

**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: G

Defendants.

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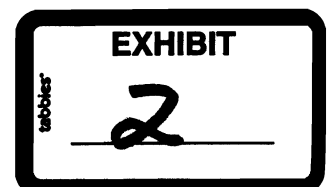
**AFFIDAVIT OF NEIL J. GILLESPIE**

*Judge Martha J. Cook falsified an official court record, and unlawfully denied Gillespie*

*due process on the disqualification of Ryan Christopher Rodems as counsel*

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.
2. Circuit Judge Martha J. Cook is presiding over Gillespie v. Barker, Rodems & Cook, P.A. et al., Case No.: 05-CA-7205, Circuit Civil, 13th Judicial Circuit.
3. I am the Plaintiff suing my former lawyers in this lawsuit. On information and belief, Ryan Christopher Rodems is unlawfully representing Barker, Rodems & Cook, PA and William J. Cook against me.
4. Plaintiff's Motion To Disqualify Counsel was heard April 25, 2006 by Judge Nielsen. On May 12, 2006 Judge Nielsen signed Order Denying Plaintiff's Motion To Disqualify Counsel. The Order holds that "The motion to disqualify is denied with prejudice, except as to the basis that counsel may be a witness, and on that basis, the



motion is denied without prejudice.” A certified copy of the Order is attached to this affidavit as “Exhibit A”. There has been no Order on adjudication as to the basis that counsel may be a witness. The question of disqualification on the counterclaim has not been heard at all.

5. Under Florida law the question is not whether Mr. Rodems may be a witness but whether he “ought” to be a witness. Proper test for disqualification of counsel is whether counsel “ought” to appear as a witness.[1] Matter of Doughty, 51 B.R. 36. Disqualification is required when counsel “ought” to appear as a witness.[3] Florida Realty Inc. v. General Development Corp., 459 F.Supp. 781. On information and belief Mr. Rodems ought to be a witness.

6. On July 9, 2010 I filed Emergency Motion to Disqualify Defendants’ Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA. The motion properly raised the issues in paragraphs 4 and 5. The motion properly considered de novo disqualification on the counterclaim. The motion showed misconduct by Mr. Rodems at the April 25, 2006 hearing sufficient to overturn the Order of May 12, 2006.

7. On July 22, 2010 Judge Cook issued “Order Denying Plaintiff’s Emergency Motion to Disqualify Defendants’ Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA”. A certified copy of the Order is attached to this affidavit as “Exhibit B”. In her Order, Judge Cook wrote “This is the third time that the Plaintiff has motioned to disqualify Defendant’s counsel, despite having been informed in an order issued May 12, 2006 that this issue had been DENIED WITH PREJUDICE.” This statement by Judge Cook is false. The Order issued May 12, 2006 clearly states that

“[e]xcept as to the basis that counsel may be a witness, and on that basis, the motion is denied without prejudice.”

8. Judge Cook also wrote, “The Clerk of Court is ORDERED to never accept another pleading from the Plaintiff that indicates an attempt to disqualify Defendants' counsel, as this matter has been DISMISSED WITH PREJUDICE.”

9. Upon information and belief, Judge Martha J. Cook knowingly and willfully, with malice aforethought, falsified a record in violation of 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 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.


10. Upon information and belief, Judge Martha J. Cook knowingly and willfully, with malice aforethought, engaged in official misconduct to harm Neil Gillespie and benefit Ryan Christopher Rodems and his clients, by falsifying an official record or official document as described in this affidavit, to deny Gillespie due process, in violation of the Misuse of Public Office statute, chapter 838 Florida Statutes, section 838.022 Official misconduct. (1) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another, to: (a) Falsify, or cause another person to falsify, any official record or official document; (3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

11. Upon information and belief, Judge Martha J. Cook knowingly and willfully, with malice aforethought, made a false statement in writing with the intent to

mislead a public servant, Pat Frank, Clerk of the Circuit Court, in the performance of her official duty, in violation of the perjury statute, chapter 837 Florida Statutes, section 837.06 False official statements. Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

FURTHER AFFIANT SAYETH NAUGHT.

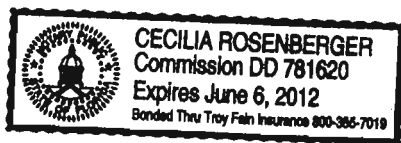
Dated this 28th day of October 2010.

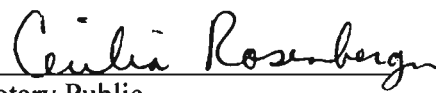
  
NEIL J. GILLESPIE

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, appeared NEIL J. GILLESPIE, personally known to me, or produced identification, 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 28th day of October 2010.



  
Notary Public  
State of Florida

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.

ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY COUNSEL

THIS CAUSE having come on to be heard on Tuesday, April 25, 2006, on Plaintiff's

Motion to Disqualify Counsel, and the proceedings having been read and considered, and counsel  
and Mr. Gillespie having been heard, and the Court being otherwise fully advised in the  
premises, it is ORDERED:

The motion to disqualify is denied with prejudice, except as to the basis that counsel may  
be a witness, and on that basis, the motion is denied without prejudice.

DONE and ORDERED in Chambers, this 12<sup>TH</sup> day of May, 2006.



Richard A. Nielsen  
Circuit Judge

Copies to:

Neil J. Gillespie, pro se  
Ryan Christopher Rodems, Esquire

HILLSBOROUGH COUNTY  
CIRCUIT COURT  
2006 MAY 15 PM 1:31  
CLERK OF CIRCUIT COURT  
Am



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 3<sup>rd</sup> DAY OF August 2010



PAT FRANK  
CLERK OF CIRCUIT COURT  
BY Donna Healy D.C.

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

NEIL J. GILLESPIE,  
Plaintiff,

Case No: 05-CA-007205  
Division: G

and

BARKER, RODEMS & COOK, P.A.,  
A Florida Corporation, and  
WILLIAM J. COOK,  
Defendants.

HILLSBOROUGH COUNTY FLORIDA  
CIVIL DIVISION  
2010 JUL 22 PM 3:17  
Clerk of Court

am

**ORDER DENYING PLAINTIFF'S EMERGENCY MOTION TO DISQUALIFY DEFENDANTS'  
COUNSEL RYAN CHRISTOPHER RODEMS & BARKER RODEMS & COOK, P.A.**

**THIS CAUSE** came before the Court upon the Plaintiff's motion, filed July 9, 2010. This is the third time that the Plaintiff has motioned to disqualify Defendant's counsel, despite having been informed in an order issued May 12, 2006 that this issue had been **DENIED WITH PREJUDICE**. "With prejudice" that means that the motion in question is "finally disposed . . . and bars any future action on that claim."<sup>1</sup> Moreover, because of the doctrine of *res judicata*<sup>2</sup> this motion must be **DENIED**.

The Plaintiff is again noticed (as he has been in two previous Court orders) that repeat filings attempting to revisit the same issue can be found to rise to the level of a sanctionable offense.<sup>3</sup>

The Clerk of Court is **ORDERED** to never accept another pleading from the Plaintiff that indicates an attempt to disqualify Defendants' counsel, as this matter has been **DISMISSED WITH PREJUDICE**.

**DONE and ORDERED** in Chambers at Tampa, Hillsborough County, Florida, on July 22,

2010. 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 August 2010



PAT FRANK  
CLERK OF CIRCUIT COURT

Martha J. Cook  
Martha J. Cook  
CIRCUIT COURT JUDGE

<sup>1</sup> Black's Law Dictionary, 7<sup>th</sup> Edition. BY Donna Healy D.C.

<sup>2</sup> Matters that have been "definitively settled by judicial decision." Black's Law Dictionary, 7<sup>th</sup> Edition.

<sup>3</sup> *Lanier v. State of Florida*, 982 So. 2d 626 (Fla. 2008).



Copies Furnished To:

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Ocala, FL 34481

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Tampa, FL 33602