

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE  
Appellant,

Case No.: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and WILLIAM J. COOK,  
Appellees.

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**APPELLANT'S MOTION TO COMPEL CLERK  
TO CORRECT AND PREPARE INDEX AND RECORD**

Appellant pro se Neil J. Gillespie hereby moves the Court for an Order to Compel the Clerk to Correct and Prepare Index and Record and in support thereof states:

1. By Order dated February 17, 2011 this Court granted appellant's motion to extend the time for the preparation of the Index and Record for thirty days.

2. Appellant has been working diligently with the Clerk of the Court of the lower tribunal to correct omissions and other issues related to the record as reflected by the Index prepared by the Clerk. Specifically appellant has been in communication with Mark Ware, Esq., Director of Appeals, Clerk of the Circuit Court, Hillsborough County, and Lisa Mann, Associate Director of the Appeals Department.

3. As of today, and the filing of this motion, the Clerk of the Circuit Court, Hillsborough County, has not provided appellant a corrected or amended Index.

4. The following is a timeline of events:

a. February 24, 2011 Mr. Ware provide appellant by email the results of the Clerk's "diligent and meticulous research" of the Index and Record along with six

Attachments numbered 1 - 6. Among other things Mr. Ware informed appellant that the following two (2) documents shown on the Clerk's progress docket could not presently be found in the Clerk's file and that "we will file a Clerk Certificate with the District Court advising the District Court that we cannot locate the document." Those documents include the following:

(i) Attachment 2: Will Add to Record – Requested Items That Should Have Been in the Record ...There is also one missing item in this request, it is: 07/20/10 Plaintiff's Notice of Filing Affidavit, Neil J. Gillespie, no signed contract. The document appears to be the Affidavit docketed on 07/23/10 as Affidavit of Neil J. Gillespie. In this circumstance, we will file a Clerk Certificate with the District Court advising the District Court that we cannot locate the document.

(ii) Attachment 4: Items Filed in Case But Not Requested...There is also one missing item, it is: 06/03/10 Notice of Filing Affidavit of William J. Cook, Esquire. Please let me know if you want us to add any of these documents to the Record. If you request to add the missing document, we will prepare another Clerk Certificate (see Attachment 2 above).

b. March 10, 2011 appellant served Notice of Filing Transcripts at the request of Mr. Ware to add missing transcripts to the Clerk's court file, progress docket, Index and Record. Mr. Ware identified missing transcripts in his email to appellant February 24, 2011. A copy of Notice of Filing Transcripts is attached as Exhibit A. Appellant's former counsel Robert W. Bauer, Bar ID 11058, failed to file some of the transcripts during his representation of appellant. Mr. Bauer is currently a respondent in appellant's Bar complaint. Brian S. Kramer, Esq., was the investigating member for the grievance

committee. Appellant contacted Mr. Bauer about the missing transcripts March 3, 2011 and March 5, 2011 but he failed to respond. Mr. Kramer suggested appellant make a new Bar complaint against Mr. Bauer for misconduct relating to the transcripts.

c. March 14, 2011 appellant notified Mr. Ware and Ms. Mann that he would rely upon the information provided by Mr. Ware February 24, 2011 and to proceed with the corrected or amended Index and Record. For a time appellant considered submitting Amended Directions to Clerk but abandoned that effort as too complex. Appellant requested several additional documents be included. Appellant also asked Mr. Ware who filed Appellant's confidential medical information with the Clerk. The Clerk's progress docket shows an entry June 21, 2010 "Envelope Filed With Documents" and "Confidential Envelope Addressed to Judge Barton With Contents: 1. ADA Assessment and Report, Karin Huffer, MS, MFT. 2. ADA Accommodation Request of Neil J. Gillespie 3. Notice of ADA Accommodation Request of Neil J. Gillespie. 4. Transcript, Hearing Before The Honorable Claudia Isom, February 5, 2007." A copy of the Clerk's progress docket page showing the entry is attached as Exhibit B.

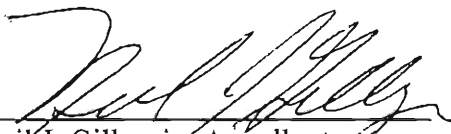
d. March 15, 2011 Mr. Ware responded in part with additional questions and wrote "If you are able to respond to us quickly, we will try to meet the date set by the Second District Court of Appeal in its order dated February 17, 2011. That has been, and continues to be, our goal. Once we have completed the Index, we will forward it to you for your review. When we receive your approval, we will send the Index to you and the Appellee. The Index and Record will be sent to the Second District Court of Appeal after all briefs have been filed with that Court." Appellant responded two hours later but has not heard back from Mr. Ware. Among other things, appellant asked Mr. Ware "Have you

received a response from Judge Barton to my letter of February 3, 2011 requesting he file letters in this case with the clerk?"

5. Pursuant to Fla. R. App. P., Rule 9.300(b) service of a motion shall toll the time schedule of any proceeding in the court until disposition of the motion.

WHEREFORE, Appellant pro se, NEIL J. GILLESPIE, respectfully moves this Court for an Order To Compel Clerk to Correct and Prepare Index and Record and other relief as this Court deems necessary under the circumstances.

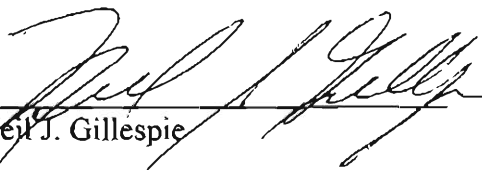
RESPECTFULLY SUBMITTED March 17, 2011.

  
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Neil J. Gillespie, Appellant pro se  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807

Certificate of Service

I hereby certify that a copy hereof has been furnished to the following:

1. Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602 by mail on March 17, 2011.
2. Mark Ware, Director of Appeal, Clerk of the Circuit Court, Edgecomb Courthouse, Room # 206 Appeal, 800 East Twiggs Street, Tampa, Florida 33602.

  
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Neil J. Gillespie

**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-007205

vs.

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

DIVISION: J

Defendants.

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**NOTICE OF FILING TRANSCRIPTS**

Plaintiff hereby notice the filing of the following transcripts:

1. Transcript of hearing August 15, 2007, Judge James M. Barton, II.
2. Transcript of hearing October 30, 2007, Judge James M. Barton, II.
3. Transcript of hearing February 1, 2007, Judge Claudia Isom. Hand delved to clerk by Larry Murray, President, Dempster Berryhill & Associates on or about March 9, 2011.
4. Transcript of hearing February 13, 2007, Judge Claudia R. Isom.
5. Transcript of telephone conversation and messages, March 3, 2006, Mr. Rodems and Neil Gillespie. (Date of transcript is February 1, 2010).


Notice of Previously Filed Transcripts:

6. Transcript of hearing October 1, 2009, Judge James M. Barton, II.
7. Transcript of hearing January 26, 2010, Judge James M. Barton, II.
8. Transcript of hearing May 5, 2010, Judge James M. Barton, II.



9. Transcript of hearing July 12, 2010, Judge Martha J. Cook.
10. Transcript of hearing September 28, 2010, Judge Martha J. Cook.

Copies of the above ten (10) transcripts were provided to Ryan C. Rodems at Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602 with this notice March 10, 2011.




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Neil J. Gillespie, Plaintiff  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807

Certificate of Service

I HEREBY CERTIFY that a copy of the above Notice of Filing Transcripts was mailed March 10, 2011 to Ryan C. Rodems at Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602.



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Neil J. Gillespie

07/23/2010	**General**	NOTICE OF FILING	COPY OF LETTER FROM NEIL J GILLESPIE TO MR RODEMS FAXED 07/11/2010 ATTACHED
07/22/2010	**General**	ORDER DENYING MOTION	EMERGENCY MOTION TO DISQUALIFY DEFENDANTS COUNSEL 7/22/10 MJC
07/12/2010	**General**	NOTICE OF FILING	NOTICE OF CLAIM AGAINST THE THIRTHEENTH JUDICIAL CIRCUIT PURSUANT TO SECTION 768.28(6) A, FLORIDA STATUTES ATTACHED
07/09/2010	P001	EMERGENCY MOTION TO	DISQUALIFY DEFENDANT'S COUNSEL, RYAN CHRISTOPHER RODEMS & BARKER, RODEMS & COOK, P.A.
07/09/2010	**General**	NOTICE OF FILING	LETTER AND ENCLOSURES OF NEIL J GILLESPIE TO MR WARREN A LEE ATCHD
06/30/2010	P001	MOTION TO STRIKE	AFFIDAVIT/MOTION TO QUASH ORDER FOR WRIT OF GARNISHMENT/MOTION TO QUASH WRIT OF GARNISHMENT
06/29/2010	P001	NOTICE OF FILING	DEFTS' /ATTACHED
06/28/2010	P001	MOTION FOR RECONSIDERATION	DEFT'S RESPONSE TO PLAINTIFF'S
06/23/2010	P001	MOTION FOR RECONSIDERATION	AND MOTION TO CORRECT CLERICAL ERROR
06/23/2010	P001	MOTION TO STAY	FJ
06/23/2010	P001	NOTICE OF FILING	LETTERS DISCOVERY
06/23/2010	**General**	ORDER DENYING MOTION	FOR RECONSIDERATION 6/22/10 MJC
06/21/2010	**General**	ENVELOPE FILED W/DOCUMENTS	CONFIDENTIAL ENVELOPE ADDRESSED TO JUDGE BARTON WITH CONTENTS: 1. ADA ASSESSMENT AND REPORT, KARIN HUFFER, MS, MFT. 2. ADA ACCOMMODTION REQUEST OF NEIL J. GILLESPIE 3.NOTICE OF ADA ACCOMMODTION REQUEST OF NEIL J. GILLESPIE. 4.TRANSCRIPT, HEARING BEFORE THE HONORABLE CLAUDIA ISOM, FEBRUARY 5, 2007
06/19/2010	**General**	NEW VOLUME MADE	VOLUME 10 MADE 6/19/10 DATE OF FIRST PLEADING 5/24/10
06/17/2010	P001	MOT FOR DISQUAL OF JUDGE	MARTHA J. COOK
06/17/2010	P001	NOTICE	OF FRAUD ON THE COURT BY RYAN CHRISTOPHER RODEMS (COPY)
06/17/2010	P001	NOTICE	PLAINTIFF/COUNTER-DEFT NEIL J. GILLESPIE
06/17/2010	P001	NOTICE	OF FRAUD ON THE COURT BY RYAN CHRISTOPHER RODEMS
06/17/2010	**General**	ORDER DENYING MOTION	TO DISQUALIFY CIRCUIT COURT JUDGE MARTHA J COOK 6/16/10 MJC
06/16/2010	P001	MOTION TO	CANCEL DEPOSITION DUCES TECUM FOR AN ORDER OF PROTECTION
06/14/2010	P001	MOT FOR DISQUAL OF JUDGE	MARTHA J. COOK
06/14/2010	P001	MOTION TO STAY	PENDING ADA DETERMINATION
06/14/2010	P001	MOTION TO STRIKE	AMENDED NOTICE OF HEARING AND CASE MANAGMENT CONFERENCE
06/14/2010	P001	MOTION TO STRIKE	NOTICE OF CASE MANAGMENT CONFERENCE
06/11/2010	P001	AMENDED NOTICE OF HEARING	AND CASE MANAGEMENT CONFERENCE 07/12/10 @ 10:30AM

**EXHIBIT****B**