

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.

**APPELLANT'S MOTION TO COMPEL THE THIRTEENTH JUDICIAL
CIRCUIT AND JUDGE BARTON TO FILE COMMUNICATION IN THE CASE
WITH THE CLERK OF THE CIRCUIT COURT**

Appellant pro se Neil J. Gillespie hereby moves the Court for an Order to Compel the Thirteenth Judicial Circuit and Judge Barton to file communication in the case with the Clerk of the Circuit Court 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. February 3, 2011 appellant requested The Honorable James M. Barton, II file with the Clerk of the Court communication between His Honor, Neil J. Gillespie, Ryan C. Rodems and Barker, Rodems & Cook, PA. (Exhibit A). Appellant requested a response from Judge Barton by February 10, 2011. An attachment to Exhibit A shows appellant's email with Count Counsel David Rowland January 20, 2011 on the matter.

3. March 15, 2011 appellant emailed Mr. Rowland the following:

"Mr. Rowland: Attached is my letter to Judge Barton requesting he file letters in this case with the clerk. As counsel to Judge Barton when I can expect a response, either

from Judge Barton, or you as his counsel? In Florida what is the duty of a judge to file letters received or sent in a case with the clerk? Thank you. Sincerely, Neil J. Gillespie”

A copy of the email and enclosure is attached as Exhibit B.

4. Appellant has not received a reply from Mr. Rowland or Judge Barton.

5. Previously in this case Judge Richard A. Nielsen filed communication with the Clerk, see the attached pages from the progress docket for February 6, 2006, July 10, 2006, and July 28, 2006, Exhibit C.

6. Appellant notes someone filed his 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 progress docket page showing the entry is attached as Exhibit D.

7. Mr. Rowland responded to appellant’s accommodation request under Americans with Disabilities Act (ADA) by letter dated July 9, 2010 with copies to Judge Martha J. Cook and opposing counsel Ryan C. Rodems but failed to file the letter with the Clerk. Mr. Rowland’s letter unlawfully disclosed some of appellant’s disabilities.


8. In an email to Mark Ware of the Clerk’s office March 15, 2011 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?”. As of today appellant has not received a response from Mr. Ware.

9. It appears from the Clerk's progress docket that in the past a judge filed with the clerk communication received during the course of litigation. It is clear from the Clerk's progress docket that someone improperly filed appellant's confidential ADA medical information given to Judge Barton June 21, 2010. It appears from the lack of performance and communication that Judge Barton is refusing to file with the Clerk of the Circuit Court communication between His Honor, Neil J. Gillespie, Ryan C. Rodems and Barker, Rodems & Cook, PA. (Exhibit A). The lack of communication from Court Counsel Mr. Rowland shows he is uncooperative.

10. 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 The Thirteenth Judicial Circuit And Judge Barton To File Communication In The Case With The Clerk Of The Circuit Court and other relief as this Court deems necessary under the circumstances.

RESPECTFULLY SUBMITTED March 17, 2011.


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

Certificate of Service

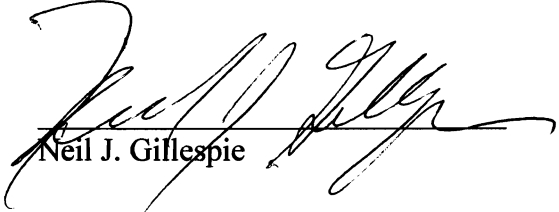
I hereby certify that a copy hereof has been furnished to the following by mail

March 17, 2011:

1. Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602 by mail on March 17, 2011.

2. David A. Rowland, Court Counsel, Administrative Office Of The Courts, Thirteenth Judicial Circuit Of Florida, Legal Department, 800 E. Twiggs Street, Suite 603 Tampa, Florida 33602.

3. Mark Ware, Director of Appeal, Clerk of the Circuit Court, Edgecomb Courthouse, Room # 206 Appeal, 800 East Twiggs Street, Tampa, Florida 33602.


Neil J. Gillespie

February 3, 2011

VIA FAX: (813) 276- 2725

The Honorable James M. Barton, II
Circuit Court Judge, Thirteenth Judicial Circuit
Circuit Court, Division C
800 E. Twiggs Street, Room 512
Tampa, Florida 33602

RE: Gillespie v. Barker, Rodems & Cook, P.A., and William J. Cook,
case no.: 05-CA-7205; 2DCA Case No. 2D10-5197

Dear Judge Barton:

This is a request for you to file with the Clerk of the Court communication between Your Honor, Neil J. Gillespie, Ryan C. Rodems and Barker, Rodems & Cook, PA.

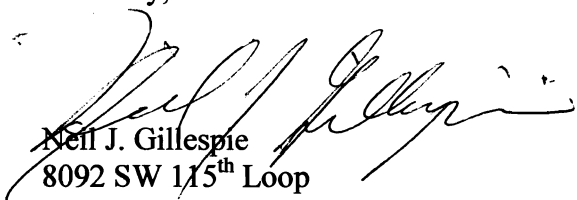
The case is currently on appeal in the Second District Court of Appeal, Case No. 2D10-5197. I am in contact with Mr. Mark Ware, Esq., Hillsborough County Office of the Clerk of Court, and Ms. Lisa Mann, Associate Director of the Appeals Department, to complete the Record and Index to the Record for the appeal.

This request is made as a courtesy. Kindly respond to me or Mr. Ware by February 10, 2011 if you are willing to voluntarily file with the Clerk the requested communication.

Last month I contacted David Rowland as your counsel requesting you to file documents related to the Tampa Police Department perjury inquiry/complaint against Mr. Rodems contained in my March 11, 2010 communication with you, 125 pages plus and audio CD. Attached is my communication with Mr. Rowland. He currently appears nonresponsive.

For your convenience attached is a list of the communication sought, although it may be incomplete and I request everything go into the record. Thank you for your consideration.

Sincerely,


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

cc: Mr. Mark Ware, Esq.

Enclosures



Communication with the Honorable James M. Barton, II to include in the record (con't)

Communication with the Honorable James M. Barton, II to include in the record:

March 11, 2010, Tampa Police Dept. perjury inquiry/complaint against Mr. Rodems, a compilation of 125 pages of documents plus an audio CD.

Transcript of deposition May 14, 2001 by Chere J. Barton of Neil J. Gillespie in the Amscot litigation, taken at the office of Barker, Rodems & Cook who represented Gillespie. This transcript was handed to Judge Barton during the hearing May 5, 2010. Chere J. Barton of Regency Reporting Service is the wife of Judge Barton, and this transcript led to the disqualification of Judge Barton. This transcript also shows Barker, Rodems & Cook, PA had prior knowledge of Gillespie's disability.

All other written communication with Judge Barton, Neil J. Gillespie, Ryan C. Robems and Barker, Rodems & Cook, PA, including but not limited to:

2009, 12-29-09, letter to Linda Greno, JA to Judge Barton, cancel hearing

2010, 01-27-10, NJG to Judge Barton, Rodems email not wanted

2010, 02-04-10, NJG fax to Judge Barton, ADA accommodation update

2010, 02-09-10, fax letter to Judge Barton, ADA update

2010, 02-12-10, fax letter to Judge Barton, ADA update

2010, 02-12-10, Rodems letter to Judge Barton

2010, 02-17-10, NJG fax letter to Judge Barton, ADA update

2010, 02-18-10, fax letter, NJG to Judge Barton, ADA, Order of Protection, premises

2010, 03-03-10, letter, NJG to Judge Barton, cc Rodems

2010, 03-03-10, letter, NJG to Rodems, cc Judge Barton

2010, 03-08-10, fax letter, Rodems to Judge Barton

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2010, 03-11-10, fax letter, NJG to Judge Barton, perjury complaint TPD

2010, 03-11-10, Rodems fax letter to Judge Barton, wants Karin Huffer's ADA report

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2010, 04-28-10, letter, NJG to Judge Barton, ADA, no response

2010, 05-04-10, fax letter, NJG to Judge Barton, correction, motion dissolve writ

2010, 05-14-10, fax letter, NJG to Judge Barton, will move to disqualify

Fax

From: Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807*

To: The Honorable James M. Barton, II

Fax: (813) 276-2725

Date: February 3, 2011

Pages: six (6), including this page

Re: File communication in the Record

NOTE: This fax and the accompanying information is privileged and confidential and is intended only for use by the above addressee. If you are not the intended recipient, you are hereby notified that any use, dissemination or copying of this fax and the accompanying communications is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone, collect if necessary, and return the original message to me at the above address via U.S. mail. Thank you for your cooperation.

*All calls on home office business telephone extension (352) 854-7807 are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991).

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Rowland, Dave" <ROWLANDA@fljud13.org>
Sent: Thursday, January 20, 2011 7:20 PM
Subject: Re: Gillespie v. Barker Rodems & Cook, and other, Case #:05-CA-007205, Thirteenth Judicial Circuit, General Civil Division

Mr. Rowland:

I contacted you as counsel for Judge Barton who received the communication. Judge Barton can file it with the clerk. In the alternative I will contact Judge Barton directly. Please advise how you want to proceed. Thank you.

Sincerely,

Neil J. Gillespie
 8092 SW 115th Loop
 Ocala, Florida 34481
 (352) 854-7807

----- Original Message -----

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To: Neil Gillespie
Sent: Thursday, January 20, 2011 4:49 PM
Subject: Gillespie v. Barker Rodems & Cook, and other, Case #:05-CA-007205, Thirteenth Judicial Circuit, General Civil Division

Mr. Gillespie:

I am not in a position to file documents on your behalf with the clerk's office for inclusion in the court file of the above-referenced case.

David A. Rowland

General Counsel, Thirteenth Judicial Circuit
 800 East Twiggs Street, Suite 603
 Tampa, Florida 33602
 Telephone: (813) 272-6843
rowlanda@fljud13.org

From: Neil Gillespie [mailto:neilgillespie@mfi.net]
Sent: Thursday, January 20, 2011 2:08 PM
To: Rowland, Dave
Subject: court record, Judge Barton

Dear Mr. Rowland:

On March 11, 2010 I provided Judge Barton copies of my communication with Kirby Rainesberger, Tampa Police Department, of my referral for perjury of Mr. Rodems' verified pleading to the Court of March 6, 2006, "Defendants' Verified Request for Bailiff and For Sanctions'. See attached mailing receipt and cover letters. Kindly see that this information is

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8092 SW 115th Loop
Ocala, Florida 34481
(352) 854-7807

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "David A Rowland" <rowlanda@fljud13.org>
Sent: Tuesday, March 15, 2011 7:27 PM
Attach: 2011, 02-03-11, fax letter, NJG to Judge Barton.pdf
Subject: letter to Judge Barton requesting he file letters in this case with the clerk
David A Rowland, Court Counsel

Thirteenth Judicial Circuit

Mr. Rowland:

Attached is my letter to Judge Barton requesting he file letters in this case with the clerk. As counsel to Judge Barton when I can expect a response, either from Judge Barton, or you as his counsel?

In Florida what is the duty of a judge to file letters received or sent in a case with the clerk?
Thank you.

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8092 SW 115th Loop
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neilgillespie@mfi.net



February 3, 2011

VIA FAX: (813) 276- 2725

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Circuit Court Judge, Thirteenth Judicial Circuit
Circuit Court, Division C
800 E. Twiggs Street, Room 512
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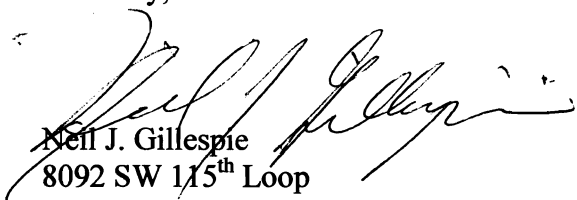
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(352) 854-7807

08/15/2006	P001	LETTER TO	NEIL J GILLESPIE PRO SE AS TO COSTS OF APPEAL (copy in file)
08/14/2006	P001	NON FINAL APPEAL CIRCUIT CIVIL	
08/03/2006	**General**	NEW VOLUME MADE	VOLUME 2; DATE OF FIRST PLEADING JUL 11, 2006
07/31/2006	**General**	LETTER TO CLERK FROM	NEIL J GILLESPIE
07/31/2006	**General**	NOTICE OF CANCELLATION	OF HEARINGS
07/28/2006	**General**	JUDGE'S COPIES OF PLEADINGS	
07/24/2006	**General**	ORDER GRANTING MOTION	TO COMPEL 7/24/06 RAN SEE FILE
07/17/2006	**General**	AMENDED NOTICE OF HEARING	8/1/06 2:45pm
07/11/2006	**General**	LETTER TO CLERK FROM	NEIL J. GILLESPIE
07/11/2006	**General**	NOT OF SERVICE OF INTERROGS	
07/11/2006	**General**	NOT OF SERVICE OF INTERROGS	
07/11/2006	**General**	REQUEST FOR PRODUCTION	
07/11/2006	**General**	REQUEST FOR PRODUCTION	
07/10/2006	**General**	JUDGE'S COPIES OF PLEADINGS	NOTICE OF CHANGE OF CONTACT INFORMATION
07/03/2006	P001	NOTICE	OF CHANGE OF CONTACT INFO EMAIL ADD NO LONGER AVAILABLE TELEPHONE NUMBER CHANGE
06/23/2006	**General**	LETTER TO COURT FROM	NEIL J GILLESPIE
06/23/2006	P001	MOTION FOR ORDER	OF PROTECTION AND TO DENY DEFT'S MTN TO CONTINUE
06/23/2006	**General**	NOTICE OF HEARING	06/28/06 AT 3:30 PM
06/06/2006	**General**	NOTICE OF FILING	DEFT'S AMENDED MOTION FOR SANCTIONS PURSUANT TO SECTION 57.105(1), FL STATUTES ATTCH
05/25/2006	**General**	AMENDED NOTICE OF HEARING	6/28/06 3:30pm
05/18/2006	**General**	NOTICE OF HEARING	ON 06/27/06 AT 8:45 AM
05/15/2006	**General**	ORDER DENYING MOTION	TO DISQUALIFY COUNSEL 5/12/06 RAN
05/08/2006	**General**	NOTICE	OF CHANGE OF EMAIL ADDRESS
05/08/2006	**General**	NOTICE OF HEARING	8/1/06 3:45pm
05/03/2006	**General**	LETTER TO CLERK FROM	NEIL J GILLESPIE
05/03/2006	**General**	LETTER TO CLERK FROM	NEIL J GILLESPIE
05/03/2006	P001	MOTION FOR REHEARING	
05/02/2006	P001	SEE DOCKET TEXT	QUALIFICATIONS TO PROCEED PRO SE

EXHIBIT**C**

04/27/2006	**General**	NOTICE OF HEARING	ON 08/01/06 AT 2:45PM
04/25/2006	**General**	AFFIDAVIT IN SUPPORT OF	OF PLTF'S MTN FOR SUMMARY JUDGMENT NEIL J. GILLESPIE
04/25/2006	P001	MOTION FOR	APPOINTMENT OF COUNSEL ATTY'S FEES AND LEGAL RETAINER
04/25/2006	P001	MOTION FOR SUMMARY JUDGMENT	
03/31/2006	P001	NOTICE OF HEARING	04/25/06 AT 2:15PM
03/30/2006	**General**	NOT OF SERVICE OF INTERROGS	
03/27/2006	**General**	LETTER TO CLERK FROM	NEIL J GILLESPIE
03/27/2006	**General**	LETTER TO CLERK FROM	NEIL J GILLESPIE
03/27/2006	**General**	LETTER TO COURT FROM	NEIL J GILLESPIE
03/27/2006	**General**	NOTICE	OF EMAIL ADDRESS
03/27/2006	**General**	NOTICE	OF E-MAIL ADDRESS: NEILGILLESPIE@PEOPLEpc.COM
03/27/2006	P001	RESPONSE TO	DEFTS' MOTION FOR SANCTIONS
03/21/2006	**General**	LETTER FROM	NEIL J GILLESPIE
03/16/2006	**General**	LETTER TO CLERK FROM	NEIL J GILLESPIE
03/16/2006	P001	RESPONSE TO	REQUEST FOR BAILIFF AND FOR SANCTIONS
03/06/2006	**General**	NOTICE OF HEARING	4/25/06 2:15pm
02/17/2006	**General**	NOTICE CHG ADDRESS COUNSEL	
02/10/2006	**General**	LETTER TO CLERK FROM	NEIL J. GILLESPIE
02/10/2006	**General**	LETTER TO CLERK FROM	NEIL J. GILLESPIE
02/10/2006	P001	MOTION TO DISMISS BY	AND STRIKE COUNTERCLAIM
02/10/2006	P001	MOTION TO DISMISS BY	AND STRIKE COUNTERCLAIM
02/07/2006	**General**	LETTER TO CLERK FROM	NEIL J. GILLESPIE
02/07/2006	P001	MOTION TO	DISQUALIFY COUNSEL
02/06/2006	P001	JUDGE'S COPIES OF PLEADINGS	MTN TO DISQUALIFY COUNSEL
01/13/2006	**General**	ORDER ON MOTION	TO DISMISS AND STRIKE GRANTED IN PART AND DENIED IN PART 1/13/06 RAN
11/15/2005	**General**	LETTER TO COURT FROM	NEIL J GILLESPIE
11/14/2005	**General**	LETTER TO COURT FROM	NEIL J. GILLESPIE
11/14/2005	**General**	NOTICE	OF CHANGE OF TELEPHONE NUMBER
11/04/2005	**General**	LETTER TO COURT FROM	NEIL J. GILLESPIE
11/02/2005	P001	MOTION TO DISMISS BY	AND STRIKE

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**D**