

# The Florida Bar Inquiry/Complaint Form

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

THE FLORIDA BAR  
RECEIVED  
JUL 19 2010  
ACAP  
TALLAHASSEE, FLORIDA  
52-#1058

**PART ONE: (Read instructions on reverse side.)**

|  |  |
|--|--|
| Your Name: <u>Neil Gillespie</u>                   | Attorney's Name: <u>Robert W. Bauer</u>                |
| Address: <u>8092 SW 115th Loop</u>                 | Address: <u>2815 NW 13th Street, 200E</u>              |
| City: <u>Ocala</u> State: <u>Florida</u>           | City: <u>Gainesville</u> State: <u>Florida</u>         |
| Phone: <u>(352)854-7867</u> Zip Code: <u>34481</u> | Phone: <u>352-375-5960</u> Zip Code: <u>32609-2865</u> |
| ACAP Reference No. 10-15170                        |  |

**PART TWO:** The specific thing or things I am complaining about are:

See Accompanying Letter

**PART THREE:** The witnesses in support of my allegations are: [see attached sheet].

See Accompanying Letter

**PART FOUR:** Under penalty of perjury, I declare the foregoing facts are true, correct and complete.

Neil Gillespie  
Signature

July 15, 2010  
Date

**Return Completed Form to:**  
Attorney/Consumer Assistance Program  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
Toll Free - 866-352-0707

**Neil J. Gillespie**  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

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VIA US CERTIFIED MAIL, RRR  
Article No.: 7008 1300 0001 8054 4948

July 15, 2010

Attorney Consumer Assistance Program  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300

RE: Complaint of misconduct against attorney Robert W. Bauer (bar #11058)

This is a complaint of misconduct against attorney Robert W. Bauer (bar #11058) of the Law Office of Robert W. Bauer, PA, 2815 NW 13<sup>th</sup> Street, Suite 200E, Gainesville, FL 32609. Enclosed you will find a completed inquiry/complaint form and supporting exhibits.

Mr. Bauer was a referral from The Florida Bar Lawyer Referral Service, February 26, 2007 for the area of Libel and Slander. (Exhibit 1)

I paid Mr. Bauer \$3,000 March 8, 2007 to evaluate my pro se lawsuit filed in 2005. We executed an hourly fee contract (\$250 per hour) April 24, 2007. (Exhibit 2)

#### Overview

Mr. Bauer assumed representation of my already-filed ongoing pro se lawsuit, Neil J. Gillespie v. Barker, Rodems & Cook, PA and William J. Cook, case no. 05-CA-7205, Circuit Civil, Hillsborough County, Florida. I filed the lawsuit pro se August 11, 2005 against my former lawyers ("BRC") who wrongfully took \$6,224.78 from a contingent fee case settlement. My initial pro se complaint survived a motion to dismiss and strike by Order of January 13, 2006, and established a cause of action for fraud and breach of contract. BRC counstersued me for libel on January 19, 2006. BRC obtained sanctions against me for discovery errors and a misplaced defense to the counterclaims on § 57.105 Fla. Stat. sanctions. I voluntarily dismissed my claims February 7, 2007. The Florida Bar LRS referred Mr. Bauer to me February 26, 2007. I retained Mr. Bauer and he reinstated my claims but failed to zealously represent me and dropped the case when it became too difficult for him. Mr. Bauer spent most of his time and my money securing sanctions for BRC of \$11,550 against me, and Mr. Bauer caused me to be held in contempt of court.

From the outset Mr. Bauer estimated this matter would cost me as much as \$18,000. His estimate was unrealistic. In hindsight a realistic amount might be \$200,000. Mr. Bauer collected \$19,212.44 from our family (Exhibit 3) and then dropped the case, leaving us in a far worse position than before his representation. Mr. Bauer claims I owe him another \$12,650.13 and has refused to release my client file. (Exhibit 4)

Mr. Bauer did little about the defamation claim for which I hired him. He instead pursued fraud and breach of contract claims that I had voluntarily dismissed against my former lawyers. Mr. Bauer took this course of action with the belief that "...the jury would love to punish a slimy attorney." (Transcript, March 29, 2007, page 28, line 9).

Several "walk-away" settlement offers were made by BRC, both before and after Bauer assumed representation. One such settlement offer was made by BRC February 7, 2007 just a few weeks before the bar referred me to Mr. Bauer. (Exhibit 5)

Prior to taking the case Mr. Bauer knew there were outstanding motions for discovery sanctions and § 57.105 Florida Statutes sanctions. Since the Defendants did not provide most of their discovery either, I suggested that Mr. Bauer coordinate hearings on discovery to get the Defendants' discovery, and in effect to mitigate the sanctions, but he refused. The court awarded BRC \$11,550 in sanctions March 20, 2008.

I asked Mr. Bauer to stay collection on the sanctions until after the case was decided. He filed the stay 44 days late and it was of no effect.

Opposing counsel Mr. Rodems aggressively sought collection of the \$11,550 judgment. My bank account was garnished. Mr. Bauer failed to advise me of the garnishment and he soon stop representing me. It appears Mr. Bauer calculated that since he already took \$19,212.44 from me, he abandoned my case and moved on to more profitable clients.

Mr. Bauer also failed to prevail on substantive matters when opposing counsel Rodems presented false evidence to the court. For example, Mr. Rodems mislead the court during hearings on October 30, 2007 and July 1, 2008 for the purpose of obtaining a dismissal of claims against BRC and Mr. Cook. Rodems misrepresented to Judge Barton that there was a signed written contingent fee agreement between Plaintiff Neil Gillespie and Defendant Barker, Rodems & Cook, PA when there was none. Mr. Bauer failed to present evidence that there was no signed written contingent fee agreement, such as my testimony or my affidavit.

Mr. Bauer failed to seek the disqualification of Mr. Rodems under Rule 4-1.9 and related law for litigating against a former client on the same or substantially related matter.

#### Misconduct of Robert W. Bauer

Mr. Bauer was incompetent and appeared to have little legal knowledge. Law is a second career for him. Bauer graduated law school in 2005. Previously he worked for Alachua

County Fire Rescue as a paramedic and later a fireman. Mr. Bauer was lazy, lacked attention to detail, and let deadlines pass.

Mr. Bauer breached his fiduciary duty to me by churning fees at \$250 per hour, including \$5,600 in travel time at that rate, with no strategy to win the case and little chance of prevailing. Opposing counsel Mr. Rodems is board certified by the Florida Bar in civil trial law with 16 years experience as a lawyer; the firm's three partners have about 50 years combined experience.

Mr. Bauer charged \$100 per hour for an unqualified legal assistant, Karen A. McCain, whose prior experience was a salesperson at Radio Shack. For example, a billing entry on 8/14/07 shows Ms. McCain preparing attorney for hearing, KAM \$100/hr, 0.8hr, \$80.

Most of Mr. Bauer's staff had little or no experience and constantly made mistakes. When I asked about the qualifications and experience of his staff, Mr. Bauer became angry, refused to provide the information, and accused me of harassing his staff.

Mr. Bauer charged me each time someone handled a file, copied a document, processed mail, made a phone call, or took a message, etc., etc., etc. Mr. Bauer charged me \$50 to provide his personal vacation schedule to the court. Bauer charged me for parking his car, and for a "travel meal" August 15, 2007. All these small charges represent about one-third of the \$19,212.44 paid to Mr. Bauer. Travel costs of \$5,600 plus an additional \$0.49 per mile were billed by Mr. Bauer. The detailed billing records are available upon request and exceed 110 pages.

Mr. Bauer had a high turnover of employees. This made continuity of operations difficult in his law office and resulted in mistakes. This is a partial list of his employees:

| <u>billing initials:</u> | <u>name:</u>  |
|--------------------------|---|
| 1. RWB                   | Robert W. Bauer, attorney   |
| 2. TMU                   | Tanya M. Uhl, attorney (left) later married, now known as Tanya Bell                |
| 3. JAC                   | Joshua A. Cossey, law clerk, law school grad, first spoke with him Oct-26-07 (left) |
| 4. SAA                   | Shylie A. Armorv, law clerk (left)  |
| 5. DS                    | David Sams, senior law clerk, (now an attorney, admitted 4-20-09)                   |
| 6. BEL                   | Beverly E. Lowe, office manager & bookkeeper, met Feb-26-08                         |
| 7. TLB                   | Toya Lawanda Bauer, temporary receptionist (wife of RWB)                            |
| 8. AB                    | Ann Breeden, received email from her requesting transcripts (left)                  |
| 9. JD                    | James Davidson (noticed his name on a cert. mail return green card, Jul-25-08)      |
| 10. KK                   | Karen Kaplan, assistant to RWB, received a call from her Aug-28-08 (left)           |
| 11. MG                   | Meghan Godby, answered the phone, first noticed her Aug-28-08 (left)                |
| 12. AR                   | April Ray, answered the phone Feb-09-09   |
| 13. AB                   | Alison Beal, name on cert. mail green card, answered phone Sep-28-09                |
| 14. NDR                  | Natalia D. Ricardo, legal assistant, gone by Aug-28-08 (left)                       |
| 15. CNP                  | Caitlyn N. Peacock, receptionist, met Feb-26-08 (left by Jul-09-08)                 |
| 16. KAM                  | Karen McCain, legal assistant, demoted when Josh arrived (left by Feb-26-08)        |

17. JRC                      Jeffery R. Clark, law clerk, noticed he left by Aug-15-07

Mr. Bauer made a referral to First Choice Court Reporting that was a disaster. The company made errors on a transcript and over-billed me. Resolving this matter was difficult. Mr. Bauer was not cooperative. He suggested I just pay the amount over-billed. Later I insisted he use Berrhill and Associates Court Reporting which I have used for years without problems.

Mr. Bauer's Admission of Wrongdoing in Open Court:

Mr. Bauer made the following statement August 14, 2008 during an Emergency Hearing on a garnishment before the Honorable Marva Crenshaw (Transcript page 16, line 24)

“...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.”

Specific Complaints of Misconduct Against Mr. Bauer:

1. Mr. Bauer failed to zealously litigate my claims against BRC and Mr. Cook.

Mr. Bauer failed to file a first amended complaint as agreed. The case is still alive on my original pro se complaint filed August 11, 2005. Bauer submitted a “counter-counter complaint” in April 2007. (Exhibit 26). The pleading was essentially a “cut and paste” of my initial pro se complaint where Bauer added claims for breach of fiduciary duty to my claims of fraud and breach of contract. The pleading was rejected out of hand by the court (Exhibit 27) because there is no provision under Rule 1.100(a), Fla.R.Civ.P., for a counter-counter complaint:

**RULE 1.100. PLEADINGS AND MOTIONS**

**(a) Pleadings.** There shall be a complaint or, when so designated by a statute or rule, a petition, and an answer to it; an answer to a counterclaim denominated as such; an answer to a crossclaim if the answer contains a crossclaim; a third-party complaint if a person who was not an original party is summoned as a third-party defendant; and a third-party answer if a third-party complaint is served. If an answer or third-party answer contains an affirmative defense and the opposing party seeks to avoid it, the opposing party shall file a reply containing the avoidance. No other pleadings shall be allowed.

Mr. Bauer made no attempt to correct his error. The court offered and allowed Mr. Bauer to submit an amended complaint several times, but he failed to do so. Another attorney who reviewed my pro se complaint said the complaint needed to be amended to add - at a minimum - a count of breach of fiduciary duty. The attorney said the complaint could be

amended under the relation back doctrine, Rule 1.190(c), Fla.R.Civ.P. I did this myself and filed Plaintiff's First Amended Complaint May 5, 2010.

Mr. Bauer failed to zealously represent me on my claims against BRC, even after reinstating those claims that I voluntarily dismissed. Mr. Bauer also failed to pursue any meaningful attempts to settle this matter.

Mr. Bauer failed to prevail on substantive matters. Mr. Rodems presented false evidence and mislead the court during hearings on October 30, 2007 and July 1, 2008 for the purpose of obtaining a dismissal of claims against BRC and Mr. Cook. Mr. Rodems misrepresented to Judge Barton that there was a signed written contingent fee agreement between Plaintiff Neil Gillespie and Defendant Barker, Rodems & Cook, PA when there was none. Mr. Bauer failed to present evidence that there was no signed contingent fee agreement, such as my testimony or my affidavit. Instead Mr. Bauer submitted Plaintiff's Motion For Rehearing July 16, 2008 but withdrew from the case before it was heard.

2. Mr. Bauer failed to zealously litigate against the BRC counterclaim.

The Florida Bar Lawyer Referral Service (LRS) provided Mr. Bauer for the area of law of Libel and Slander. (Exhibit 1). I retained Mr. Bauer for the libel counterclaims. He filed an amended answer to the counterclaim but has not done anything else. Mr. Bauer's amended answer to the counterclaim contained a "counter-counter complaint" that was rejected out of hand by the court because there is no provision under Rule 1.100(a), Fla.R.Civ.P., for this pleading. (see above paragraph #1)

3. Mr. Bauer failed to zealously pursue case management.

There was no case management in my case, either before or after Mr. Bauer represented me. In effect the court abandoned its case management duty to Mr. Rodems who turned the case into a platform to rack up sanctions against me. Mr. Bauer never raised this issue and he does not appear to understand the importance of case management.

Mr. Rodems is board certified by the Florida Bar in civil trial law with 16 years experience as a lawyer. Rodems is a "rules troll" who has used the discovery process for a purpose for which it is not by law intended, to obtain extreme sanctions of \$11,550. The rules of discovery are designed to eliminate as far as possible concealment and surprise in the trial of law suits to the end that judgments rest upon the real merits of causes and not upon the skill and maneuvering of counsel.[2] Southern Mill Creek Products Co. v. Delta Chemical Co., 203 So.2d 53.

Pretrial discovery was implemented to simplify the issues in a case, to encourage the settlement of cases, and to avoid costly litigation. Elkins v. Syken, 672 So.2d 517. In this case the parties know the issues from Defendants' prior representation on the same matter. The rules of discovery are designed to secure the just and speedy determination of every action (In re Estes' Estate, 158 So.2d 794), to promote the ascertainment of truth (Ulrich v. Coast Dental Services, Inc. 739 So.2d 142), and to ensure that judgments are

rested on the real merits of causes. National Healthcorp Ltd. Partnership v. Close, 787 So.2d 22.

Mr. Bauer failed to utilize or argue the merits of the following case management tools:

a. Professionalism and Litigation Ethics, 28 STETSON L. REV. 323, (1998) by the Honorable Claudia Rickert Isom. Judge Isom presided over this case November 22, 2006 through February 13, 2007. The law review shows how Judge Isom provided intensive case management to “Harvey M” rather than sanction him for discovery problems.

b. Fla.R.Jud.Admin., Rule 2.545, Case Management, (a) Purpose. Judges and lawyers have a professional obligation to conclude litigation as soon as it is reasonably and justly possible to do so. However, parties and counsel shall be afforded a reasonable time to prepare and present their case.

c. Fla.R.Civ.P, Rule 1.200, Pretrial Procedure, (a) Case Management Conference, At any time after responsive pleadings or motions are due, the court may order, or a party, by serving a notice, may convene, a case management conference. The matter to be considered shall be specified in the order or notice setting the conference. At such a conference the court may:

- (1) schedule or reschedule the service of motions, pleadings, and other papers;
- (2) set or reset the time of trials, subject to rule 1.440(c);
- (3) coordinate the progress of the action if the complex litigation factors contained in rule 1.201(a)(2)(A)–(a)(2)(H) are present;
- (4) limit, schedule, order, or expedite discovery;
- (5) schedule disclosure of expert witnesses and the discovery of facts known and opinions held by such experts;
- (6) schedule or hear motions in limine;
- (7) pursue the possibilities of settlement;
- (8) require filing of preliminary stipulations if issues can be narrowed;
- (9) consider referring issues to a magistrate for findings of fact; and
- (10) schedule other conferences or determine other matters that may aid in the disposition of the action.

d. Fla.R.Civ.P, Rule 1.201, Complex Litigation, (a) Complex Litigation Defined. At any time after all defendants have been served, and an appearance has been entered in response to the complaint by each party or a default entered, any party, or the court on its own motion, may move to declare an action complex. However, any party may move to designate an action complex before all defendants have been served subject to a showing to the court why service has not been made on all defendants. The court shall convene a hearing to determine whether the action requires the use of complex litigation procedures and enter an order within 10 days of the conclusion of the hearing.

(1) A “complex action” is one that is likely to involve complicated legal or case management issues and that may require extensive judicial management to expedite the action, keep costs reasonable, or promote judicial efficiency.

(2) In deciding whether an action is complex, the court must consider whether the action is likely to involve:

(A) numerous pretrial motions raising difficult or novel legal issues or legal issues that are inextricably intertwined that will be time-consuming to resolve;

(B) management of a large number of separately represented parties;

(C) coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(D) pretrial management of a large number of witnesses or a substantial amount of documentary evidence;

(E) substantial time required to complete the trial;

(F) management at trial of a large number of experts, witnesses, attorneys, or exhibits;

(G) substantial post-judgment judicial supervision; and

(H) any other analytical factors identified by the court or a party that tend to complicate comparable actions and which are likely to arise in the context of the instant action.

(3) If all of the parties, pro se or through counsel, sign and file with the clerk of the court a written stipulation to the fact that an action is complex and identifying the factors in (2)(A) through (2)(H) above that apply, the court shall enter an order designating the action as complex without a hearing. (NOTE: This is not a transfer to a Complex Business Litigation Division under Hillsborough County Administrative Order 5-2008-105)

4. Mr. Bauer failed to zealously pursue discovery.

Mr. Bauer did not conduct discovery against BRC, either as defendants or counter-plaintiffs. Prior to Mr. Bauer’s representation I submitted Interrogatories and Request for Production to both Mr. Cook and Barker, Rodems & Cook, PA. July 7, 2006. The discovery I sought from Cook/BRC was essentially the same discovery they submitted to me. Mr. Rodems objected to most of the interrogates and did not provide any documents.

I submitted two motions to compel discovery:

a. Plaintiff’s Motion to Compel Defendants’ Discovery, filed December 14, 2006

b. Plaintiff’s Second Motion to Compel Defendants’ Discovery, filed February 1, 2007

Mr. Bauer failed to conduct his own discovery or follow-up the discovery I submitted. The only item Mr. Bauer sought was the signed written contingent fee agreement between Plaintiff Neil Gillespie and Defendant Barker, Rodems & Cook, PA. Since there



is no signed written contingent fee agreement between the parties Mr. Rodems was not able to produced one, and did not produce one.

5. Mr. Bauer failed to seek disqualification of BRC's counsel Ryan Christopher Rodems.

Mr. Rodems was unlawfully representing BRC against me, see Bar Rule 4-1.9, Conflict of Interest; Former Client and related rules 4-1.6, 4-1.7 and 4-1.10. Mr. Rodems and his law partners formerly represented me in the same or a substantially related matter at BRC and a predecessor firm, Alpert, Barker, Rodems, Ferrentino & Cook, P.A. ("Alpert firm"). The Alpert firm represented me in legal matters with so-called "payday loans" which are delayed deposit check cashing schemes that charge usurious rates of interest. The Alpert firm represented me in payday loan matters with EZ Check Cashing of Clearwater, Check 'n Go, ACE Cash Express, Check Smart, Americash, National Cash Advance, and AMSCOT Corporation.

Under Florida law, attorney-client relationship that existed between counsel and former client need not have been long-term or complicated, in order to trigger obligation on part of counsel not to represent interest adverse to those of former client in the same or a substantially related matter. In re Weinhold, 380 B.R. 848.

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. McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029.

Once I established a cause of action for Fraud and Breach of Contract against Mr. Cook and BRC, all the partners had a conflict of interest.

Partners engaged in the practice of law are each responsible for the fraud or negligence of another partner when the later acts within the scope of the ordinary business of an attorney. Smyrna Developers, Inc. v. Bornstein, 177 So.2d 16

Mr. Rodems' independent professional judgment was materially limited by the lawyer's own interest. Attorney violated rules prohibiting representation where a lawyer's independent professional judgment may be materially limited by the lawyer's own interest. The Florida Bar v Vining, 721 So.2d 1164.

During a hearing to disqualify Mr. Rodems April 25, 2006, he violated Bar Rule 4-3.3(c) when he failed to disclose to the tribunal the above cited legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel. Counsel has a responsibility to fully inform the court on applicable law whether favorable or adverse to position of client so that the court is better able to make a fair and accurate determination of the matter before it. Newberger v. Newberger, 311 So.2d 176

Mr. Rodems' conflict has resulted in many motions for sanctions under § 57.105 Florida Statutes that would not ordinarily be filed in a lawsuit. Mr. Rodems testified at the March 20, 2008 hearing on the attorney's fees that "I am board-certified in civil trial law and I've been practicing law since 1992." (transcript, page 14, line 23). Mr. Rodems also testified that "I've been trying cases for the last 16 years." (transcript, page 15, line 4). On cross examination, Mr. Bauer asked: "How many 57.105 actions have you been involved in?" (transcript, page 15, line 18). Mr. Rodems testified: "I filed I believe two in this case and I may have filed one or two other ones in my career but I couldn't be sure exactly." (transcript, page 15, line 20).

Since the March 20, 2008 hearing, Mr. Rodems filed two additional § 57.105 motions in this lawsuit. On July 31, 2008, Mr. Rodems submitted his third § 57.105 motion in this lawsuit, because Mr. Bauer did not withdrawal my original pro se Complaint For Breach of Contract and Fraud. Mr. Rodems submitted his fourth § 57.105 motion in this case, also on July 31, 2008, because Mr. Bauer did not withdrawal his motion for rehearing, necessitated when Mr. Rodems lied to the court at the October 31, 2007 hearing about the existence of a signed contingent fee agreement - there is no signed contract between Gillespie and Barker, Rodems & Cook, PA and Rodems falsely told the court otherwise.

Furthermore, Mr. Rodems threatened to file another § 57.105 motion against Mr. Bauer in April, 2007, and again in May, 2007, regarding Mr. Bauer's reinstatement of Gillespie's claims voluntarily dismissed, which the 2DCA upheld in 2D07-4530.

The forgoing is a brief overview of the law controlling the disqualification of opposing counsel Mr. Rodems in this case. For a more complete review, see Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, submitted July 9, 2010.

6. Mr. Bauer failed to zealously defend me against sanctions of \$11,550.

The court sanctioned me \$11,550 March 20, 2008 on discovery and § 57.105 Fla. Stat. Mr. Bauer failed to zealously represent me on the hearings leading up to this judgment:

a. Mr. Bauer represented me at hearing July 3, 2007 where Judge Barton heard and granted Defendants' Amended Motion for Sanctions Pursuant to Section 57.105(1), Florida Statutes. Order Granting Defendants' Amended Motion for Sanctions Pursuant to Section 57.105(1), Florida Statutes was signed July 20, 2007. (Exhibit 6)

b. Mr. Bauer represented me at a hearing March 20, 2008 on the issue of the amount of attorneys' fees to pay Defendants as a result of the Orders entered July 24, 2006, granting Defendants' motion to compel discovery, and July 20, 2007, granting Defendants' Amended Motion for Sanctions Pursuant to Section 57.105(1), Florida Statutes. Judge Barton granted Order Determining Amount of Sanctions signed March 27, 2008 in the amount of \$11,550. (Exhibit 7). Judge Barton granted a Final Judgment on the \$11,550 amount signed March 27, 2008.

(Exhibit 8). Mr. Bauer failed to explain to me the significance of the Final Judgment (I still don't understand why this was not left to the end of the case) and Bauer failed to inform me that the Final Judgment required me to complete a Fact Information Sheet under Florida Rule of Civil Procedure Form 1.977.

All the hearings that Mr. Bauer attended were transcribed and are available. Mr. Bauer failed to introduce evidence to mitigate the sanctions, such as the lack of case management described in paragraph 3 or Judge Isom's law review on this subject.

As described in paragraph 4 above, Mr. Bauer failed to introduce mitigating evidence that BRC failed to produce the same discovery for which it was now seeking sanctions. Likewise with the misplaced defense to the counterclaim, which is an abuse of process.

The counterclaim for libel against Gillespie is a willful and intentional misuse of process for the collateral purpose of making Gillespie drop his claims against Defendants and settle this lawsuit on terms dictated by them. Defendants have perverted the process of law for a purpose for which it is not by law intended. Defendants are using their 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, 1026. (Count 11 of Plaintiff's First Amended Complaint)

7. Mr. Bauer failed to inform me contrary to Rule 4-1.4(a); Gillespie held in contempt

Mr. Bauer's failed to keep me informed of the proceedings contrary to Bar Rule 4-1.4(a) informing a client of the status of representation. Judge Barton found me guilty of contempt July 1, 2008. Order Adjudging Contempt was signed July 7, 2008. (Exhibit 9). From the Order:

THIS CAUSE came before the Court on Tuesday, July 1, 2008, on Defendants' Motion for an Order Finding Plaintiff in Contempt of Court, 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 had the ability to comply with the Final Judgment entered March 27, 2008, and that Plaintiff violated and continues to violate the terms of the order by failing to complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet).

IT IS ORDERED AND ADJUDGED that the Plaintiff Neil J. Gillespie is guilty of contempt of his Court for violating the Final Judgment of March 27, 2008 and will continue to be guilty of contempt unless and until the Plaintiff fully complies with the terms of the Final Judgment no later than July 11, 2008.

Defendant may comply with the Final Judgment of March 27, 2008 by completing the Fact Information Sheet under oath and serving a copy on counsel for the Defendants, providing notice of service of the completed Fact Information Sheet with the clerk of court.

If Defendant does not comply by July 11, 2008, then the Court shall dismiss with prejudice Plaintiffs pending claims. The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.

DONE AND ORDERED in Chambers, at Tampa, Hillsborough County, Florida  
this 7th day of July 2008

In a letter to Judge Barton dated July 24, 2008, Mr. Bauer admitted he made misrepresentations that resulted in me being found guilty of contempt. (Exhibit 10)

“After speaking with my client, making a thorough review of our files and computer records I must regretfully inform the court and opposing counsel that I inadvertently made misrepresentations at our last hearing. In that hearing I stated that my office had forwarded the Information Fact Sheet to Mr. Gillespie. I also stated that my office had called him to tell him to fill it out. I now understand that was not correct. Because of my assertions the Court found Mr. Gillespie to be in contempt. I wish at this time set the record straight.” (RWB, Exhibit 10, paragraph 1)

“While I did truly believe that those things had happened at the time I advised the court of such, I now know that I was in error in not having personally confirmed such. I take full responsibility for the error and I wish to clarify this to insure that the court realizes that Mr. Gillespie did not ignore the courts directive.” (RWB, Exhibit 10, paragraph 2)

“I apologize both to the court, opposing counsel and Mr. Gillespie for my error.” (RWB, Exhibit 10, paragraph 3)

Even though Mr. Bauer admitted his error, he did not move to correct the record and remove the contempt finding. The contempt finding still stands and carries potential consequences: “The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.”

8. Mr. Bauer failed to zealously stay the Final Judgment resulting in garnishment.

Mr. Bauer failed to file a timely stay of the \$11,550 Final Judgment. I asked Mr. Bauer to file a stay when he told me of the \$11,550 sanction. Mr. Bauer refused<sup>1</sup> until Mr. Rodems began action to collect the judgment. Bauer finally submitted Plaintiff's Motion For Stay June 9, 2008 (Exhibit 11) which was 44 days late and of no effect. Mr. Rodems later told the court during an emergency hearing August 14, 2008 that Bauer never even contacted him about staying collection of the \$11,550 Final Judgment.

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<sup>1</sup> The basis for Mr. Bauer's inaction is stated on the record August 14, 2008, emergency hearing on garnishment before Judge Crenshaw. Bauer was under the mistaken belief that Rodems would respect some sort of local custom adhered to in Gainesville on such matters.

Defendants obtained writs of garnishment July 29, 2008 to garnish the following accounts of Neil Gillespie:

- a. Neil Gillespie's client trust account with attorney Robert W. Bauer (Exhibit 12)
- b. Neil Gillespie's bank accounts with Park Avenue Bank (Exhibit 13)

Mr. Bauer received the writs of garnishment August 1, 2008 and failed to inform me that my bank accounts were garnished. I found out when checks started to bounce August 8, 2008. I called Mr. Bauer and he said his staff forgot to tell me. \$598.22 was garnished from Park Avenue Bank. There was no money in my client trust account with Bauer.

An emergency hearing was held August 14, 2008 but it was too late. Judge Crenshaw noted that Mr. Bauer's stay of Final Judgment was late. Judge Crenshaw offered to stay the judgment with a supersedes bond to which Bauer agreed but that I could not obtain.

Mr. Bauer filed Claim of Exemption and Request For Hearing Aug-14-08. (Exhibit 14). Bauer failed to notarize the claim of exemption and Mr. Rodems objected. Bauer never corrected his error and my money (\$598.22) is still being held by the court. The claim of exemption was for social security disability benefits, head of family wages, and providing more than one-half of the support for other dependent with net earnings of \$500 or less per week. (My 78 year-old dependent Mother).

At this point Mr. Rodems aggressively made discovery in aid of execution and deposition duces tecum. Bauer complained that this was too much work for him and that I could not expect zealous representation. Soon Bauer stopped representing me.

9. Mr. Bauer stopped providing documents; moved to withdrawal as counsel, trial court.

Mr. Bauer stopped providing documents to me in the case. September 5, 2008 I made a 200 mile round-trip to Tampa to buy the documents from the clerk of court for \$1.00 per page. I spent \$75 for 75 pages of documents Mr. Bauer failed to provide. I brought my 78-year old Mother with Alzheimer's dementia along since I could not leave her alone.

I notified Mr. Bauer by email September 15, 2008 that I was not receiving documents. Mr. Bauer did not respond. I sent a second request September 22, 2008. Bauer provided a few documents but did not answer most of my questions. Concurrently Mr. Rodems was making multiple discovery demands in aid of execution. This created extra work for Mr. Bauer and he decided to drop the case. (As noted above, Mr. Rodems should have been disqualified as counsel, see paragraph 5).

Mr. Bauer served Plaintiff's Motion for Withdrawal of Counsel October 13, 2008. (Exhibit 15). Bauer wrote "Good cause exists for withdrawal of Movant as counsel because Movant is unable to communicate effectively with Plaintiff in a manner consistent with good attorney-client relations."

I objected stating good cause does not exist for the withdrawal of Mr. Bauer as counsel. Mr. Bauer needed co-counsel to assist him. (Exhibit 16). Mr. Bauer did not reply.

October 27, 2008 I made a request to Mr. Bauer under the Americans with Disabilities Act (ADA) for accommodation to restore effective communication. (Exhibit 17). Bauer did not respond.

Almost a year passed with essentially no activity in the trial court until October 1, 2009 when the court granted Mr. Bauer's motion to withdrawal.

10. Mr. Bauer's misconduct in appeals to the Second District Court of Appeals (2DCA).

Mr. Bauer represented me on two appeals to the 2DCA, each with misconduct.

a. Case No. 2D07-4530 was a writ of certiorari by Mr. Rodems to overturn Judge Barton's decision to reinstate my claims after my voluntary dismissal. The 2DCA denied the writ, opinion filed February 8, 2008. The court held Fla. R. Civ. P. 1.420(a)(2) controlled, see *Rogers v. Publix Super Markets, Inc.*, 575 So. 2d 214,215-16 (Fla. 5th DCA 1991) (holding that when counterclaim is pending, plaintiff cannot unilaterally dismiss complaint without order of court). (Exhibit 18). Mr. Bauer's misconduct relates to the fact that he failed to obtain attorney's fees from Mr. Rodems for this frivolous appeal. Mr. Bauer failed to file a motion for sanctions under § 57.105 Florida Statutes or otherwise seek my attorney's fees from Mr. Rodems that amounted to thousands of dollars. This failure by Bauer to zealously represent me was outrageous given that that Rodems used § 57.105 Fla. Stat. against me to obtains extreme sanctions.

b. Case No. 2D08-2224 was an appeal by Mr. Bauer of the Final Judgment of the \$11,550 extreme sanctions awarded March 20, 2008 by Judge Barton. Mr. Bauer was reluctant to file this appeal and only made a notice of appearance after I commenced the appeal pro se by paying the filing fee.

Mr. Bauer submitted Appellant's Initial Brief July 3, 2008. Mr. Bauer appealed the award of attorneys fees under § 57.105 Fla. Stat. but failed to appeal the award of attorneys fees for discovery sanctions as we agreed he would. Bauer abandoned the appeal shortly after submitting his initial brief. Appellees' Answer Brief was submitted September 15, 2008, but Mr. Bauer failed to submit a rely brief pursuant to Rule 9.210(d), Fla. R. App. P.

Mr. Bauer served Plaintiff's Motion for Withdrawal of Counsel to the 2DCA October 13, 2008. (Exhibit 19). Bauer wrote "Good cause exists for withdrawal of Movant as counsel because Movant is unable to communicate effectively with Plaintiff in a manner consistent with good attorney-client relations."

I objected stating good cause does not exist for the withdrawal of Mr. Bauer as counsel. Mr. Bauer needed co-counsel to assist him. (Exhibit 20).

The 2DCA denied Mr. Bauer's motion to withdrawal October 30, 2008. (Exhibit 21). Mr. Bauer defied the order and did not represent me. On January 20, 2009 I moved to submit a pro se reply brief, because Mr. Bauer failed to do so. The motion was denied. On January 28, 2009 I moved to hold Mr. Bauer in contempt for disobeying the court's order of October 30, 2008. The motion was denied.

On October 9, 2009 the 2DCA issued an opinion that affirmed the trial court's award of \$11,550 sanctions. (Exhibit 22). Mr. Bauer failed to provide a timely copy of the opinion and failed to advise that I could seek rehearing. I made a belated pro se motion for rehearing November 6, 2009 that was denied December 4, 2009. A mandate was issued October 28, 2009. (Exhibit 23)

11. Mr. Bauer withdrew from representation of Gillespie in the trial court October 1, 2009.

Judge Barton granted Mr. Bauer's motion to withdrawal October 1, 2009. I submitted Plaintiff Neil J. Gillespie's pro se Response to Attorney Robert W. Bauer's Motion For Withdrawal of Counsel October 1, 2009. (Exhibit 24). I reluctantly submitted this response as a defense to any attempt by the judge to require payment of Mr. Bauer's outstanding attorney's fees before allowing the case to proceed without him, and to establish a record of Bauer's bad representation. The Order Granting Motion To Withdrawal As Counsel was signed by Judge Barton October 9, 2009 (Exhibit 25)

12. Evidence of fraud by Mr. Bauer in representing Neil Gillespie.

In a letter to Governor Crist dated January 4, 2010 (Exhibit 26) Mr. Bauer endorsed Mr. Rodems for judge and praised him as "honorable and professional". This is in contrast to Mr. Bauer's description to me of Mr. Rodems at Barker, Rodems & Cook as a "slimy" attorney that a jury would love to punish, or one that misled the court July 1, 2008 necessitating Plaintiff's Motion for Rehearing, submitted July 16, 2008 by Mr. Bauer.

I believe Mr. Bauer's letter to the Governor is evidence that he fraudulently took my representation against BRC merely too take attorney's fees with no regard to my interest.

### My Background

At all times pertinent I was disabled under the Americans With Disabilities Act (ADA). The Social Security Administration determined me disabled in 1994. I am currently 54 years-old. My source of income is Social Security disability. I have few assets following Chapter 7 bankruptcy in 2003. Before the disability I owned and operated a business.

In 2005 I moved to the above address and became the primary caregiver to my Mother, Penelope Gillespie, who suffered from Alzheimer's dementia and a heart condition. The above address was her home. My Mother was an unremarried widow. She was 78 years-old. We were the only residents of this home and depended on Social Security income.

Penelope Gillespie was also a client of Mr. Bauer. He represented her on a matter of Travelers Insurance Company and wrongful termination of homeowner's policy, and he began an inquiry into a possible case of medical malpractice. Mr. Bauer billed us for these two matters. I will provide the bills upon request.

Mr. Bauer moved to withdrawal from representation October 13, 2008. At the same time my Mother's dementia worsened. In February 2009 my brother in Texas agreed to take in our Mother so I could attempt to get the case back on track. Ms. Gillespie did not tolerate the move and died from complications of the move September 16, 2009.

My home office business telephone extension (352) 854-7807 is recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991). There are a number of transcripts and recordings of my conversations with Mr. Bauer in this matter.

#### Representation Contracts with Mr. Bauer:

April 5, 2007 Neil Gillespie and Mr. Bauer made an Attorney Consultation and Fee Contract, executed April 22, 2007 by Gillespie and April 24, 2007 by Bauer, copy enclosed. (Exhibit 2)

On March 31, 2008, Mr. Bauer proposed a new representation contract with higher rates for certain employees. Included with the correspondence was admission of billing errors made by Mr. Bauer in his favor. This contract was not executed. A copy of the contract is available.

On Mach 9, 2009, Mr. Bauer proposed a contingent fee agreement in this matter to replace the hourly fee contract. This was a result of our telephone conversation February 9, 2009. The call was recorded and has been transcribed and is available upon request. When Mr. Bauer later provided the contingent fee agreement, he demanded I execute a separate settlement agreement for his malpractice to date. This was not discussed or agreed to during our conversation February 9, 2009. The settlement agreement was not executed. A copy of this agreement is available upon request.

On May 14, 2009 I proposed my own contingent fee agreement to Mr. Bauer but he refused to sign or agree to the terms. A copy of this agreement is available. Also on May 14, 2009 I proposed my own settlement agreement to Mr. Bauer but he refused to sign or agree to the terms. A copy of this agreement is available upon request.

#### Complaint about Mr. Bauer's Compliance with LRS Rules:

Mr. Bauer was a LRS referral for of Libel and Slander. (Exhibit 1). Mr. Bauer appears to have little or no experience in the area of Libel and Slander and he was not competent to practice in that area of law. Apart from the requirements of the LRS, lawyers are bound by the Rules Regulating the Florida Bar. I believe the following Rule is pertinent:

Rule 4-7.2, communications concerning a lawyer's services  
(b) Prohibited Statements and Information



(5) Advertising areas of practice - a lawyer or law firm shall not advertise for legal employment in an area of practice in which the advertising lawyer or law firm does not currently practice law

Mr. Bauer violated Lawyer Referral Rule 8-1.1, Statement of Policy and Purposes, states that "Every citizen of the state should have access to the legal system" ... and (a) "make legal services readily available to the general public through a referral method that considers the client's financial circumstances..."

Mr. Bauer failed to consider my financial circumstances and maintains he is not obligated to do so. (Transcript, February 9, 2009 phone call)

Mr. Bauer violated LRS application, Rules, IV, states:

D. A panel member, in filing an application as provided, agrees to:  
(2) charge for further services only as agreed upon with the client in keeping with the stated objectives of the Service and the client's ability to pay;

Mr. Bauer never considered my ability to pay, he simply took this case to churn fees, deplete my funds, and drop the case, leaving me in a worse position. Mr. Bauer failed to execute a contingent fee agreement as promised.

Mr. Bauer also agreed to remit to the LRS 12% of any attorneys' fees due for services performed in connection with any Regular Panel cases. Mr. Bauer has received \$19,212.44 in attorney's fees from me but has not remitted any of the approximately \$2,305.49 he owes to the LRS with his monthly LRS reports. I confirmed this today with Ms. Karen Kelly, Director of the Florida Bar's Public Service Programs Department.

#### Independent Assessment by Attorney Seldon J. Childers (Jeff Childers)

I retained attorney Jeff Childers to review this matter. He prepared three documents dated September 17, 2009:

Analysis of Case and Recommendation  
Economic Analysis Spreadsheet  
Case Spreadsheet

Based upon Mr. Childers review it appears Mr. Bauer should never have undertaken this representation on an hourly fee basis. Even under the best case scenario, this case loses over \$7,475.34. The worst case scenario the case loses \$204,067.41. This litigation was never in my interest, only Mr. Bauer's interest, a clear breach of fiduciary duty.

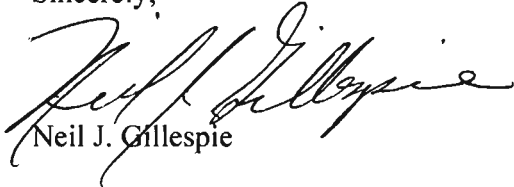
#### Gillespie Requests Return of \$19,212.44 Paid to Mr. Bauer

In addition to a finding of probable cause of violating bar rules, I want Mr. Bauer to return the \$19,212.44 we paid to him. This money is needed to pay replacement counsel.

Mr. Bauer constructively changed his billing in this matter to a contingent fee agreement February 9, 2009 and March 9, 2009, therefore he is no longer entitled to keep the money paid to him because he has not made a recovery and has withdrawn from the case.

Thank you for considering this complaint.

Sincerely,

A handwritten signature in cursive script, appearing to read "Neil J. Gillespie". The signature is written in black ink and is positioned above the printed name.

Neil J. Gillespie

Enclosures

Note: As a courtesy to The Florida Bar, my complaint and supporting documents have been scanned in PDF on the enclosed CD.

## Table of Contents

Florida Bar inquiry/complaint against Robert W. Bauer, bar no. 11058

|                 |            |   |
|-----------------|------------|---|
| <i>ENCLOSED</i> | Exhibit 1  | Florida Bar LRS referral to Robert W. Bauer, February 26, 2007                                    |
|                 | Exhibit 2  | Representation contract, Mr. Bauer and Neil Gillespie, April 2007                                 |
| <i>ENCLOSED</i> | Exhibit 3  | Spreadsheet of payments and bills, account of Neil Gillespie with Mr. Bauer                       |
|                 | Exhibit 4  | Charging lien of \$12,650.13, Mr. Bauer letter to Gillespie, November 23, 2009                    |
|                 | Exhibit 5  | Walk-away settlement offer, Mr. Rodems to Gillespie, February 7, 2007                             |
|                 | Exhibit 6  | Order Granting Defendants' Amended Motion For Sanctions, §57.105 FS                               |
|                 | Exhibit 7  | Order Determining Amount of Sanctions, \$11,550 against Gillespie, March 27, 2008                 |
|                 | Exhibit 8  | Order of Final Judgment, \$11,550 against Gillespie, March 27, 2008                               |
| <i>ENCLOSED</i> | Exhibit 9  | Order Adjudging Contempt against Gillespie, July 7, 2007  |
| <i>ENCLOSED</i> | Exhibit 10 | Robert W. Bauer letter to court, admits misrepresentations, July 24, 2008                         |
|                 | Exhibit 11 | Plaintiff's Motion For Stay, June 9, 2008, submitted 44 days late by Mr. Bauer                    |
|                 | Exhibit 12 | Writ of Garnishment, Robert W. Bauer, July 29, 2008   |
|                 | Exhibit 13 | Writ of Garnishment, Park Avenue Bank, July 29, 2008  |
|                 | Exhibit 14 | Plaintiff's Claim of Exemption and Request for Hearing, August 14, 2008                           |
|                 | Exhibit 15 | Mr. Bauer's Motion to Withdrawal as Counsel, Circuit Court, October 13, 2008                      |
|                 | Exhibit 16 | Gillespie's objection to Bauer's Motion to Withdrawal, Circuit Court, October 15, 2008            |
|                 | Exhibit 17 | Gillespie's Americans with Disabilities Act (ADA) request to Bauer, October 27, 2008              |
|                 | Exhibit 18 | Order, Second District Court of Appeals, reinstated Gillespie's claims, February 8, 2008          |
|                 | Exhibit 19 | Mr. Bauer's Motion to Withdrawal as Counsel, 2DCA, October 13, 2008                               |
|                 | Exhibit 20 | Gillespie's objection to Bauer's Motion to Withdrawal, 2DCA, October 15, 2008                     |
|                 | Exhibit 21 | Order, Second District Court of Appeals, denied Bauer's withdrawal, October 30, 2008              |
|                 | Exhibit 22 | Opinion, 2DCA, affirmed \$11,550 sanctions against Gillespie, October 9, 2009                     |
|                 | Exhibit 23 | Mandate, 2DCA, \$11,550 sanctions against Gillespie, October 28, 2009                             |
|                 | Exhibit 24 | Gillespie's Response to Bauer's Motion to Withdrawal as Counsel, October 1, 2009                  |
|                 | Exhibit 25 | Order Granting Bauer's Motion to Withdrawal as Counsel, October 9, 2009                           |
| <i>ENCLOSED</i> | Exhibit 26 | Mr. Bauer's letter to Governor Crist in support of Mr. Rodems for judge                           |
|                 | Exhibit 27 | Mr. Bauer's "Counter-Counter Complaint" May 2, 2007   |
|                 | Exhibit 28 | Order Granting Withdrawal of Voluntary Dismissal; No "Counter-Counter Complaint"                  |
|                 | Exhibit 29 | Professionalism and Litigation Ethics, <u>28 STETSON L. REV. 323</u> , Judge Claudia Rickert Isom |

EXHIBITS LISTED BUT NOT ENCLOSED ARE AVAILABLE UPON REQUEST

➔ **Lawyer Referral Service**

**Referral Confirmation**

**PLEASE PRINT AND BRING THIS CONFIRMATION FORM WITH YOU TO THE LAWYER'S OFFICE.**

**You have been referred to:**

**Robert W. Bauer  
2815 NW 13th St Ste 200E  
Gainesville FL 32609-2865  
PH: (352) 3755960**

*March 1st 2007  
Thursday  
3:45 PM*

**FOR THE FOLLOWING AREAS OF LAW: *Libel & Slander***

*Kobner*

*\$25.00*

**THE LAWYERS ON THE FLORIDA BAR LAWYER REFERRAL SERVICE HAVE AGREED TO PROVIDE A HALF-HOUR OFFICE CONSULTATION FOR NO MORE THAN \$25.00. PLEASE CALL THE LAWYER'S OFFICE TO MAKE AN APPOINTMENT. THE LAWYER WILL NOT CONTACT YOU. PLEASE REMEMBER TO INFORM THE OFFICE THAT YOU WERE REFERRED BY THE FLORIDA BAR LAWYER REFERRAL SERVICE.**

**TO HELP YOU PREPARE FOR YOUR CONSULTATION, PLEASE CONSIDER READING THE FOLLOWING FLORIDA BAR CONSUMER PAMPHLETS:**

**A Consumer's Guide to Clients' Rights    Attorneys' Fees**

**YOU ARE UNDER NO OBLIGATION TO HIRE THE LAWYER.**

**THE LAWYER IS UNDER NO OBLIGATION TO TAKE YOUR CASE.**

**YOU MUST CONTACT THE REFERRED LAWYER BEFORE MAKING ANOTHER REFERRAL REQUEST.**

**Your lawyer was selected based on the information provided below:**

**You requested a lawyer who is licensed in: Florida and willing to work in, but not located in a specific county**

**What county: Marion**

**We have several attorney panels, please select the panel you need: Regular**

**What area of law do you need an attorney for? Libel & Slander**

**Do you have a special language requirement?**

**Must the attorney be willing to make a Jail call? No**

**Personal Information: Neil Gillespie  
8092 SW 115th Loop**

**Ocala FL 34481  
352/8547807**



| Account of Neil J. Gillespie with the Law Office of Robert W. Bauer, P.A. |              |          |  |               |
|---|--------------|----------|--|---------------|
| July 14, 2010   |              |          |  |               |
| date  | amount       | bill no. | transaction  | trust account |
| Mar-01-07   | \$ 25.00     | n/a      | Client payment, initial consult, personal check #203 | n/a           |
| Mar-08-07   |              | n/a      | Client payment, Chase Visa credit card, #64636       | \$ 3,000.00   |
| Apr-03-07   | \$ 1,928.94  | 145      | Automatic Trust Transfer                             |               |
| Apr-10-07   | \$ 2,000.00  | n/a      | Client payment, SunTrust home equity line check #107 | \$ 3,071.06   |
| May-02-07   | \$ 1,210.08  | 174      | Automatic Trust Transfer                             |               |
| May-31-07   | \$ 756.22    | 213      | Automatic Trust Transfer                             |               |
| Jul-02-07   | \$ 117.71    | 235      | Automatic Trust Transfer                             |               |
| Aug-06-07   | \$ 987.05    | 260      | Automatic Trust Transfer                             | \$ -          |
| Aug-15-07   | \$ 2,651.11  | 260      | Client payment, SunTrust home equity line check #131 | \$ -          |
| Sep-28-07   | \$ 3,034.02  | 353      | Client payment, Chase Visa credit card check #4068   |               |
| Nov-28-07   | \$ 3,919.67  | 441      | Client payment, Chase Visa credit card, #9420        | \$ -          |
| Dec-31-07   | \$ 1,831.50  | 505      | Client payment, SunTrust Visa credit card, #2789     | \$ -          |
| Jan-29-08   | \$ 203.64    | 619      | Client payment, Chase Visa credit card, #9420        | \$ -          |
| Feb-19-08   | \$ 547.50    | 677      | Client payment, Chase Visa credit card, #9420        | \$ -          |
| subtotal  | \$ 19,212.44 |          |  |               |
| Mar-06-08   | \$ 258.49    | 736      | bill received  |               |
| Mar-31-08   | \$ 2,005.39  | 810      | bill received  |               |
| May-01-08   | \$ 1,165.91  | 893      | bill received  |               |
| May-28-08   | \$ 2,020.00  | 959      | bill received  |               |
| Jun-30-08   | \$ 2,557.48  | 1030     | bill received  |               |
| Jul-31-08   | \$ 1,992.44  | 1098     | bill received  |               |
| Sep-03-08   | \$ 654.68    | 1227     | bill received  |               |
| Oct-03-08   | \$ 1,085.98  | 1261     | bill received  |               |
| Nov-07-08   | \$ 381.74    | 1347     | bill received  |               |
| Dec-06-08   | \$ 5.00      | 1421     | bill received  |               |
| Jan-12-09   | \$ -         | 1499     | bill received  |               |
| Feb-03-09   | \$ 76.38     | 1576     | bill received  |               |
| Mar-26-09   | \$ 297.92    | 1656     | bill received  |               |
| Apr-29-09   | \$ 25.00     | 1741     | bill received  |               |
| Jun-18-09   | \$ 25.00     | 1827     | bill received  |               |
| Aug-10-09   | \$ 49.04     | 1931     | bill received  |               |
| Nov-13-09   | \$ 48.02     | 2216     | bill received  |               |
| subtotal  | \$ 12,648.47 |          |  |               |
| total   | \$ 31,860.91 |          |  |               |



**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: F**

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

**Defendants.**

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FILED  
JUL 11 11 38 29  
HILLSBOROUGH COUNTY, FL  
*[Signature]*

**ORDER ADJUDGING CONTEMPT**

THIS CAUSE came before the Court on Tuesday, July 1, 2008, on Defendants' Motion for an Order Finding Plaintiff in Contempt of Court, 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 had the ability to comply with the Final Judgment entered March 27, 2008, and that Plaintiff violated and continues to violate the terms of the order by failing to complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet).

IT IS ORDERED AND ADJUDGED that the Plaintiff Neil J. Gillespie is guilty of contempt of this Court for violating the Final Judgment of March 27, 2008 and will continue to be guilty of contempt unless and until the Plaintiff fully complies with the terms of the Final Judgment no later than July 11, 2008.

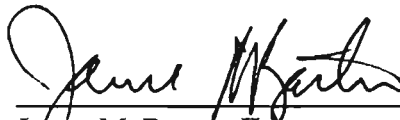
Defendant may comply with the Final Judgment of March 27, 2008 by completing the Fact Information Sheet under oath and serving a copy on counsel for the Defendants, providing

notice of service of the completed Fact Information Sheet with the clerk of court.

If Defendant does not comply by July 11, 2008, then the Court shall dismiss with prejudice Plaintiff's pending claims. The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.

DONE AND ORDERED in Chambers, at Tampa, Hillsborough County, Florida, this

7<sup>th</sup> day of July, 2008.



---

James M. Barton, II  
Circuit Judge

Copies to:

Robert W. Bauer, Esquire (Counsel for Plaintiff)

Ryan Christopher Rodems, Esquire (Counsel for Defendants)

THE LAW OFFICES OF  
**ROBERT W. BAUER, P.A.**

2815 NW 13th Street, Suite 200, Gainesville, FL 32609  
www.bauerlegal.com

RECEIVED  
JUL 29 2008  
JAMES M. BARTON II  
CIRCUIT JUDGE

Robert W. Bauer, Esq.  
Tanya M. Uhl, Esq.

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

July 24, 2008

The Honorable James M. Barton, II  
800 E. Twiggs St., Room 512  
Tampa, Florida 33602  
**Manner of delivery - U.S. Mail**

Re: Gillespie v. Barker, Rodems, and Cooke

05-7205

2008 JUL 29 AM 9:32  
CIRCUIT COURT



Dear Judge:

After speaking with my client, making a thorough review of our files and computer records I must regretfully inform the court and opposing counsel that I inadvertently made misrepresentations at our last hearing. In that hearing I stated that my office had forwarded the Information Fact Sheet to Mr. Gillespie. I also stated that my office had called him to tell him to fill it out. I now understand that was not correct. Because of my assertions the Court found Mr. Gillespie to be in contempt. I wish at this time set the record straight.

While I did truly believe that those things had happened at the time I advised the court of such, I now know that I was in error in not having personally confirmed such. I take full responsibility for the error and I wish to clarify this to insure that the court realizes that Mr. Gillespie did not ignore the courts directive.

I apologize both to the court, opposing counsel and Mr. Gillespie for my error.

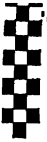
Sincerely,



Robert W. Bauer, Esq.

cc: Ryan Rodems  
Neil Gillespie





*The Law Offices of*

# Robert W. Bauer, P.A.

2815 NW 13th Street, Suite 200B, Gainesville, FL 32609  
www.bauerlegal.com

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

Phone:  
Fax:

(352)375.5960  
(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.

000055

