**Robert W. Bauer**

**From:** Ryan C. Rodems [rodems@barkerrodemsandcook.com]
**Sent:** Thursday, May 03, 2007 10:19 AM
**To:** rwb@bauerlegal.com
**Subject:** RE: Gillespie hearings

Robert:

So that there is no misunderstanding, we do not agree to any delays in compliance with the July 24, 2006 discovery order. It has been entered, challenged before the Second DCA and again before Judge Isom.

We will notice our hearings on one of the agreed dates, and notice will be sent ASAP.

Rule 1.170 addresses counterclaims. I am serving the 57.105 motion today.

Sincerely,

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



-----Original Message-----
From: Robert W. Bauer [mailto:rwb@bauerlegal.com]
Sent: Thursday, May 03, 2007 10:11 AM
To: Ryan C. Rodems
Cc: 'Neil Gillespie'
Subject: RE: Gillespie hearings

I'm sorry if there has been some confusion, but I believed I had responded to your inquiry about discovery. When we first spoke I advised over the phone that I fully intended to comply with the discovery demands as required by the court. You informed me that I would be afforded whatever time I needed to get up to speed in the case. If you have a deadline for discovery I would be happy to comply with that. However, it seems reasonable to first deal with the outstanding motions so that it can be determined if discover is required at all.

I did responded in my email that I would contact you Tuesday. I apologize that I was not able to do so until Wednesday morning. I did not think it would be a problem. However, I felt that the courtesy email copy of the memorandum clearly complied with your request for clarification as to our position on the future of the case. If you have any further questions please feel free to call.

I am available for any of the 7/3, 7/5 or 7/16 dates at 9:30. Please advise how much time will be set aside.

I have read rule 1.100(a) and you will note that the wording of it does not even allow for a counter-claim - actually by implication it bars a counterclaim. It only allows for an answer to a counterclaim - but not the counterclaim itself. However, clearly

counterclaims are allowed. I admit that a counter-counterclaim is a strange pleading. You will note that I attempted to make that point in my memorandum. In the interest of cooperation I will be happy to rename the counter-counter claim just a counter claim if that would satisfy your concerns.

As a professional courtesy I would appreciate if you would clearly spell out your reasons as to why you believe I have erred in my motion prior to you filing for 57.105 sanctions. Such threats are not conducive to this case moving forward in a collegial and professional manner.

As to the 57.105 issue itself - I am sure that you are aware that such sanctions are only available when there is no colorable argument at all. My motion states an argument with cases and reasoning to support it. I have carefully reviewed the cases to insure that I have not misquoted their holdings. I believe this greatly surpasses the bar for a frivolous lawsuit.

I thank you in advance for your thoughtful attention to this matter.

Respectfully

Robert W. Bauer, Esq.

-----Original Message-----
From: Ryan C. Rodems [mailto:rodems@barkerrodemsandcook.com]
Sent: Thursday, May 03, 2007 8:59 AM
To: Robert W. Bauer
Subject: Gillespie hearings

Robert:

We are still awaiting to hear from you on when we can set our hearings.
Based on your earlier e-mail, I expected to hear from you by Tuesday. I did receive the transmittal of the memorandum/motion yesterday.

I think you need to reconsider the memorandum/motion. We object to the motion for leave to amend because there is no such thing as a "counter-counter complaint", and you are flat wrong on the motion to withdraw the dismissal. Have you even looked at Rule 1.100(a)? I assume you are aware of the line of cases that hold that a mislabeled pleading or motion is not a nullity. We'll send you a 57.105 motion, and you can decide how to proceed.

Given Gillespie's bizarre and inappropriate behavior in this case (asking for a court-appointed attorney under the ADA, pleading, among other inappropriate defenses, the economic loss rule to our defamation claims, moving twice to DQ the trial judges, appealing a discovery order, writing inflammatory and false statements about a judge in a letter to the court, threatening to slam me against the wall, and telling an insurance company not to indemnify him in the counterclaims), I am surprised you would rely on any portions of the pleadings Gillespie filed.

I also again urge you to address the discovery issue. This is at least the third time I have raised it with you, and you have not responded. Gillespie has not answered the discovery Judge Nielsen ordered compelled almost a year ago. Although you have not moved to DQ the trial judges twice -- Gillespie was responsible for that -- and you did not improvidently appeal the discovery order -- also Gillespie's doing -- you took the case as is. You are now responsible for complying with the court's order.

Sincerely,

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