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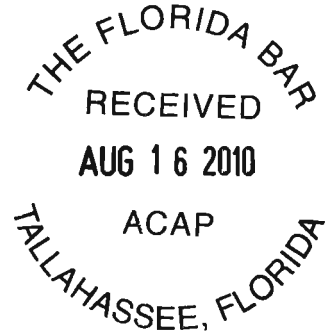

The Florida Bar/Consumer Assistance Program
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Re: Neil J. Gillespie Inquiry against Robert W. Bauer, Esquire

Dear Sir/Madam:

I have learned that Neil J. Gillespie has filed a complaint against Robert W. Bauer, Esquire, as a result of his representation of Mr. Gillespie in a lawsuit pending in the Thirteenth Judicial Circuit styled Gillespie v. Barker, Rodems & Cook, P.A. I am the attorney who is defending this action. As a result, I have interacted with Mr. Gillespie and Mr. Bauer.

While I am not in a position to comment on every allegation Mr. Gillespie makes, I am in a position to comment on Mr. Bauer's litigation of this matter and Mr. Gillespie's actions during this litigation.

In summary of my response below, I found Mr. Bauer to be competent, bright, hardworking, and very conscientious of his client's interests. During this same time period, I have found Mr. Gillespie to be erratic, difficult to deal with, threatening, irrational, lacking in understanding of the law, lacking in an understanding of professional decorum, and dishonest.

First, the Florida Bar should be aware that Mr. Gillespie has already filed bar grievances against me and both of my partners, William J. Cook, Esquire, and Chris A. Barker, Esquire, and all were determined unfounded. Gillespie then filed grievances against the Florida Bar attorneys who ruled against him. Mr. Gillespie has also moved to disqualify each of the four circuit judges presiding over the lawsuit Mr. Gillespie filed, and all were denied, except one. Mr. Gillespie learned that Judge Barton's wife was a court reporter and that our law firm had purchased copies of transcripts from her.[1]

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[1] The total amount of payments over more than eight years was about $2,400.00. While an attorney's legal campaign contributions to a trial judge are not a legally sufficient ground for disqualification, E.I. DuPont de Nemours and Co., Inc. v. Aquamar S.A., 24 So.3d 585, 585 (Fla. 4th DCA 2009), Aurigemma v. State, 964 So.2d 224 (Fla. 4th DCA 2007) held that where the trial

Second, Mr. Gillespie has engaged in a pattern of misconduct and irrational behavior such that the defendants have moved for an Order to Shows Cause as to why Mr. Gillespie should be barred from pro se representation. Mr. Gillespie has been sanctioned for filing frivolous pleadings and for discovery violations. In one motion to disqualify, under oath, Mr. Gillespie accused Judge Barton of causing the death of his mother.

Mr. Gillespie, by his actions has so upset the normal procedure of the Court that it has undoubtedly interfered with the causes of other litigants, including my clients. Mr. Gillespie has demonstrated a lack of understanding of the Florida Rules of Civil Procedure, the Rules Regulating the Florida Bar, substantive law, professional decorum, and has on two occasions displayed symptoms of illness during court proceedings, whether feigned or actual,[2] following Mr. Gillespie's failed requests to stop proceedings when the Court was presiding in a manner that Plaintiff found unfavorable to him. Here is a summary of his actions and omissions:

a. On February 4, 2006, Mr. Gillespie moved to disqualify the undersigned from representing Defendants, but Judge Nielsen denied the motion with prejudice on April 25, 2006, with a written Order entered May 12, 2006.[3]

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judge's husband had served multiple times as an expert witness for one of the attorneys in a case, it created "the requisite well-founded fear to support the motion to disqualify." I find the holdings of E.I. DuPont de Nemours and Co., Inc. v. Aquamar S.A., 24 So.3d 585, 585 (Fla. 4th DCA 2009) and Aurigemma v. State, 964 So.2d 224 (Fla. 4th DCA 2007) to be somewhat inconsistent. Regrettably, the resolution of Gillespie's latest motion to disqualify did not involve a determination of "the truth of the facts alleged." Fla. R. Jud. P. 2.330(f). It was also regrettable that the Court in Aurigemma v. State, 964 So.2d 224 (Fla. 4th DCA 2007) did not identify how many times the counsel at issue had hired the trial judge's husband or how much money was at issue.

[2] On July 12, 2010, Mr. Mr. Gillespie stated to the Court during a hearing that he required medical attention, and he asked to be excused. As of 3:36 p.m. on July 12, 2010, Mr. Mr. Gillespie was well enough to send e-mails. On February 5, 2007, during a hearing before Judge Isom in this matter, Mr. Mr. Gillespie announced after several unfavorable rulings, "I don't even know why I'm sitting here. And I'm very ill. I've expressed that to you. I can't even effectively assist myself. So I'm not going to participate in this charade anymore." Whether Mr. Mr. Gillespie was actually ill in either hearing has not been established.

[3] Mr. Gillespie also filed a complaint against the undersigned with the Tampa Police Department, claiming the undersigned committed perjury in defending his clients in this action,

b. After Judge Nielsen recused himself, Mr. Gillespie moved to reconsider the ruling denying his motion to disqualify and brought it for hearing on February 5, 2007. Because Mr. Gillespie claimed he could not answer the Court's questions about the motion because he was "not an attorney," Judge Isom decided not to consider any further the motion to reconsider Judge Nielsen's ruling denying Mr. Gillespie's motion to disqualify the undersigned.

c. On July 12, 2010, Mr. Gillespie filed another motion to disqualify the undersigned, and it is largely incomprehensible, replete with citations to irrelevant portions of the Rules Regulating the Florida Bar, and citations to irrelevant case law on legal points not at issue. This motion was denied by the Court, and Judge Cook advised Mr. Gillespie that if he served another motion to disqualify, then he would be sanctioned.

d. On February 8, 2006, Mr. Gillespie moved to dismiss Defendants' libel counterclaims, raising waiver, economic loss rule and other defenses that had no legal or factual basis. On February 28, 2006, Defendants served a section 57.105(1), Florida Statutes motion for sanctions on Mr. Gillespie, seeking an Order that Mr. Gillespie be required to obtain an attorney.

e. In Court filings, Mr. Gillespie claims to suffer from "[d]epression and mood disorder," for which he is taking prescription medications. He has, at times, declared his qualifications to represent himself, but also filed motions under the Americans with Disabilities Act, seeking the appointment of counsel by the Court, proclaiming his mental and intellectual limitations.

f. In response to the section 57.105, Florida Statutes motion for sanctions, on April 28, 2006, Mr. Gillespie filed a document entitled "Mr. Gillespie's Qualifications to Proceed Pro Se." Yet, three days earlier, on April 25, 2006, Mr. Gillespie filed "Mr. Gillespie's Motion for Appointment of Counsel, Attorney's Fees, and Legal Retainer," requesting that the Court appoint an attorney for him and require Defendants to pay for his attorney.

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but the Tampa Police Department, as did the Florida Bar, found that there were no perjurious statements made by the undersigned.

g. On March 3, 2006, during a telephone conversation regarding the case, Mr. Gillespie threatened to "slam" the undersigned "against the wall;" as a result, I filed a verified request that a bailiff be present at all hearings. Subsequently, Judge Nielsen advised that a bailiff is present at all matters involving pro se litigants.

h. On March 28, 2006, Defendants served discovery on Mr. Gillespie. Mr. Gillespie did not fully or completely respond to it, so after consultation, Defendants filed a motion to compel on May 11, 2006. Judge Nielsen heard and granted the motion to compel on June 28, 2006 and awarded attorneys' fees and costs. The written Order was entered on July 24, 2006.

i. On August 14, 2006, Mr. Gillespie filed a notice of appeal of the July 24, 2006 Order on discovery with the Second District Court of Appeal. The undersigned advised him in writing that it was improper to appeal a discovery order, and that Mr. Gillespie was in violation of the July 24, 2006 Order because he did not provide the discovery responses ordered. Mr. Gillespie responded by telling the undersigned not to give him legal advice. On August 25, 2006, the Second District Court of Appeal entered an "Order Denying Petitioner's Notice of Appeal."

j. On August 22, 2006, Mr. Gillespie filed a petition for writ of certiorari with the Second District Court of Appeal. On September 8, 2006, the Second District Court of Appeal entered the "Order Dismissing Petitioner's Petition for Writ of Certiorari."

k. Because Mr. Gillespie did not comply with the July 24, 2006 Order on discovery, Defendants moved for an order to show cause on August 25, 2006. The hearing on this motion was scheduled on October 4, 2006. In filings with the Court before the hearing on October 4, 2006, Mr. Gillespie represented to this Court that, because of his disabilities, he required that an attorney be appointed for him under the Americans with Disabilities Act (ADA), and he requested a continuance of the hearing on Defendants' motion for an order to show cause.

l. At the hearing on October 4, 2006, Judge Nielsen denied Mr. Gillespie's request for appointment by the Court of an attorney for him. Mr. Gillespie represented to the Court during this hearing that an insurer may provide counsel to defend him on Defendants' Counterclaims for libel, but if it did not, he intended to hire an attorney. Judge Nielsen decided to not make any other rulings to give Mr. Gillespie

time to retain counsel, and he ordered Mr. Gillespie to advise the Court of his progress in retaining counsel by October 18, 2006.

m. Subsequently, Mr. Gillespie filed letters dated October 16 and 18, 2006 in response to the Court's request for information regarding Mr. Gillespie's progress hiring counsel. Rather than provide a progress report, Mr. Gillespie submitted numerous attachments including, among other things, transcripts of telephone conversations between Mr. Gillespie and Defendants' counsel, correspondence regarding settlement discussions, criticisms of the Court's rulings on matters in this case, allegations about an alleged act by an attorney named Jonathan L. Alpert more than five years earlier in an unrelated case, criticism of Judge Nielsen for his decisions in other cases, as well as hearsay statements purportedly from unidentified members of the Florida Bar criticizing Judge Nielsen and Defendants and Defendants' counsel. The substantial majority of the two letters was immaterial, impertinent or scandalous.

n. Mr. Gillespie claimed an entitlement to appointment of counsel under the ADA -- an argument that would be considered frivolous by a licensed attorney. When the Court asked for citations supporting his claim for an attorney under the ADA, Mr. Gillespie declined to offer any, telling the Court "I am not an attorney and I have not been to law school." (Mr. Gillespie's October 18, 2006 letter, Exhibit 1 (Transcript of October 4, 2006, page 7)).

o. On November 3, 2006, Mr. Gillespie moved to disqualify Judge Nielsen. Mr. Gillespie accused him of being "hostile" to pro se litigants and having a "sadistic quality." In that same motion, Mr. Gillespie also accused the undersigned of aggravating his "existing disability," which required medical treatment "that reduced Mr. Gillespie's intellectual ability to represent himself." The motion to disqualify was untimely and legally insufficient, and Judge Nielsen denied it on November 20, 2006. Two days later, however, Judge Nielsen entered an Order of recusal.

p. On November 29, 2006, Judge Claudia Isom was assigned to the case. Mr. Gillespie filed a motion requesting Judge Isom to disclose conflicts of interest, and included in the supporting documents a transcript of a voice mail from a staffer in then-Governor Jeb Bush's office regarding some unrelated matter.

q. On February 5, 2007, Judge Isom held a hearing, and after several rulings unfavorable to Mr. Gillespie, including the denial of his motion for rehearing on the July 24, 2006 Order on discovery, Mr. Gillespie stated "Judge, I'm going to ask that you disqualify yourself. I'm not getting a fair hearing here. I've asked to have an attorney present many times.[4] Everything I say is not considered. I don't even know why I'm sitting here. And I'm very ill. I've expressed that to you. I can't even effectively assist myself. So I'm not going to participate in this charade anymore." (Transcript of hearing, February 5, 2007 at 72:12-19). Judge Isom terminated the proceedings to afford Mr. Gillespie an opportunity to file a written motion to disqualify her.

r. Before moving to disqualify Judge Isom, Mr. Gillespie filed "Mr. Gillespie's Notice of Voluntary Dismissal," and "Mr. Gillespie's Motion for an Order of Voluntary Dismissal" on February 7, 2007.

s. On February 13, 2007, Mr. Gillespie moved to disqualify Judge Isom.[5] That same day, Judge Isom entered the "Court Order Of Recusal And Directing Clerk To Reassign To New Division," finding the motion to disqualify her to be legally insufficient, but nevertheless recusing herself.

t. On February 15, 2007, Mr. Gillespie served his "Withdrawal Of Mr. Gillespie's Motion For An Order Of Voluntary Dismissal" and "Withdrawal Of Mr. Gillespie's Notice Of Voluntary Dismissal."

[4] Of course, Mr. Gillespie, pro se, served the notice of hearing, thereby scheduling hearings on February 5, 2007. Moreover, he previously told Judge Nielsen, on October 4, 2006, that he intended to hire an attorney, and he never did so. No judge assigned to this case has ever denied Mr. Gillespie the opportunity to hire an attorney.

[5] In his motion to disqualify Judge Isom, Mr. Gillespie accused her of "forc[ing] Mr. Gillespie to participate in a hearing . . . without counsel." Judge Isom denied the motion as legally insufficient. More recently, in open court, Mr. Gillespie accused me and Judge Isom of conspiring against him by agreeing to not advise him that Judge Isom's husband was once a law partner of Jonathan L. Alpert's at my predecessor law firm. Not only was Mr. Isom never a law partner of my predecessor law firm, but also the only occasions in which I ever spoke to Judge Isom about anything in this action is when Mr. Gillespie was present.

u. On March 27, 2008, Judge Barton determined after an evidentiary hearing that Mr. Gillespie must pay $11,500.00 in sanctions because of his discovery violations, which resulted in the July 24, 2006 Order entered by Judge Nielsen, and his pleading in violation of section 57.105, Florida Statutes, which resulted in Judge Barton entering the Order granting sanctions on July 20, 2007. Mr. Gillespie was represented by Mr. Bauer at this hearing.

v. On October 13, 2008, Mr. Bauer moved to withdraw, but apparently he and Mr. Gillespie resolved their issues. Several months later, Mr. Gillespie's attorney again moved to withdraw again, which was granted on or about October 1, 2009. The case was stayed to provide Mr. Gillespie with 60 days within which to find replacement counsel.

w. Despite the stay, on October 5, 2009, Mr. Gillespie filed a pro se motion to disqualify Judge Barton, alleging under oath that "[a]s a proximate cause of Judge Barton's actions, Mr. Gillespie's mother, Penelope Mr. Gillespie, died September 16, 2009." That motion was denied as legally insufficient on October 9, 2009.

x. On December 16, 2009, Defendants noticed the post-judgment discovery motions to compel for hearing on January 19, 2010, but Mr. Gillespie, pro se, complained that the hearing dates were not cleared with him, and he demanded that several other motions be scheduled for hearing. Thus, Judge Barton scheduled all pending motions for hearing on January 26, 2010.

y. At that hearing on January 26, 2010, Mr. Gillespie claimed to be disabled and that he required accommodations. Judge Barton inquired as to what accommodations were required, and Mr. Gillespie requested an opportunity to file written support, which Judge Barton granted. No other action was taken during that hearing.

z. Thereafter, Mr. Gillespie apparently submitted a hearsay report from a purported expert *ex parte* to Judge Barton. Despite Defendants' objections to the *ex parte* communication, Mr. Gillespie has never filed the *ex parte* hearsay report or served a copy on Defendants.

aa. Unhappy with Judge Barton, Mr. Gillespie made complaints to the Chief Judge, in writing, which was not only inappropriate in procedure, but also his complaints centered on Mr. Gillespie's belief that Judge Barton should handle the case differently.

bb. As a result of the Court's caseload, the next hearing was not scheduled until May 5, 2010. At the May 5, 2010, Mr. Gillespie served a motion for leave to file an amended complaint, attaching an amended complaint. Defendants did not stipulate to its filing, and therefore the motion for leave to file the amended complaint remains pending. A review of it shows it is also largely incomprehensible, raises claims already dismissed, raises futile claims, and fails to comply with the pleading requirements of the Florida Rules of Civil Procedure. As discussed below, the motion for leave was denied.

cc. After Judge Barton was disqualified, Mr. Gillespie filed a motion to disqualify Judge Cook on June 14, 2010, which was denied. The motion to disqualify was legally insufficient. Mr. Gillespie's first basis for disqualification was dissatisfaction with Judge Cook's decision not to cancel a hearing. Housing Authority of City of Tampa v. Burton, 873 So.2d 356, 358 (Fla. 2d DCA 2004)("Adverse rulings, by themselves, whether they are correct or incorrect, are not legally sufficient grounds upon which to base a motion to disqualify a judge for prejudice or bias.").

dd. Mr. Gillespie's second basis for disqualification was his self-perceived "controversy between Mr. Gillespie and [the judicial assistant] over whether notice was provided to record calls with her:" and therefore, Judge Cook may be prejudiced against him. (Mr. Gillespie's motion to disqualify at ¶ 29). This also was legally insufficient.

ee. On July 23, 2010, Mr. Gillespie filed a third motion to disqualify Judge Cook, this time in writing, and under oath. Mr. Gillespie alleged as follows in paragraphs 8 and 9:

> Judge Cook is biased toward Mr. Gillespie on matters of disability. Judge Cook is emotional on matters of disability because daughter [ ] is disabled. This information is public knowledge and Judge Cook seeks publicity about her daughter's disability. In a St. Petersburg Times story May 13,2009 reporting on [ ]'s disability, the Times wrote "Her mother, Hillsborough Circuit Judge Martha Cook, fought back tears as [ ] told the story." (Exhibit B). Another story published April 12,2001, Birthing Bad Legislation (Exhibit C) wrote "Martha Cook-Sedgeman, chokes up with happiness as she describes her daughter" [ ] who was born two months premature. Her birth mother exited when [ ] was 1 day old. There were clearly problems at

> birth, which would become apparent later as a 70 percent loss of hearing. The [ ], who had arranged to adopt [ ] before her birth, had to guarantee an unexpected $100,000 in medical bills. "The costs were staggering," Martha recalls.
>
> Judge Cook is typical of a certain kind of parent of disabled children who are hostile to adults with disabilities. Some of Mr. Gillespie's disabilities are congenital like [ ]'s but Mr. Gillespie's disabilities were much more extensive.

(Mr. Gillespie's Motion to Disqualify Judge Martha J. Cook, July 23, 2010, ¶¶ 8-9). There is no factual basis for these repugnant and despicable allegations. It is clear that Mr. Gillespie, having not gotten his way, will use any means to try to get rid of any judge or person involved in the case that does not conform to Mr. Gillespie's jaundiced view of justice. This motion to disqualify was beyond a desperate act; it drew into question Mr. Gillespie's mental and intellectual ability to adequately participate in these proceedings.

ff. Mr. Gillespie is also trying to intimidate witnesses. On July 26, 2010, Mr. Gillespie sent by facsimile a letter to John Gardner, Esquire, Defendants' expert witness in connection with the sanctions against Mr. Gillespie. In the July 26, 2010 letter, Mr. Gillespie accuses Mr. Gardner of various wrongdoings connected with his expert testimony and threatens action if Mr. Gardner does not yield to Mr. Mr. Gillespie's demands -- another apparent act of extortion.[6]

Let me now respond with the information I have which directly pertains to Mr. Gillespie's allegations in his bar complaint against Mr. Bauer.

First, Mr. Bauer assumed representation of Mr. Gillespie after Mr. Gillespie had already committed the infractions that resulted in him being sanctioned. Moreover, Mr. Gillespie had dismissed all of his claims by the time Mr. Bauer assumed Mr. Gillespie's representation, so Mr.

[6] On June 13 and 18, 2003, Mr. Gillespie wrote to Mr. Cook, threatening that if BRC did not pay him money, then he would file a complaint against Mr. Cook with the Florida Bar and contact his former clients. Mr. Gillespie's actions may have constituted extortion. See § 836.05, Fla. Stat. (2000); Carricarte v. State, 384 So. 2d 1261 (Fla. 1980); Cooper v. Austin, 750 So. 2d 711 (Fla. 5th DCA 2000); Gordon v. Gordon, 625 So. 2d 59 (Fla. 4th DCA 1993); Berger v. Berger, 466 So. 2d 1149 (Fla. 4th DCA 1985).

Bauer was charged with reviving Mr. Gillespie's dismissed claims, which he was successful in doing.

As for legal acumen, my opinion is that Mr. Bauer was well-prepared for the matters he handled. He had thoroughly researched his legal arguments, and obviously, this was demonstrated by Mr. Bauer's success at the trial level and at the appellate level where he successfully revived the claims Mr. Gillespie dismissed.

Although I cannot comment on the billing practices, some of Mr. Gillespie's complaints appear to be specious. For instance, Mr. Gillespie complains because Mr. Gillespie was charged for the time a paralegal expended preparing Mr. Bauer for a hearing. The paralegal charged a lower hourly rate than Mr. Bauer, and the use of a paralegal to prepare an attorney for a hearing is a common practice in the legal profession and a wise use of time.

Mr. Gillespie also complains because he was charged "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." Obviously, this is a matter of whether the contract between Mr. Gillespie and Mr. Bauer permitted such charges; however, the custom in the legal profession is that when attorneys charge by the hour for services, the client should expect to pay for the services rendered "each time someone handled a file . . .."

To the extent Mr. Bauer referred Mr. Gillespie to a court reporter, and the court reporter made errors, this is not Mr. Bauer's fault. This is an example of Mr. Gillespie's myopic and self-centered view of the world he lives in.

As for the "full nuclear blast" comment, what it appears that Mr. Gillespie is referring to was my efforts to collect on the $11,500 final judgment. Mr. Gillespie criticizes Mr. Bauer for not doing more to protect Mr. Gillespie, but Mr. Gillespie himself admits that he refused to post a supersedeas bond.

I can say without reservation that Mr. Bauer did everything possible to avoid collection on the final judgment short of posting a bond, and the failure to post the bond was due to Mr. Gillespie's refusal, not Mr. Bauer's. We would not have voluntarily agreed to enter into a stay.

As for the allegation that Mr. Bauer did not adequately advise Mr. Gillespie about the garnishment of his bank account, we did not tell Mr. Bauer about the garnishment in advance because the garnishment statutes expressly provide that we were not required to do so. Had we done so, Mr.

Gillespie would have had an opportunity to move the funds before garnishment. In fact, I believe Mr. Gillespie learned of the garnishment before Mr. Bauer did -- not because of some failure by Mr. Bauer.

As for Mr. Gillespie's claim that Bauer did not file an amended complaint, even though he and Mr. Bauer agreed that he would do so, I question whether Mr. Gillespie's assertion is even accurate. The amended complaint that Mr. Gillespie ultimately filed was so deficient that it was rejected by the Court.

Having had an opportunity to work against Mr. Bauer, and appreciating his commitment to ethical pleading, I seriously doubt he would have agreed to file an amended pleading that violated the pleading requirements of the Florida Rules of Civil Procedure and section 57.105, Florida Statutes.

As to Mr. Gillespie's assertion that Mr. Bauer failed on substantive matters, Mr. Gillespie claims I misled the Court on a motion for judgment on the pleadings by claiming that there was a signed contingency fee contract when there was none. This is a clear example of Mr. Gillespie's fundamental lack of understanding of the ruler of procedure. On a motion for judgment on the pleadings, the Court must accept the allegations of the complaint as true. Thus, it was Mr. Gillespie who alleged that there was s signed contract, not me. I only argued the legal impact of the allegations he made, and as a result of Mr. Gillespie's allegations, three of his four claims against my clients were dismissed as a result of a motion for judgment on the pleadings. In plainer words, Mr. Gillespie's own allegations defeated his claims. There was nothing Mr. Bauer could do to save them, and Mr. Gillespie's claim that I misled the court by pointing to Mr. Gillespie's own allegations in the complaint he drafted pro se is, frankly, absurd.

Mr. Gillespie criticizes Mr. Bauer's handling of the counterclaims we filed for defamation and for not pursuing case management, but what Mr. Gillespie ignores is that during most of the time Mr. Bauer represented him, Mr. Bauer's time was consumed with trying to revive the claims Mr. Gillespie dismissed. It would have been inefficient for Mr. Bauer to pursue discovery on the counterclaims until he knew if the claims Mr. Gillespie dismissed would be revived.

In fact, I recall me and Mr. Bauer having several discussions on how to proceed with the many different issues so as to conserve our client's resources and use court time efficiently. Mr. Bauer could have probably expended 100-200 additional hours on discovery related to the counterclaims, but it would not have aided Mr. Gillespie in resolving his claims. As Mr. Gillespie notes, there were several occasions when we offered a "walk-away" settlement, and if Mr. Gillespie's claims had not been revived, Mr. Bauer may have been successful in securing a settlement without expending the 100-200 hours on unnecessary discovery.

In fact, Mr. Bauer's conscientious decision to pursue his client's objective in a systematic and cost-efficient manner impressed me. Clearly, less scrupulous attorneys could have billed Mr. Gillespie for a lot of services that may have never been truly necessary.

As for Mr. Gillespie's claims that Mr. Bauer did not pursue discovery or bring Mr. Gillespie's motions to compel for hearing, Mr. Gillespie's bar complaint shows why Mr. Bauer's actions were proper. Mr. Gillespie sued my clients for breach of contract and fraud. My clients counterclaimed for defamation. Mr. Gillespie claims the discovery he served "was essentially the same discovery" my clients served on him. Most of the discovery necessary to defend a defamation claim would be very dissimilar to the discovery necessary to defend claims of breach of contract and fraud. Mr. Bauer should be commended for not pursuing irrelevant discovery or pursuing inappropriate discovery motions filed by Mr. Gillespie.

Mr. Gillespie also claims that Mr. Bauer somehow acted improperly by not pursuing my disqualification. As Judge Cook's recent Order makes plain, that motion was denied with prejudice early on in the case, and Mr. Gillespie's continued pressing of the issue resulted in Judge Cook's admonishment of him and assertion that if Mr. Gillespie files that motion again, then he will face sanctions. Again, Mr. Bauer should be commended for not doing what Mr. Gillespie demanded and instead complying with the Rules Regulating the Florida Bar and the substantive law and procedural rules.

As for the amount of sanctions, there is nothing Mr. Bauer could have done to mitigate the amount. Mr. Gillespie's actions before Mr. Bauer was retained resulted in the sanctions, and the amount was based on lodestar. Mr. Gillespie appealed the amount of the sanctions and lost.

Finally, Mr. Gillespie complains that Mr. Bauer withdrew from representing him. Mr. Gillespie fails to advise the Florida Bar of a serious incident of violence, and although I do not have first hand knowledge of this incident, this is how it was related to me by one of Mr. Bauer's employees: Mr. Gillespie stormed into Mr. Bauer's office, upset about something, and when he did not get an immediate response to his liking, he cursed at female employees, used the "F" word against Mr. Bauer and created such a disruption that Mr. Gillespie was ordered to leave and when he persisted with his threatening manner, one of the legal assistants began dialing "911" and that apparently prompted Mr. Gillespie to leave.

This incident, of course, follows the occasion when Mr. Gillespie threatened to "slam me against the wall;" on another occasion, Mr. Gillespie frightened one of my staffers when he burst into our office unannounced and slapped some paperwork on the counter. We wrote to him and advised

him that he was forbidden from entering our office ever again, and if he did so, we would seek criminal charges for trespass.

In conclusion, I found Mr. Bauer to be competent, bright, hardworking, and very conscientious of his client's interests. During this same time period, I have found Mr. Gillespie to be erratic, difficult to deal with, threatening, irrational, lacking in understanding of the law, lacking in an understanding of professional decorum, and dishonest.

Should you have any questions or desire further information, including any of the pleadings, motions, letters or Orders relating to the aforementioned lawsuit, please let me know.

Sincerely,

Ryan Christopher Rodems

RCR/so