the HCSO will go to deny the rights of a civil litigant being held in custody at the whim of an angry lawyer to force a settlement and dismissal with a former client under a disability." Major Livingston responded in relevant part "As I explained to you yesterday, Judge Arnold is in charge of this case, not the HCSO or Mr. Rodems. The HCSO was complying with the specific orders and instructions of Judge Arnold." Major Livingston would not describe what "specific orders and instructions of Judge Arnold" were provided, nor what information was provided to the Marion County Sheriff where Gillespie resides. Instead Major Livingston referred Gillespie to the various record sections of the HCSO, the Clerk and the Court.

o. Because of the foregoing, there is reason to believe Major Livingston and/or the HCSO violated Section 950.09, Florida Statutes, Malpractice by jailers: "If any jailer shall, by too great duress of imprisonment or otherwise...be guilty of willful inhumanity and oppression to any prisoner under his or her care and custody, the jailer shall be punished by removal from office and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083."

NOTE 1: On May 27, 2011 claimant Gillespie applied for the services of the Public Defender and was found indigent by Allison Raistrick of the Clerk's Indigent Screening Unit pursuant to section 27.52 Florida Statutes to appoint the public defender. However the Public Defender objected to the representation and the Court relieved the Public Defender of the representation.

NOTE 2: Judge Cook was essentially insolvent while proceeding over Gillespie's case due to a near-collapse of the family business, Community Bank of Manatee, which was operating under Consent Order, FDIC-09-569b and OFR 0692-FI-10/09. Judge Cook's small ($276M) nonmember FDIC insured bank lost over $10 million dollars in 2009 and 2010. In 2009 the bank sold a controlling interest to a foreign national, who during the review process in Florida, failed to disclose that his past employer ABN AMRO Bank faced one of the largest Money Laundering and Trading With The Enemy cases ever brought by the Department of Justice. Gillespie believes this matter is currently under investigation.

NOTE 3: Opposing counsel Mr. Rodems and defendant William J. Cook, partners at Barker, Rodems & Cook, P.A., have made campaign contributions to Judge Cook, who in return for their cash favored Rodems and Wm. Cook who paid money to her. Gillespie did not pay cash to Judge Cook, and was denied fair consideration in matters before her.

4. Damages: The damages caused to Gillespie by the HCSO are substantial. Major Livingston knowingly and passively collaborated with the Court in the issuance of a

politically motivated arrest warrant to force a settlement in federal Civil Rights and ADA lawsuit.

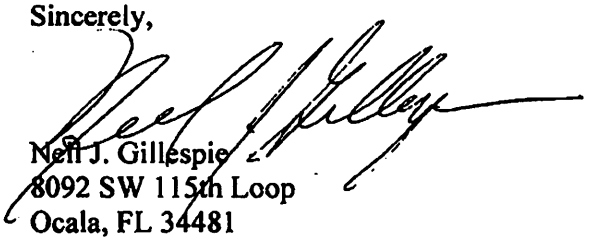
Livingston stood by and failed his duty as Gillespie was hunted by law enforcement for 21 days, taken into custody at the Edgecomb Courthouse, and held without disability accommodation under the pretext of a deposition until he suffered hypoglycemia, became disoriented, and agreed to a settlement in the instant case, and a federal Civil Rights and ADA lawsuit, Gillespie v. The Thirteenth Judicial Circuit, et. al. case no. 5:10-cv-00503, US District Court, MD Florida, Ocala Division.

An review of this lawsuit by attorney Seldon J. Childers produced *An Economic Analysis Spreadsheet* draft dated September 17, 2009 that states the following:

> "Non-Pecuniary Cost of Litigation. Plaintiff is likely suffering from physical and emotional ill effects resulting from the litigation, as described in Legal Abuse Syndrome, the book provided to me by Plaintiff. It is always difficult to put a dollar figure on the non-pecuniary costs of any case, and this case is no different. In attempting to evaluate the physical and emotional costs of going forward with the litigation, I considered both short and long-term effects, and the opportunity cost caused not just by direct time invested in the case but also by loss of energy related to physical and emotional side-effects. My estimate was $100,000, but this figure is subjective and the Plaintiff may wish to adjust this figure upwards or downwards. There is 100% probability these costs will be incurred regardless of the outcome of the litigation." (p.4, ¶4).

Gillespie's out-of-pocket expenses in this lawsuit exceed $100,000.

Sincerely,



Neil J. Gillespie
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