

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

NEIL J. GILLESPIE,  
Plaintiff,

CASE NO: 05-CA-007205

vs.

DIVISION: "C"

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

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TRANSCRIPT OF PROCEEDINGS

BEFORE: THE HONORABLE JAMES M. BARTON, II  
Circuit Court Judge

TAKEN AT: Hillsborough County Courthouse  
Tampa, Florida

DATE AND TIME: October 1, 2009  
10:30 a.m.

REPORTED BY: Penny M. Appleton, RPR

ORIGINAL

Berryhill & Associates, Inc.  
501 E. Kennedy Boulevard, Suite 775  
Tampa, Florida 33602 (813) 229-8225

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A P P E A R A N C E S

Robert W. Bauer  
Attorney at Law

Robert W. Bauer, P.A.  
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Neil Gillespie  
Pro Se

1           Thereupon, the following proceedings commenced:

2           THE COURT: In Gillespie versus Barker, Rodems &  
3 Cook, P.A., and William J. Cook, we have a motion to  
4 withdraw from the Plaintiff's attorney.

5           Have we heard from the other side, from the  
6 defense?

7           MR. BAUER: I'm sorry. The defense is not  
8 objecting to the withdrawal.

9           THE COURT: Oh, okay. So they won't be here then,  
10 probably.

11          MR. BAUER: No, Your Honor.

12          THE COURT: All right. Okay. And, Mr. Gillespie,  
13 I know that you filed a response.

14          Did you get a copy of this?

15          MR. BAUER: I just received that, Your Honor.

16          THE COURT: Okay.

17          MR. BAUER: I was looking at it.

18          THE COURT: I haven't looked at it either, so in  
19 any event, I know the motion to withdraw had been filed  
20 last year, actually, not quite a year ago, but now it's  
21 been set for a hearing.

22          MR. GILLESPIE: Judge, I'm not objecting to the  
23 motion to withdraw.

24          THE COURT: You're not?

25          MR. GILLESPIE: No.

1 THE COURT: Oh, okay. Then --

2 MR. GILLESPIE: He was aware of that before this  
3 meeting.

4 THE COURT: Well, I don't know whether he was or  
5 he wasn't. He certainly is now.

6 MR. BAUER: There was confusion, Your Honor, as to  
7 at one point, I believe it was, and then he wanted to  
8 appear at the hearing and has filed a motion in  
9 response to it. I'm not really --

10 THE COURT: Or a response.

11 MR. BAUER: He has filed a response.

12 THE COURT: That's okay. Anyway, he's announced  
13 on the record he doesn't object.

14 Now the next question is if you've got somebody  
15 else already lined up, then we can press forward, but  
16 if you're going to need some time to try to find  
17 another lawyer, which we certainly will give you a  
18 reasonable time --

19 And you didn't talk to the Defendant's lawyer to  
20 see what kind of time they might be expecting, did you?

21 MR. BAUER: No, Your Honor.

22 THE COURT: There's nothing set in this case, is  
23 there, other than this?

24 MR. GILLESPIE: I believe that's it.

25 THE COURT: Any hearings or trials?

1 MR. GILLESPIE: No. If we go to Page 5, I have  
2 three items there that address that. I am moving the  
3 Court for a 60 days' stay to find replacement counsel.

4 THE COURT: Okay. Granted.

5 MR. GILLESPIE: I'm moving the Court for leave to  
6 submit a Plaintiff's first amended complaint.

7 THE COURT: Okay. Well, now see, if you get a  
8 stay, that's not a one-way stay. You know what I mean?

9 MR. GILLESPIE: Yes.

10 THE COURT: So if the case is stayed, the case  
11 will be stayed for 60 days, which means the other side  
12 can't set you down for a deposition next week or send  
13 you interrogatories or set hearings and so forth, but  
14 on the other hand, neither can you. You see what I'm  
15 saying?

16 MR. GILLESPIE: The thing is we're into our fourth  
17 year on this case.

18 THE COURT: I understand.

19 MR. GILLESPIE: And we still are working on the  
20 Plaintiff's pro se complaint --

21 THE COURT: Right.

22 MR. GILLESPIE: -- which is really sort of  
23 outrageous.

24 THE COURT: Right. Now what I would suggest that  
25 you do, because I'm granting your first request and you

1           have a 60-day stay of the case, that means everything  
2           is locked in place on this case. Nothing, at least of  
3           record, will be done. Now the parties on their own can  
4           certainly stay in their offices or wherever they work  
5           on their files and think about the case and do memos to  
6           themselves and investigate the case.

7           And on the other hand, if you call up this lawyer  
8           for the Defendant and say, Look. I want to file an  
9           amended complaint. I've got it ready to go. Can I  
10          just send it in with a proposed order for the judge  
11          saying we all agree that I can file this? And then  
12          he'll say, Sure. Go ahead, or he'll say, No. Wait a  
13          minute. After the 60 days is up, you can file your  
14          motion to file an amended complaint. You know what I  
15          mean?

16                 MR. GILLESPIE: Yes, Your Honor.

17                 THE COURT: You're free to give this guy a call  
18          and see what he says.

19                 MR. GILLESPIE: Judge, one thing I think you'll be  
20          happy about is I'm trying to get this case off your  
21          docket at the end of the 60 days.

22                 THE COURT: Sure.

23                 MR. GILLESPIE: We're going to transfer it to  
24          federal court.

25                 THE COURT: Oh, okay.

1 MR. GILLESPIE: There's going to be some new  
2 defendants, and I know you'll be happy to get it off  
3 your docket.

4 THE COURT: Well, I mean, whatever. I mean, I  
5 actually enjoy this job, and a lot of cases are  
6 interesting, and this is fairly an unusual one, at  
7 least for me. So I mean, whichever way it goes, I'll  
8 be ready to --

9 MR. GILLESPIE: I would have been more prepared  
10 today, but my mother died two weeks ago.

11 THE COURT: Oh. Sorry to hear that.

12 MR. GILLESPIE: Thank you. And that kind of put  
13 things off.

14 The last thing I was asking for was a stay on the  
15 judgement. Mr. Bauer neglected to file a timely motion  
16 to stay that judgement, and that caused a lot of  
17 problems. I guess you were away on vacation when that  
18 came to fruition last year, and that really set the  
19 case off track. So what I wanted to do is get a stay  
20 in place. The 2nd District Court of Appeal has not yet  
21 ruled on that matter. I'm still waiting to hear from  
22 them.

23 THE COURT: Okay. Well, there will certainly be a  
24 60-day stay. Now if that order has been appealed --

25 It has?

1 MR. BAUER: Yes, Your Honor.

2 THE COURT: There's not -- it's not necessarily  
3 automatically stayed. If there's a judge -- if there's  
4 a money judgement, under our rules of appellate  
5 procedure, the party that has a judgement -- a money  
6 judgement entered against them can post what's called a  
7 supersedeas bond in X amount of dollars. It's usually  
8 the amount of the judgement plus a certain percentage.

9 MR. GILLESPIE: Yes. That's correct, Your Honor,  
10 but I don't qualify for that.

11 THE COURT: Right. Well, again, I'm not going to  
12 rule on anything else after having granted your first  
13 request, which is staying everything, which would  
14 include collection on this judgement, for the 60-day  
15 period you've asked for.

16 MR. GILLESPIE: Thank you, Judge.

17 THE COURT: And, again, that's another item that  
18 if you want to call up the other side and say, Look.  
19 Not only do I want to amend my complaint, but I'd like  
20 to have this sanction judgement stayed while it's on  
21 appeal, and they'll say, Yeah. No problem, or say,  
22 Well, hey, either post a bond or file a motion with the  
23 judge, you know, after the 60-day period that I've just  
24 ordered.

25 MR. GILLESPIE: Thank you, Judge. I appreciate



1           that.

2           THE COURT:   So can you do an order on this?

3           MR. BAUER:   Yes, Your Honor.

4           THE COURT:   And then get it to me, and why don't  
5           you run it by opposing counsel and also Mr. Gillespie  
6           before you send it on to me, and then we'll sign it.

7           MR. BAUER:   Yes, Your Honor.

8           THE COURT:   Okay.   All right.   Thank you.

9           (The hearing concluded at 10:37 a.m.)

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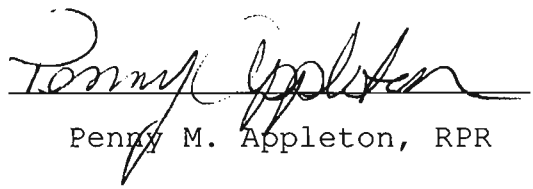
C E R T I F I C A T E

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

I, Penny M. Appleton, Court Reporter for the  
Circuit Court of the Thirteenth Judicial Circuit of the  
State of Florida, in and for Hillsborough County,

DO HEREBY CERTIFY, that I was authorized to and  
did, report in shorthand the proceedings and evidence in the  
above-styled cause, as stated in the caption hereto, and  
that the foregoing pages constitute a true and correct  
transcription of my shorthand report of said proceedings and  
evidence.

IN WITNESS WHEREOF, I have hereunto set my hand in  
the City of Tampa, County of Hillsborough, State of Florida  
this 14th day of October, 2009.

  
Penny M. Appleton, RPR

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