

IN THE SUPREME COURT OF THE  
STATE OF FLORIDA



**COPY**

NEIL J. GILLESPIE

Petitioner,

Case No.: \_\_\_\_\_  
Related Appeal: 2D10-5197  
Lower Court Case No. 05-CA-007205  
Hillsborough Circuit Civil, 13th Circuit

vs.

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

CIRCUIT COURT JUDGE JAMES D. ARNOLD,

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,

Respondents.

**RECEIVED**  
**THOMAS D. HALL**

**MAY 03 2011**

**CLERK, SUPREME COURT**  
**BY \_\_\_\_\_**

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS**

**EMERGENCY PETITION FOR WRIT OF PROHIBITION**

1. Neil J. Gillespie pro se ("Gillespie") Petitions the Florida Supreme Court for a Writ of Habeas Corpus and Writ of Prohibition to stop an unlawful Evidentiary Hearing in Tampa today at 11:30AM in a circuit civil case with Gillespie's former lawyers Barker, Rodems & Cook, PA who seek his incarceration on a Writ of Bodily Attachment on "Order Adjudging Neil J. Gillespie In Contempt" that is currently on appeal as part of a Final Summary Judgment final order in case no. 2D10-5197. Gillespie is disabled and has not received a requested ADA accommodation. The attempt to incarcerate Gillespie is pure vengeance by his former lawyers who are angry he sued them to recover \$7,143 stolen from a settlement in prior representation.

2. Article V, section 3(b)(9) of the Florida Constitution confers a broad power upon the Supreme Court to issue writs of habeas corpus. The habeas corpus jurisdiction of the Supreme Court is restated in Rule 9.030(a)(3), Fla. R. App. P.

3. Article V, section 3(b)(7) of the Florida Constitution authorizes the Florida Supreme Court to issue writs of prohibition to the lower courts.

4. Due to a lack of time, Gillespie must rely on the assertions of the following already filed documents and will argue the balance to this Court.

a. Affidavit of Neil J. Gillespie, April 25, 2011, trial court

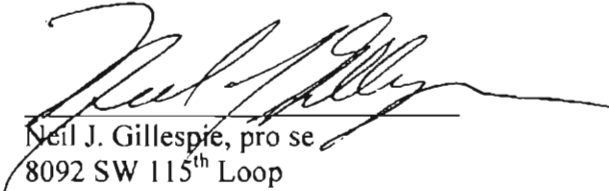
b. Appellant's Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time, April 25, 2011, with Addendum, 2dDCA.

c. Plaintiff's Motion to Disqualify Judge Arnold, May 2, 2011, trial court

d. Verified Emergency Petition for Writ of Prohibition, Motion for Change of Venue, May 2, 2011, 2dDCA

WHEREFORE, Gillespie pro se demands Writ of Prohibition to prevent unlawful incarceration on a Writ of Bodily Attachment, and Writ of Habeas Corpus if and when the Writ of Bodily Attachment issues.

RESPECTFULLY SUBMITTED May 3, 2011.

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

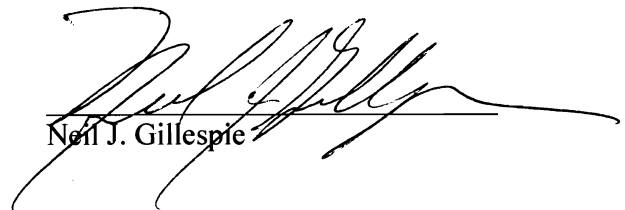
Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was emailed or faxed May 3,  
2011 to:

Ryan Christopher Rodems (via fax)  
Barker, Rodems & Cook, PA  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602.

The Honorable James D. Arnold (via email, c/o Mr. Rowland)  
Circuit Court Judge  
Circuit Civil Division "J"  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

David A. Rowland, Court Counsel (via email)  
Administrative Offices Of The Courts  
Thirteenth Judicial Circuit Of Florida  
Legal Department  
800 E. Twiggs Street, Suite 603  
Tampa, Florida 33602

  
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-7205

vs.

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

DIVISION: J

Defendants.

\_\_\_\_\_ /

**AFFIDAVIT OF NEIL J. GILLESPIE**

Neil J. Gillespie, under oath, testifies as follows:

1. My name is Neil J. Gillespie, and I am over eighteen years of age. This affidavit is given on personal knowledge unless otherwise expressly stated. At all times pertinent I am a disabled adult as defined by, but not limited to, section 825.101(4), Florida Statutes, and as further described in documents in this lawsuit.
2. The Thirteenth Judicial Circuit ("Court") has jurisdiction of this lawsuit and responsibility under federal and state law for compliance with the Americans with Disabilities Act ("ADA").
3. Plaintiff retained at his own expense Dr. Karin Huffer as his ADA program designer and advocate. Plaintiff applied to the Court February 19, 2010 for reasonable accommodation under the ADA. An ADA disability report was submitted by Dr. Huffer. Court Counsel David Rowland denied Plaintiff's ADA accommodation request.
4. Attorney Ryan Christopher Rodems is unlawfully representing his firm against Plaintiff, a former client, on a matter that is the same or substantially similar to the prior

representation, specifically their litigation with AMSCOT Corporation. (“AMSCOT”).

Mr. Rodems knows about Plaintiff’s disability from his firm’s other representation of him on disability matters. Mr. Rodems separately commenced a counterclaim against Plaintiff for libel over his letter to AMSCOT about the prior litigation. AMSCOT’s attorney Charles L. Stutts of Holland & Knight, LLP wrote Plaintiff February 13, 2007 that “This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.” A copy of Mr. Stutts’ letter is attached as Exhibit A.

5. Since March 3, 2006 Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward Plaintiff that has aggravated his disability, caused substantial emotional distress, and serves no legitimate purpose, in violation of § 784.048, Florida Statutes. Mr. Rodems engaged in other abuse calculated to harm Plaintiff in violation of chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Plaintiff was formerly represented by attorney Robert Bauer in this case. Mr. Bauer complained on the record about Mr. Rodems unprofessional behavior: “...Mr. Rodems has, you know, decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner. It is my mistake for sitting back and giving him the opportunity to take this full blast attack.” (Aug-14-08, transcript page 16, line 24).

6. This case was commenced August 11, 2005. There have been five trial court judges, four appeals to the 2dDCA, and a Petition for Writ of Prohibition. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems’ independent professional judgment is materially limited by his own interest and conflict, as further

described in Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010.

7. Judge Martha Cook presided over this lawsuit from May 24, 2010 through November 18, 2010. While presiding over this case Judge Cook misused and denied the Plaintiff judicial process under the color of law. Plaintiff moved to disqualify Judge Cook five times, all of which were all denied. Plaintiff filed a Petition for Writ of Prohibition to remove Judge Cook November 18, 2010, Case No. 2D10-5529, Second District Court of Appeal. Judge Cook recused herself from the case the same day.

8. Because of the forgoing Plaintiff concluded that he could not obtain justice in this Court and commenced a Federal Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida et. al, Case No. 5:10-cv-503-oc-10-DAB, US District Court, Middle District of Florida, Ocala Division. Plaintiff lives in Ocala. The complaint was stamped FILED at 7:47 AM September 28, 2010 by the US District Court Clerk. Plaintiff planned to file the suit weeks earlier by was delayed by his worsening disability. A copy of the Clerk-stamped cover page of the complaint is attached as Exhibit B. Judge Cook is named as a Defendant in the lawsuit in her capacity as a judge and personally.

9. After filing the federal lawsuit described in the preceding paragraph, Plaintiff drove to the Court in Tampa for a 11:00 AM hearing before Judge Cook for a "Court-Ordered Hearing On Defendants' Motion For Final Summary Judgment". A second matter heard was a contempt on an alleged violation of the "Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010.

10. When Plaintiff arrived in Tampa for the hearing before Judge Cook at 11:00 AM she was unaware of the Federal Civil Rights lawsuit against the Court and herself.

Plaintiff had a duty to inform Judge Cook of the lawsuit prior to the hearing, and did so by handing a copy of the complaint to Deputy Henderson prior to the hearing and asked him to give it to the judge in chambers. This was not for service of process, but to inform Judge Cook that she was a defendant in a lawsuit. Rule 3, FRCP, Commencement of Action, a civil action is commenced by filing a complaint with the court.

11. Deputy Henderson refused to take the complaint from Plaintiff, and he refused to hand it to Judge Cook in chambers. As such Plaintiff had no choice but to address the issue in open court as shown in the record. A transcript of the hearing shows the following: (Exhibit C, Transcript, Sep-28-10, pages 1-5; 19)

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 3)

16 MR. GILLESPIE: Your Honor, this morning I  
17 filed a federal lawsuit against you. I have a  
18 complaint here if you would like to read it. I  
19 move to disqualify you.

20 THE COURT: Your motion to disqualify  
21 based on a federal lawsuit is legally  
22 insufficient and is denied.

23 Please continue with your Motion for  
24 Summary Judgment.

25 MR. RODEMS: Thank you, Your Honor.

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 4)

1 MR. GILLESPIE: I move to disqualify you  
2 on the basis that I have a financial  
3 relationship with your husband.

4 THE COURT: All right. Your motion to  
5 disqualify me on that basis is denied.

6 MR. GILLESPIE: I move to disqualify  
7 you --

8 THE COURT: Sir --

9 MR. GILLESPIE: -- on the basis of an  
10 affidavit that you made misrepresentations at  
11 the last hearing about whether or not I was --

12 THE COURT: Sir, file a written motion.

13 I'm not going to allow you to disrupt these  
14 proceedings again. The last proceedings you  
15 feigned illness. You left this courtroom --

16 MR. GILLESPIE: No, I did not feign  
17 illness.

18 THE COURT: Sir, if you interrupt me you  
19 will be escorted out.

20 MR. GILLESPIE: Well, I'm leaving.

21 THE COURT: This is your last warning,  
22 sir.

23 MR. GILLESPIE: I'm leaving.

24 THE COURT: All right, sir. Escort the  
25 gentleman out. He's leaving. All right.

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 5)

1 Continue with your motion, please. The hearing  
2 will continue.



3 MR. GILLESPIE: For the record, I'm  
4 leaving because I didn't get my ADA  
5 accommodation.

6 THE COURT: That's not true, sir.

7 MR. GILLESPIE: I'm leaving the federal  
8 lawsuit on this table for you.

9 THE COURT: You must go, sir. It's not  
10 proper service. Leave.

11 (THEREUPON, Mr. Gillespie exited the courtroom)

12 THE COURT: Go ahead.

13 MR. RODEMS: Thank you, Your Honor.

12. The transcript of the hearing shows Judge Cook ordered Plaintiff removed prior to any discussion of Defendants' Motion For Final Summary Judgment. Plaintiff was escorted out of the courthouse by the bailiff, Deputy Christopher E. Brown, of the Hillsborough County Sheriff's Office (HCSO). The transcript shows Judge Cook cut Plaintiff the first two times he attempted to say "I'm leaving the federal lawsuit on the table for you" (page 4, lines 20 and 23; Page 5 lines 7 and 8). The hearing continued without Plaintiff and he had no representation.

13. Later during the hearing September 28, 2010 Judge Cook announced on the record that Plaintiff "elected" to leave the hearing voluntarily:

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 19)

6 [THE COURT]...[A]s you know,  
7 this is a Motion for an Order of Contempt and  
8 Writ of Bodily Attachment. And let the record

9 reflect that Mr. Gillespie elected to leave  
10 even though he was advised that the hearing  
11 would continue in his absence...

14. Judge Cook signed "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" September 30, 2010. On page 1, footnote 1, Judge Cook wrote "Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return." (Exhibit D). This statement is false. Judge Cook ordered Plaintiff removed from the courtroom prior to Defendants' motion for summary judgment. The rest of the order is equally bogus and is currently on appeal to the Second District Court of Appeal, Case No. 2D10-5197.

15. Major James Livingston, HCSO, is Commander of the Court Operations Division for the Court. Major Livingston provided Plaintiff a letter dated January 12, 2011 that impeaches Judge Cook's assertion the Plaintiff left the hearing voluntarily September 28, 2010. Major Livingston wrote: "Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance." (Exhibit E).

16. Dr. Huffer assessed the foregoing in a letter dated October 28, 2010. (Exhibit F).

Dr. Huffer wrote in part:

"As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like

threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.” (p1, ¶2). “He [Gillespie] is left with permanent secondary wounds” (p2, top). “Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates.” (p2, ¶1). “It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.” (p2, ¶1).

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 25th day of April 2011.

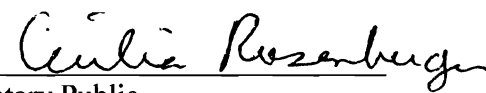
  
NEIL J. GILLESPIE

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, personally appeared NEIL J. GILLESPIE, known to me, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal this 25th day of April 2011.



  
Cecilia Rosenberger  
Notary Public  
State of Florida

Charles L. Stutts  
813 227 6466  
charles.stutts@hklaw.com

February 13, 2007

VIA FEDEX

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Re: Gillespie v. Barker, Rodems & Cook, P.A., et al.; Case No. 05-CA-7205

Dear Mr. Gillespie:

Amscot Corporation has asked me to respond to your letter of February 10, 2007 in which you request that Mr. Ian MacKechnie, President of Amscot, agree to his deposition in the above-referenced matter.

The U.S. District Court for the Middle District of Florida in 2001 dismissed all claims brought by you, Eugene R. Clement and Gay Ann Blomefield, individually and on behalf of others, against Amscot in connection with its deferred deposit transactions. This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.

Mr. MacKechnie views the prior litigation as closed, and neither he nor others at Amscot have any interest in voluntarily submitting to deposition or otherwise participating in the pending matter. Accordingly, Mr. MacKechnie must decline your request.

Please contact me if you have questions or care to discuss the matter.

Sincerely yours,

HOLLAND & KNIGHT LLP



Charles L. Stutts

cc: Ian MacKechnie

FILED

2010 SEP 28 AM 7:47

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

CLERK, U.S. DISTRICT COURT  
OCALA, FLORIDA

NEIL J. GILLESPIE,

CASE NO.: 5:10-CV-503-DC-10-DAB

Plaintiff,

vs.

DEMAND FOR JURY TRIAL

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
GONZALO B. CASARES, ADA Coordinator, and individually,  
DAVID A. ROWLAND, Court Counsel, and individually,  
CLAUDIA RICKERT ISOM, Circuit Court Judge, and individually,  
JAMES M. BARTON, II, Circuit Court Judge, and individually,  
MARTHA J. COOK, Circuit Court Judge, and individually,

BARKER, RODEMS & COOK, P.A.,  
RYAN CHRISTOPHER RODEMS,

THE LAW OFFICE OF ROBERT W. BAUER, P.A.,  
ROBERT W. BAUER,

Defendants.

COMPLAINT FOR VIOLATION OF THE AMERICANS WITH  
DISABILITIES ACT (ADA), AND CIVIL RIGHTS VIOLATIONS

Plaintiff pro se NEIL J. GILLESPIE sues the Defendants and alleges as follows:

JURISDICTION AND VENUE

1. This lawsuit arises under the Americans With Disabilities Act ("ADA"), 42 U.S.C., Chapter 126, Equal Opportunities for Individuals with Disabilities, Subchapter II, Public Services, Part A, §§ 12131 - 12134, Subchapter III, Public Accommodations and Services Operated by Private Entities, §§ 12181 - 12189, Subchapter IV, §§ 12201 - 12213, including the ADA Amendments Act of 2008 (ADAAA) updates. Plaintiff also

EXHIBIT

B

C-8835  
6350

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL  
CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL LAW DIVISION  
CASE NO. 05-CA-007205

-----X  
NEIL J. GILLESPIE,

Plaintiff,

and

BARKER, RODEMS & COOK, P.A.  
A Florida Corporation, and  
WILLIAM J. COOK,

Defendants.  
-----X

Division:

2010 OCT 22 PM 1:42  
HILLSBOROUGH COUNTY, FL  
CIRCUIT CIVIL  
CLERK CIRCUIT COURT

BEFORE: THE HONORABLE MARTHA J. COOK

PLACE: Hillsborough County Courthouse  
800 East Twiggs Street  
Tampa, Florida 33602

DATE: September 28, 2010

TIME: 11:04 a.m. - 11:28 a.m.

REPORTED BY: Robbie E. Darling  
Court Reporter

-----  
DEFENDANTS' MOTION FOR FINAL SUMMARY JUDGMENT;  
CORRECTED TRANSCRIPT  
-----

Pages 1 - 26

DEMPSTER, BERRYHILL & ASSOCIATES  
1875 NORTH BELCHER ROAD, SUITE 102  
CLEARWATER, FLORIDA 33765  
(727) 725-9157

ORIGINAL

EXHIBIT

C

APPEARANCES

**RYAN CHRISTOPHER RODEMS, ESQUIRE**

Barker, Rodems & Cook, P.A.

400 North Ashley Drive, Suite 2100

Tampa, Florida 33602

Attorney for Defendants

NEIL GILLESPIE

Pro Se

1 PROCEEDINGS

2 THE COURT: Good morning, folks. All  
3 right. I believe we're here today on a Motion  
4 for Final Summary Judgment -- or, Motion for  
5 Summary Judgment filed by the defendant; is  
6 that correct?

7 MR. RODEMS: Yes, Your Honor. There is  
8 two other matters as well.

9 THE COURT: Well, let's address the one  
10 that has been scheduled first, which is the  
11 Motion for Summary Judgment.

12 MR. GILLESPIE: Your Honor --

13 THE COURT: Please be seated. Folks, you  
14 don't need to stand to argue. Both of you.  
15 Please be seated.

16 MR. GILLESPIE: Your Honor, this morning I  
17 filed a federal lawsuit against you. I have a  
18 complaint here if you would like to read it. I  
19 move to disqualify you.

20 THE COURT: Your motion to disqualify  
21 based on a federal lawsuit is legally  
22 insufficient and is denied.

23 Please continue with your Motion for  
24 Summary Judgment.

25 MR. RODEMS: Thank you, Your Honor.



1           MR. GILLESPIE: I move to disqualify you  
2 on the basis that I have a financial  
3 relationship with your husband.

4           THE COURT: All right. Your motion to  
5 disqualify me on that basis is denied.

6           MR. GILLESPIE: I move to disqualify  
7 you --

8           THE COURT: Sir --

9           MR. GILLESPIE: -- on the basis of an  
10 affidavit that you made misrepresentations at  
11 the last hearing about whether or not I was --

12          THE COURT: Sir, file a written motion.  
13 I'm not going to allow you to disrupt these  
14 proceedings again. The last proceedings you  
15 feigned illness. You left this courtroom --

16          MR. GILLESPIE: No, I did not feign  
17 illness.

18          THE COURT: Sir, if you interrupt me you  
19 will be escorted out.

20          MR. GILLESPIE: Well, I'm leaving.

21          THE COURT: This is your last warning,  
22 sir.

23          MR. GILLESPIE: I'm leaving.

24          THE COURT: All right, sir. Escort the  
25 gentleman out. He's leaving. All right.

1 Continue with your motion, please. The hearing  
2 will continue.

3 MR. GILLESPIE: For the record, I'm  
4 leaving because I didn't get my ADA  
5 accommodation.

6 THE COURT: That's not true, sir.

7 MR. GILLESPIE: I'm leaving the federal  
8 lawsuit on this table for you.

9 THE COURT: You must go, sir. It's not  
10 proper service. Leave.

11 (THEREUPON, Mr. Gillespie exited the courtroom)

12 THE COURT: Go ahead.

13 MR. RODEMS: Thank you, Your Honor.

14 The plaintiff filed a two-count complaint  
15 against the two defendants; Barker, Rodems and  
16 Cook and Cook. Count One alleged breach of  
17 contract, Count Two alleged fraud.

18 By orders dated November 28th, 2007 and  
19 July 7th, 2008 the Court granted judgment in  
20 favor of Cook on both counts and for Defendant  
21 BRC on the fraud count. The only count  
22 remaining by plaintiff against Defendant BRC is  
23 for Breach of Contract against BRC, and we're  
24 moving for Summary Judgment.

25 The following facts that are in my motion

1           THE COURT: This can be mailed, and I  
2 believe you can give this back to counsel.  
3 There were only two conformed copies, one for  
4 Mr. Gillespie -- all right.

5           You can make a record. I did have your  
6 motion, it was noticed for today. As you know,  
7 this is a Motion for an Order of Contempt and  
8 Writ of Bodily Attachment. And let the record  
9 reflect that Mr. Gillespie elected to leave  
10 even though he was advised that the hearing  
11 would continue in his absence. You have  
12 noticed him for deposition, you indicate,  
13 several times?

14          MR. RODEMS: Yes, Your Honor. Prior to  
15 the order of July 29th, 2010 we noticed  
16 Mr. Gillespie twice for deposition, and both  
17 times he failed to appear.

18          The second -- and this is all reflected in  
19 the motion. On the second occasion he did file  
20 some sort of motion for protection, but he  
21 never made any effort to have it heard or  
22 anything.

23          So, when the Court entered the order on  
24 July 29th, 2010 denying his Motion for Order of  
25 Protection the Court was fairly clear that

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05CA7205  
Division: G**

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

**Defendants.**

\_\_\_\_\_ /

**ORDER ADJUDGING PLAINTIFF NEIL J. GILLESPIE IN CONTEMPT**

THIS CAUSE came before the Court on Tuesday, September 28, 2010, on Defendants' Motion for an Order of Contempt and Writ of Bodily Attachment,<sup>1</sup> and the proceedings having been read and considered and counsel having been heard, and the Court being otherwise fully advised in the premises, the Court finds and concludes that Plaintiff Neil J. Gillespie has wilfully and with contumacious disregard violated the Court's Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010 by refusing to appear for a duly noticed deposition on September 3, 2010.

On July 29, 2010, the Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, which stated: "The Plaintiff's 'Motion for Order of Protection,' (no date provided in Judge Barton's order) renewed in his 'Motion to Cancel Deposition' (6-16-10) is DENIED. The Plaintiff has repeatedly been the subject of Motions to

<sup>1</sup> Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return.



Compel by the Defendants during the course of these proceedings, and has ignored Court orders requiring his participation. The Court will not accept these or any further attempts by the Plaintiff to avoid the Defendant's right to discovery in this case and to bring this matter to a close. Non-compliance with the Court's orders is grounds for dismissal of the Plaintiff's remaining count with prejudice.” (Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, ¶8).

The record shows that Plaintiff previously failed to appear for two properly noticed depositions. Defendants served a notice of deposition on October 13, 2009, scheduling Plaintiff's deposition on December 15, 2009. On June 1, 2010, Defendants served another notice of deposition, scheduling Plaintiff's deposition on June 18, 2010. While Plaintiff served “Plaintiff's Motion to Cancel Deposition Duces Tecum June 18, 2010 and for an Order of Protection” on June 14, 2010, he did not attempt to have it heard before the deposition, and did not appear at the deposition.<sup>2</sup>

After the Court's Order entered July 29, 2010, Defendants served a notice of deposition on August 17, 2010, scheduling the deposition for September 3, 2010. Plaintiff did not respond until September 3, 2010, asserting that he would not be attending the deposition for three reasons: First, Plaintiff asserted that “[t]he court has not responded to nor provided accommodations requested under the Americans with disabilities Act . . . .” Second, he asserted that “the Oath of Office for judges in this matter [ ] are not legally sufficient, calling into question rulings in this matter.” Finally, Plaintiff again asserted that Defendants' counsel's

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<sup>2</sup> As stated above, on July 29, 2010, this Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, denying the Plaintiff's motions for protection from being deposed.

representation of Defendants is "unlawful." Defendants contend that each of these reasons is either specious or has been expressly rejected by the Court. The Court agrees. Based on these findings

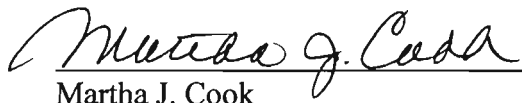
IT IS ORDERED AND ADJUDGED that the Plaintiff Neil J. Gillespie is guilty of contempt of this Court for failing to appear for deposition on September 3, 2010 and he will continue to be guilty of contempt unless and until the Plaintiff is deposed in this matter.

IT IS FURTHER ORDERED that Plaintiff shall submit to a deposition in Tampa, Florida, within 45 days. Plaintiff is directed to propose to Defendants' counsel, in writing, three dates on which his deposition may be taken on or before November 12, 2010.

IT IS FURTHER ORDERED that, if Plaintiff violates this Order by failing to submit to a deposition on or before November 12, 2010, then the Court will enter an Order to Show Cause requiring Plaintiff's appearance before the Court, and the Court will consider appropriate sanctions.

The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.

DONE AND ORDERED in Chambers this 30 day of September, 2010.

  
Martha J. Cook  
Circuit Judge

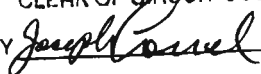
Copies to:

Mr. Neil J. Gillespie, pro se  
Ryan Christopher Rodems, Esquire (Counsel for Defendants)

3

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )  
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE  
AND CORRECT COPY OF THE DOCUMENT ON FILE IN  
MY OFFICE. WITNESS MY HAND AND OFFICIAL SEAL  
THIS 22nd DAY OF October 2010



PAT FRANK  
CLERK OF CIRCUIT COURT  
BY  D.C.



*David Gee, Sheriff*  
*Jose Docobo, Chief Deputy*

---

P.O. Box 3371  
Phone (813)247-8000  
[www.hcso.tampa.fl.us](http://www.hcso.tampa.fl.us)

*Hillsborough County*  
*Tampa, Florida 33601*

January 12, 2011

Mr. Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Dear Mr. Gillespie:

In response to your letter dated November 13, 2010, I made contact with Deputy Christopher E. Brown concerning your request for an explanation regarding why he escorted you out of the courthouse on September 28, 2010 after a hearing with Judge Martha Cook. Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance. Other than the official records maintained by the Court, I am not aware of any other records related to the hearing before Judge Cook.

As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "James P. Livingston".

James P. Livingston, Major  
Court Operations Division

EXHIBIT

E

## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell



cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services. (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.

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 VERIFIED EMERGENCY MOTION TO STAY PENDING  
APPEAL, MOTION FOR ORDER OF PROTECTION,  
AND MOTION FOR EXTENSION OF TIME**

1. Appellant pro se moves for the following orders because Appellees counsel Ryan Christopher Rodems is seeking Appellant's incarceration that will disrupt the appellate process. This Court granted Appellant's motion for leave to file an amended initial brief, to be served within 30 days, which is May 8, 2011. Mr. Rodems' evidentiary hearing set for May 3, 2011 in the lower tribunal on "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" is seeking Appellant's incarceration on a Writ of Bodily Attachment that will deny Appellant time to file the brief in contempt of this Court's Order.

**I. Motion To Stay Pending Appeal**

2. The Plaintiff moves for a stay of the of the "Order Adjudging Plaintiff Neil J. Gillespie In Contempt", and Writ Of Bodily Attachment, pursuant to Rule 9.310 of the Florida Rules of Appellate Procedure.

3. On September 30, 2010 Judge Martha Cook rendered "Order Adjudging Plaintiff Neil J. Gillespie In Contempt", with threat of incarceration on a Writ of Bodily Attachment. (Exhibit 1). On its face the Order is a sham. Judge Cook wrote at footnote 1,

“Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return.” This is false. Judge Cook ordered the Plaintiff removed, and he had no representation at either hearing.

4. Major James Livingston, Commander of the Court Operations Division, provided Appellant a letter dated January 12, 2011 that supports his claim that Judge Cook ordered him removed from the hearing and unlawfully denied him participation in the judicial process. Judge Cook then falsified the order stating Plaintiff voluntarily left. (Exhibit 2).

5. Mr. Rodems unilaterally set for hearing without coordinating the time and date with Appellant, an Evidentiary Hearing on the Order Adjudging Plaintiff Neil J. Gillespie In Contempt for May 3, 2011 at 11:30AM. (Exhibit 3).

5. Appellant filed a Notice in the lower court that he is unavailable during the time set by this Court, and the Florida Rules of Appellate Procedure, to file Petitioner's amended initial brief, and reply brief, and requested that no appointments, mediations, conferences, hearings, depositions, depositions duces tecum, or other legal proceedings be scheduled during that time, or prior to June 20, 2011. (Exhibit 4).

6. Appellant requested Mr. Rodems cancel the improperly set Evidentiary Hearing by letter. (Exhibit 5). Mr. Rodems has not responded or canceled the hearing.

7. Appellant apprised the Honorable James D. Arnold of the foregoing by letter. (Exhibit 6). Judge Arnold has not responded or canceled the hearing.

8. Appellant filed a Motion To Stay Pending Appeal in the lower court. (Exhibit 7). Rule 9.310(a) authorizes the lower court to stay the Order Adjudging Plaintiff Neil J.

Gillespie In Contempt. According to the rule, the initial decision to grant or deny a stay is discretionary with the lower tribunal. Appellant believes there is no chance the lower court will grant the motion given the animosity between the parties, animosity directly created by Mr. Rodems in this case to benefit his law firm.

9. A stay is necessary in this case to preserve the status quo during the pendency of the appeal. A stay is also necessary because Appellant, a disabled adult, faces risk to his life and health and exhaustion of the ability to continue to pursue justice, according to a letter by Dr. Karin Huffer, the Appellant's ADA advocate. (Exhibit 8).

10. This motion for stay should be granted because Appellant will likely prevail on appeal. The appeal will also show that Mr. Rodems is unlawfully representing his law firm against a former client in a matter that is the same or substantially the same as the prior representation. Most if not all the problems in this case are due to Mr. Rodems' unlawful behavior toward a former client as set forth in the Affidavit of Neil J. Gillespie of April 25, 2011. (Exhibit 9).

WHEREFORE, Appellant respectfully moves this Court for an order granting a stay of the "Order Adjudging Plaintiff Neil J. Gillespie In Contempt", and incarceration on Writ Of Bodily Attachment, pending this appeal.

## II. Motion For Order Of Protection

11. Attorney Ryan Christopher Rodems is unlawfully representing his firm against Plaintiff, a former client, on a matter that is the same or substantially similar to the prior representation, specifically their litigation with AMSCOT Corporation. ("AMSCOT"). Mr. Rodems knows about Plaintiff's disability from his firm's other representation of him on disability matters. Mr. Rodems separately commenced a counterclaim against Plaintiff

for libel over his letter to AMSCOT about the prior litigation. AMSCOT's attorney Charles L. Stutts of Holland & Knight, LLP wrote Plaintiff February 13, 2007 that "This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A." (Exhibit 10).

12. Since March 3, 2006 Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward Appellant that has aggravated his disability, caused substantial emotional distress, and serves no legitimate purpose, in violation of § 784.048, Florida Statutes. Mr. Rodems engaged in other abuse calculated to harm Appellant in violation of chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Appellant was formerly represented by attorney Robert Bauer in this case. Mr. Bauer complained on the record about Mr. Rodems unprofessional behavior: "...Mr. Rodems has, you know, decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner. It is my mistake for sitting back and giving him the opportunity to take this full blast attack." (Aug-14-08, transcript page 16, line 24).

13. This case was commenced August 11, 2005. There have been five trial court judges, four appeals to the 2dDCA, and a Petition for Writ of Prohibition. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems' independent professional judgment is materially limited by his own interest and conflict, as further described in Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010.

14. Dr. Karin Huffer, the Appellant's ADA advocate, assessed the foregoing in a letter dated October 28, 2010. (Exhibit 8). Dr. Huffer wrote in part:

“As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.” (p1, ¶2). “He [Gillespie] is left with permanent secondary wounds” (p2, top). “Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates.” (p2, ¶1). “It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.” (p2, ¶1).

15. Appellant filed a complaint April 21, 2011 with the U.S. Department of Justice Civil Rights Division, under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Discrimination Complaint Form, OMB No. 1190-0009. A copy of the complaint is attached as Exhibit 11.

16. Appellant provided new information April 21, 2011 to Mark J. Kappelhoff, Section Chief, US Department of Justice, Civil Rights Division, Criminal Section, in a previously filed federal complaint for the misuse and denial of judicial process under the color of law by the Thirteenth Judicial Circuit, Florida. The new information includes a

letter dated January 12, 2011 from Major Livingston that supports Appellant's claim that Judge Cook falsified records and denied his participation in the judicial process.

17. Appellant requested by certified letter April 20, 2011 to Major Livingston the prosecution of Judge Cook and Mr. Rodems under chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Appellant also requested Major Livingston recommend this case be transferred to another circuit because the Thirteenth Judicial Circuit cannot adjudicate this case safely or lawfully.

WHEREFORE, Appellant respectfully moves this Court for an order of protection against Ryan Christopher Rodems mandating that he, or others on his behalf, have no contact with Appellant during the pendency of this appeal, other than as required by the Florida Rules of Appellate Procedure for Appellees' Answer Brief.

### III. Motion For An Extension of Time

18. Appellant has spent much of the past two weeks responding to Mr. Rodems improperly set Evidentiary Hearing. This has prevented Appellant from working on his amended initial brief. Appellant is disabled, and as noted by Dr. Huffer in her letter of October 28, 2010, "...faces risk to his life and health and exhaustion of the ability to continue to pursue justice...". (Exhibit 8). Appellant is not an attorney, has not attended law school, and therefore already at a disadvantage. Mr. Rodems' ongoing antics are calculated to aggravate Appellant's disabilities and further obstruct justice.

19. Appellant needs a two week extension of time to make up for the time spent responding to Mr. Rodems improperly set Evidentiary Hearing and threat of incarceration on a Writ of Bodily Attachment.

WHEREFORE, Appellant respectfully moves this Court for an extension of time of two weeks (14 days) to file his amended initial brief.

RESPECTFULLY SUBMITTED and VERIFIED April 25, 2011.

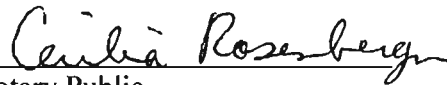
  
Neil J. Gillespie, Appellant pro se  
8992 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, personally appeared NEIL J. GILLESPIE, known to me, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

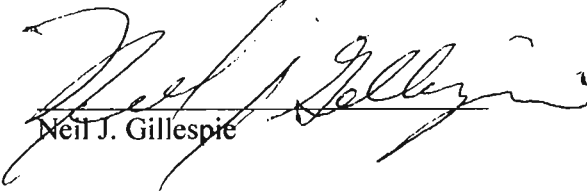
WITNESS my hand and official seal this 25th day of April 2011.



  
Notary Public  
State of Florida

Certificate of Service

I certify that a copy hereof has been furnished to Ryan Christopher Rodems,  
Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida  
33602 by mail on April 25, 2011.

  
Neil J. Gillespie



## Table of Contents

- Exhibit 1, Order Adjudging Neil J. Gillespie in Contempt, Sep-30-10
- Exhibit 2, Letter of Major James Livingston, HCSO, Jan-12-11
- Exhibit 3, Defendants' Notice of Evidentiary Hearing, Apr-05-11
- Exhibit 4, Plaintiff's Notice of Unavailability, Apr-16-11
- Exhibit 5, Letter of Neil Gillespie to Mr. Rodems, cancel hearing, Apr-16-11
- Exhibit 6, Letter of Neil Gillespie to Judge James D. Arnold, Apr-16-11
- Exhibit 7, Motion to Stay Pending Appeal, Apr-23-11
- Exhibit 8, Letter of Dr. Karin Huffer, Oct-28-10
- Exhibit 9, Affidavit of Neil J. Gillespie
- Exhibit 10, Letter of Charles L. Stutts, Holland & Knight, Feb-13-07
- Exhibit 11, Complaint under Title II of the Americans with Disabilities Act,  
Section 504 of the Rehabilitation Act of 1973, Discrimination  
Complaint Form, OMB No. 1190-0009

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05CA7205  
Division: G**

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

**Defendants.**

\_\_\_\_\_ /

**ORDER ADJUDGING PLAINTIFF NEIL J. GILLESPIE IN CONTEMPT**

THIS CAUSE came before the Court on Tuesday, September 28, 2010, on Defendants' Motion for an Order of Contempt and Writ of Bodily Attachment,<sup>1</sup> and the proceedings having been read and considered and counsel having been heard, and the Court being otherwise fully advised in the premises, the Court finds and concludes that Plaintiff Neil J. Gillespie has wilfully and with contumacious disregard violated the Court's Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010 by refusing to appear for a duly noticed deposition on September 3, 2010.

On July 29, 2010, the Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, which stated: "The Plaintiff's 'Motion for Order of Protection,' (no date provided in Judge Barton's order) renewed in his 'Motion to Cancel Deposition' (6-16-10) is DENIED. The Plaintiff has repeatedly been the subject of Motions to

\_\_\_\_\_  
<sup>1</sup> Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return.

**EXHIBIT**

**1**

Compel by the Defendants during the course of these proceedings, and has ignored Court orders requiring his participation. The Court will not accept these or any further attempts by the Plaintiff to avoid the Defendant's right to discovery in this case and to bring this matter to a close. Non-compliance with the Court's orders is grounds for dismissal of the Plaintiff's remaining count with prejudice.” (Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, ¶8).

The record shows that Plaintiff previously failed to appear for two properly noticed depositions. Defendants served a notice of deposition on October 13, 2009, scheduling Plaintiff's deposition on December 15, 2009. On June 1, 2010, Defendants served another notice of deposition, scheduling Plaintiff's deposition on June 18, 2010. While Plaintiff served “Plaintiff's Motion to Cancel Deposition Duces Tecum June 18, 2010 and for an Order of Protection” on June 14, 2010, he did not attempt to have it heard before the deposition, and did not appear at the deposition.<sup>2</sup>

After the Court's Order entered July 29, 2010, Defendants served a notice of deposition on August 17, 2010, scheduling the deposition for September 3, 2010. Plaintiff did not respond until September 3, 2010, asserting that he would not be attending the deposition for three reasons: First, Plaintiff asserted that “[t]he court has not responded to nor provided accommodations requested under the Americans with disabilities Act . . . .” Second, he asserted that “the Oath of Office for judges in this matter [ ] are not legally sufficient, calling into question rulings in this matter.” Finally, Plaintiff again asserted that Defendants' counsel's

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<sup>2</sup> As stated above, on July 29, 2010, this Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, denying the Plaintiff's motions for protection from being deposed.

representation of Defendants is "unlawful." Defendants contend that each of these reasons is either specious or has been expressly rejected by the Court. The Court agrees. Based on these findings

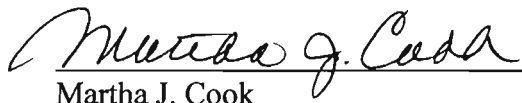
IT IS ORDERED AND ADJUDGED that the Plaintiff Neil J. Gillespie is guilty of contempt of this Court for failing to appear for deposition on September 3, 2010 and he will continue to be guilty of contempt unless and until the Plaintiff is deposed in this matter.

IT IS FURTHER ORDERED that Plaintiff shall submit to a deposition in Tampa, Florida, within 45 days. Plaintiff is directed to propose to Defendants' counsel, in writing, three dates on which his deposition may be taken on or before November 12, 2010.

IT IS FURTHER ORDERED that, if Plaintiff violates this Order by failing to submit to a deposition on or before November 12, 2010, then the Court will enter an Order to Show Cause requiring Plaintiff's appearance before the Court, and the Court will consider appropriate sanctions.

The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.

DONE AND ORDERED in Chambers this 30 day of September, 2010.

  
Martha J. Cook  
Circuit Judge

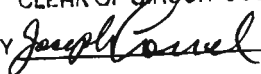
Copies to:

Mr. Neil J. Gillespie, pro se  
Ryan Christopher Rodems, Esquire (Counsel for Defendants)

3

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )  
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE  
AND CORRECT COPY OF THE DOCUMENT ON FILE IN  
MY OFFICE. WITNESS MY HAND AND OFFICIAL SEAL  
THIS 22nd DAY OF October 2010



PAT FRANK  
CLERK OF CIRCUIT COURT  
BY  D.C.



*David Gee, Sheriff*  
*Jose Docobo, Chief Deputy*

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P.O. Box 3371  
Phone (813)247-8000  
[www.hcso.tampa.fl.us](http://www.hcso.tampa.fl.us)

*Hillsborough County*  
*Tampa, Florida 33601*

January 12, 2011

Mr. Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Dear Mr. Gillespie:

In response to your letter dated November 13, 2010, I made contact with Deputy Christopher E. Brown concerning your request for an explanation regarding why he escorted you out of the courthouse on September 28, 2010 after a hearing with Judge Martha Cook. Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance. Other than the official records maintained by the Court, I am not aware of any other records related to the hearing before Judge Cook.

As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "James P. Livingston".

James P. Livingston, Major  
Court Operations Division

EXHIBIT

2

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05-CA-007205**

**Division: J**

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

**Defendants.**

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**DEFENDANTS' NOTICE OF EVIDENTIARY HEARING**

**PLEASE TAKE NOTICE** that the Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued has been scheduled for hearing before the Honorable James D. Arnold, Circuit Court Judge, Thirteenth Judicial Circuit, Room 514, 800 East Twiggs Street, Tampa, Florida 33602, **May 3, 2011 at 11:30 a.m.** or as soon thereafter as counsel may be heard: Time Reserved: 30 minutes

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, 800 E. Twiggs Street, Room 604 Tampa, FL 33602. Phone: 813-272-7040; Hearing Impaired: 1-800-955-8771; at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

DATED this 5th day of April, 2011.



**RYAN CHRISTOPHER RODEMS, ESQUIRE**

Florida Bar No. 947652

Barker, Rodems & Cook, P.A.

400 North Ashley Drive, Suite 2100

Tampa, Florida 33602

Telephone: 813/489-1001

Facsimile: 813/489-1008

Attorneys for Defendants

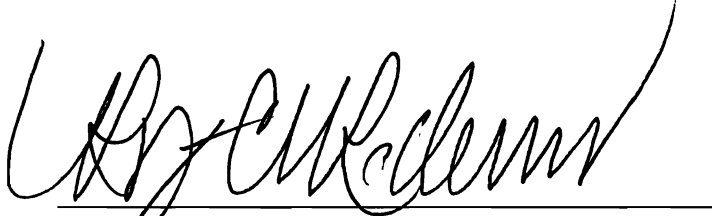
Confirmation No. 12J-34992041

**EXHIBIT**

**3**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via  
U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala Florida 34481 this 5th day of April,  
2011.

A handwritten signature in black ink, appearing to read 'Ryan Christopher Rodems', written over a horizontal line.

Ryan Christopher Rodems, Esquire

**COPY**

**BARKER, RODEMS & COOK**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

Telephone 813/489-1001  
Facsimile 813/489-1008

April 5, 2011

The Honorable James D. Arnold  
Circuit Court Judge  
Circuit Civil, Division "J"  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

**Re: Neil J. Gillespie v. Barker, Rodems & Cook, P.A.,  
a Florida Corporation; and William J. Cook  
Case No.: 05-CA-7205; Division "J"**

Dear Judge Arnold:

Enclosed please find courtesy copies of the following documents filed in connection with a hearing which previously was scheduled before you on January 26, 2011 and is presently scheduled before you on May 3, 2011 at 11:30 a.m.:

1. Defendant's Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued; and,
2. Defendants' Notice of Evidentiary Hearing.

Thank you for your time and attention to this matter.

Respectfully submitted,



Ryan Christopher Rodems

RCR/so  
Enclosures  
cc: Neil J. Gillespie (w/encl)



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

**COPY**

NEIL J. GILLESPIE,

Plaintiff,

vs.

Case No.: 05CA7205

Division: F

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

Defendants.

**VERIFIED MOTION FOR AN ORDER TO SHOW CAUSE WHY PLAINTIFF  
SHOULD NOT BE HELD IN CONTEMPT OF COURT AND WRIT  
OF BODILY ATTACHMENT SHOULD NOT BE ISSUED**

Defendants Barker, Rodems & Cook, P.A. and William J. Cook move the Court for an Order to Show Cause as to why Plaintiff Neil J. Gillespie should not be held in contempt of Court and writ of bodily attachment should not be issued, and as grounds therefor would state:

1. Plaintiff has violated the Order Adjudging Plaintiff Neil J. Gillespie in Contempt, entered September 30, 2010. The September 30, 2010 Order was entered after Plaintiff refused to be deposed or failed to appear for several duly noticed depositions, as detailed below. The September 30, 2010 Order adjudging Plaintiff in contempt Ordered, among other things, that:

a. "Plaintiff shall submit to a deposition in Tampa, Florida, within 45 days. Plaintiff is directed to propose to Defendants' counsel, in writing, three dates on which his deposition may be taken on or before November 12, 2010."

b. "if Plaintiff violates this Order by failing to submit to a deposition on or before November 12, 2010, then the Court will enter an Order to Show Cause requiring

Plaintiff's appearance before the Court, and the Court will consider appropriate sanctions."

2. Plaintiff has not submitted to a deposition in Tampa, Florida, within 45 days of the September 30, 2010 Order. Instead, on November 8, 2010, Plaintiff sent a letter to the undersigned, offering to be deposed under his conditions: "I am available for deposition at the following dates and times provided that I am represented by counsel, have ADA accommodations in place, and the deposition is conducted by a third party." (Exhibit 1) (Emphasis supplied). Plaintiff also stated he would only allow one hour for his deposition.

3. The September 30, 2010 Order did not authorize Plaintiff to dictate that the deposition may only be taken if Plaintiff obtains counsel, or that Plaintiff may condition his deposition on some unspecified "ADA accommodations," or who takes his deposition. It also did not impose time limitations on the deposition.

4. Plaintiff's actions amount to a contumacious disregard for the authority of the Court and the September 30, 2010 Order.

5. What preceded the September 30, 2010 Order shows that Plaintiff's intent by the November 8, 2010 letter is to continue to delay his deposition.

6. Defendant served a notice of deposition on October 13, 2009, scheduling Plaintiff's deposition on December 15, 2009. (Exhibit 2). Plaintiff failed to appear. On June 1, 2010, Defendant served another notice of deposition, scheduling Plaintiff's deposition on June 18, 2010. (Exhibit 3). Plaintiff served "Plaintiff's Motion to Cancel Deposition Duces Tecum June 18, 2010 and for an Order of Protection" on June 14, 2010, but did not contact the undersigned to schedule a hearing on it before the deposition, and he did not appear at the deposition. Thereafter, on July 29, 2010, this Court entered the Notice of Case Management

Status and Orders on Outstanding Res Judicata Motions, which stated:

The Plaintiff's 'Motion for Order of Protection,' (no date provided in Judge Barton's order) renewed in his 'Motion to Cancel Deposition' (6-16-10) is DENIED. The Plaintiff has repeatedly been the subject of Motions to Compel by the Defendants during the course of these proceedings, and has ignored Court orders requiring his participation. The Court will not accept these or any further attempts by the Plaintiff to avoid the Defendant's right to discovery in this case and to bring this matter to a close. Non-compliance with the Court's orders is grounds for dismissal of the Plaintiff's remaining count with prejudice.

(Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, July 29, 2010, ¶8).

7. After the Court's Order entered July 29, 2010, Defendants served a notice of deposition on August 17, 2010, scheduling Plaintiff's deposition for September 3, 2010. (Exhibit 4). Plaintiff did not respond until September 3, 2010, asserting that he would not be attending the deposition for three reasons: First, Plaintiff asserted that "[t]he court has not responded to nor provided accommodations requested under the Americans with disabilities Act . . ." Second, he asserted that "the Oath of Office for judges in this matter [ ] are not legally sufficient, calling into question rulings in this matter." Finally, Plaintiff again asserted that the undersigned's representation of Defendants is "unlawful." (Exhibit 5).

8. Thereafter, Defendants moved for an Order adjudging Plaintiff in contempt, which this Court granted on September 28, 2010. (Order Adjudging Plaintiff Neil J. Gillespie in Contempt, entered September 30, 2010).

9. Defendants request that the Court hold an evidentiary hearing, at which time Plaintiff should be directed to show cause why he should not be held in contempt for violating the Order Adjudging Plaintiff Neil J. Gillespie in Contempt, entered September 30, 2010, and

Defendants request that the Court issue a writ of bodily attachment directing that Plaintiff be taken into custody until such time as he purges himself of the contempt by complying with the Court's Order directing him to be deposed.

10. The Court should also award Defendant their attorneys' fees and costs incurred in this matter, pursuant to Rule 1.380(b).


WHEREFORE, Defendants request that the Court:

1. Enter an Order scheduling an evidentiary hearing for Plaintiff to show cause why he should not be held in contempt of court and writ of bodily attachment should not be issued, pursuant to Fla. R. Civ. P. 1.380(b);

2. Following the evidentiary hearing, issue an Order (a) finding Plaintiff in contempt of Court and that Plaintiff has the present ability to comply with the Order Adjudging Plaintiff Neil J. Gillespie in Contempt, entered September 30, 2010; and (b) issuing a writ of bodily attachment commanding that Plaintiff be taken into custody by the Sheriffs of the State of Florida until such time as he purges himself of his contempt; and,

3. Award Defendants costs and attorneys' fees, and for such other and further relief as this Court deems appropriate.


RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of November, 2010.

  
\_\_\_\_\_  
RYAN CHRISTOPHER RODEMS, ESQUIRE  
Florida Bar No. 947652  
Barker, Rodems & Cook, P.A.  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602  
Telephone: 813/489-1001  
Facsimile: 813/489-1008  
Attorneys for Defendants

**VERIFICATION**

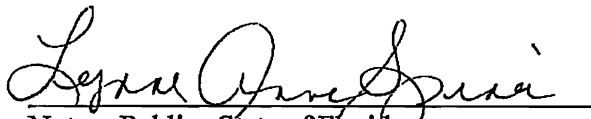
I, Ryan Christopher Rodems, under penalty of perjury, swear that the facts alleged in herein are true and accurate, and I swear that the documents attached hereto are true and correct copies.

DATED this 12<sup>th</sup> day of November, 2010.

  
\_\_\_\_\_  
RYAN CHRISTOPHER RODEMS, ESQUIRE

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

Sworn to (or affirmed) and subscribed before me this 12<sup>th</sup> day of 2010, by Ryan Christopher Rodems, who is personally known to me or presented \_\_\_\_\_ as identification.

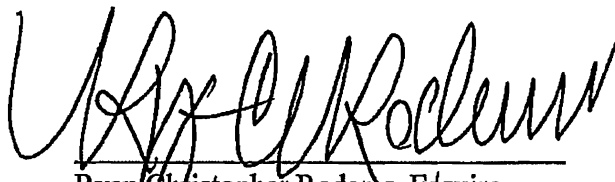
  
\_\_\_\_\_  
Notary Public, State of Florida

**CERTIFICATE OF SERVICE**

NOTARY PUBLIC-STATE OF FLORIDA  
Lynne Anne Spina  
Commission # DD941173  
Expires: DEC. 26, 2013  
BONDED THRU ATLANTIC BONDING CO., INC.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via

U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala Florida 34481 this 12th day of November, 2010.

  
\_\_\_\_\_  
Ryan Christopher Rodems, Esquire

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

November 8, 2010

Mr. Ryan Christopher Rodems, Attorney at Law  
Barker Rodems & Cook, PA  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

RE: Court-ordered deposition by Judge Cook, Gillespie v. Barker, Rodems &  
Cook, PA, et al, case no. 05-CA-007205, Circuit Civil, 13th Judicial Circuit

Dear Mr. Rodems:

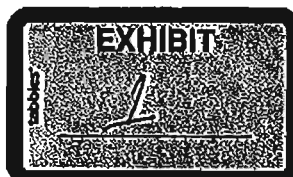
This is in response to your letter dated October 26, 2010. Dr. Karin Huffer has advised me not to attend a deposition with you unrepresented and without ADA accommodation. Dr. Huffer's letter of October 28, 2010 is enclosed. Dr. Huffer wrote this about attending the deposition without ADA accommodation: (page 1, paragraph 2)

"As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter."

I am actively seeking counsel for the court-ordered deposition and have provided you copies of correspondence thereto. I will continue to do so and file same with the court.

You did not provide any details about the deposition. Who will conduct the deposition? After five years of your lies and harassment toward me I cannot be in your presence, you make me ill. Previously I provided you my tax returns and other documents so that is done. Since you did not specify the amount of time needed I assume one hour is enough.

I am available for deposition at the following dates and times provided that I am represented by counsel, have ADA accommodations in place, and the deposition is conducted by a third party:



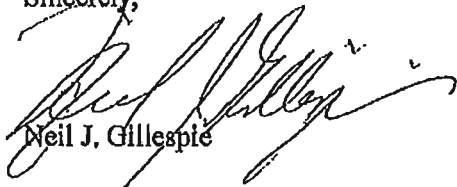
Wednesday November 10, 2010 noon to 1:00 PM  
Thursday November 11, 2010 noon to 1:00 PM  
Friday November 12, 2010 noon to 1:00 PM

I reiterate my offer to submit to a deposition in Ocala at the law office of Robert Stermer subject to the conditions described above. Another option is a telephonic deposition.

Please be advised that I will likely request a stay of Judge Cook's order under Florida Rule of Appellate Procedure 9.310(a) and will advise you thereupon. In any event I don't see the need for a writ of bodily attachment. If it comes to that point I would voluntarily appear at the appropriate law enforcement office and submit to a deposition under duress. At least then I would have some protection from your stunts, like throwing coffee on a deponent, or your wont of making false affidavits that you were threatened.

In the past I have requested that you address me as "Mr. Gillespie" in this matter. Your letter of October 26, 2010 addressed "Dear Neil" violates my request. Judge Isom also requested you address me as "Mr. Gillespie" on February 5, 2007. A copy of my letter to you of December 22, 2006 requesting you address me as "Mr. Gillespie" is enclosed, along with the transcript pages of Judge Isom instructing you in civility.

Sincerely,



Neil J. Gillespie

Enclosures

**DR. KARIN HUFFER**

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 [www.lvaallc.com](http://www.lvaallc.com)

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell



cannot be unrun. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons, (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services." (U.S. Dept. of Justice, Title II, Technical Assistance Manual (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Telephone: (352) 502-8409

US CERTIFIED MAIL, RETURN RECEIPT  
Article No. 7005 31 10 0003 7395 1887

December 22, 2006

Ryan Christopher Rodems, Attorney at Law  
Barker, Rodems & Cook, P.A.  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

RE: Gillespie v. Barker, Rodems & Cook, P.A., case no.: 05-CA-7205, Div. H

Dear Mr. Rodems,

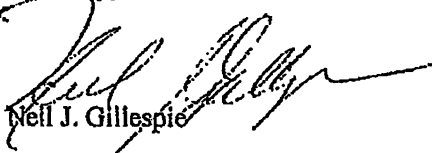
Kindly take notice that we are not on a first name basis, and I request that you address me as "Mr. Gillespie". I have made this request to you several times, in writing, and still you refuse to comply. I address you as "Mr. Rodems", so I do not understand the problem. Mature adults in civilized society do this as a matter of course, so again, I do not understand your difficulty. Let me remind you that I am ten years your senior, which only reinforces the social protocol that you address me as "Mr. Gillespie".

As for your immature, childish remark left on my voice mail, your statement that because the greeting on my voice mail says "Hi, this is Neil, leave a message and I'll get back to you", that you somehow construe this as giving you permission to use my first name, this is further evidence that you are unfit to serve as counsel in this lawsuit. It also calls into question your mental fitness to be a lawyer, in my view. (Exhibit A).

I am providing a copy of this letter to the Court, and I am including it in the record. At trial, with you on the witness stand, I will question you about this matter, to give the Court and the jury some idea about how unprofessional you are, and to provide a glimpse into the nightmare of being your client at Barker, Rodems & Cook, P.A.

Please address me as "Mr. Gillespie" at all times and govern yourself accordingly.

Sincerely,

  
Neil J. Gillespie

cc: The Honorable Claudia R. Isom  
enclosure, page 5, transcript of Mr. Rodems' phone message of Dec-13-06

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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.: 05-7205

-vs-

Division: H

BARKER, RODEMS & COOK, P.A.,  
A Florida Corporation  
Defendant.

-----/

TRANSCRIPT OF PROCEEDINGS

BEFORE:	HONORABLE CLAUDIA R. ISOM Circuit Judge
TAKEN AT:	In Chambers Hillsborough County Courthouse Tampa, Florida
DATE & TIME:	February 5, 2007 Commencing at 1:30 p.m.
REPORTED BY:	Denise L. Bradley, RPR Notary Public

**ORIGINAL**

STENOGRAPHICALLY RECORDED  
COMPUTER-AIDED TRANSCRIPTION

## 1 APPEARANCES:

2  
3 On behalf of the Plaintiff:4 NEIL J. GILLESPIE  
5 (Pro se litigant)  
6 8092 115th Loop  
7 Ocala, Florida 344818 On behalf of the Defendant:9 RYAN CHRISTOPHER RODEMS, ESQUIRE  
10 Barker, Rodems & Cook, P.A.  
11 400 North Ashley Drive, Suite 2100  
12 Tampa, Florida 33602  
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1 disposed of.

2 MR. GILLESPIE: Judge, is there a reason why Mr.  
3 Rodems can't address me as Mr. Gillespie? Do we have  
4 to go through an entire hearing for that?

5 THE COURT: I'm sorry. How were you addressing  
6 Mr. Gillespie?

7 MR. RODEMS: In the chambers of course I would  
8 address him as Mr. Gillespie. I haven't addressed him  
9 at all today. I've addressed all of my comments to  
10 you.

11 THE COURT: Okay, fine.

12 MR. GILLESPIE: He's been addressing me as either  
13 Neil or Neily.

14 THE COURT: Today during the hearing?

15 MR. GILLESPIE: No, on Thursday out in the  
16 hallway. And the purpose of it because I've written to  
17 him about this and request that he not do it, and it's  
18 just for the purpose of annoyance and harassment. In  
19 the alternative, I don't know if he perhaps is saying  
20 that because maybe he has some affection he wants to  
21 show to me. But I'm not interested in that. I believe  
22 he's married and I wish he would keep those comments  
23 for his wife.

24 MR. RODEMS: I think my wife would object if I  
25 called her Neil or Neily.

1 THE COURT: Okay. So in the future please both  
2 of you need to refer to each other by your last name,  
3 your surname, and not with any terms of affection,  
4 endearment or nicknames.

5 MR. RODEMS: Your Honor, are you asking me to do  
6 that outside of these proceedings as a courtesy to the  
7 Court or is this an official order?

8 THE COURT: When in the courthouse engaging in  
9 litigation regarding this case -- is that your umbrella  
10 right there on that chair?

11 MR. GILLESPIE: I don't have an umbrella.

12 THE BAILIFF: That's been here since this  
13 morning, Your Honor.

14 THE COURT: Off the record.

15 (Pause.)

16 THE COURT: All right, back on the record. In  
17 the context of this litigation please refer to each  
18 other by your surnames so we won't have any question  
19 about whether or not people are being professional.  
20 Okay.

21 MR. GILLESPIE: And, Judge, would that go for  
22 letters he sends me as well?

23 THE COURT: I said in the context of this  
24 litigation. So if the letters have to do with this  
25 litigation that would be encompassed in this.

1 MR. GILLESPIE: Thank you.

2 THE COURT: That's for future reference. And  
3 since I just said that I would not hold it against  
4 either of you if you've been using something like  
5 nicknames in the past.

6 Okay. So let's try to get through what was set  
7 for today. And you said your order of protection has  
8 now been incorporated into an order to show cause.

9 MR. GILLESPIE: Yes, Judge.

10 THE COURT: So by doing the order to show cause  
11 we could check two of them off of our list. So why  
12 don't you proceed with that one.

13 MR. GILLESPIE: All right, Judge.

14 MR. RODEMS: Your Honor, before we begin, I  
15 object to some evidence that Mr. Gillespie has filed in  
16 connection with this motion. I'd like to be heard on  
17 that before the Court considers the admission of it.

18 MR. GILLESPIE: And, Judge, before --

19 THE COURT: In terms of this being an evidentiary  
20 hearing, I guess I'll reserve on your motion since it's  
21 nonjury. You can raise the objection whenever he seeks  
22 to introduce it into evidence today.

23 MR. RODEMS: Well, he filed it with this motion.  
24 So before he begins his motion I'd like to identify the  
25 issues and make sure the record is clear.

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05CA7205**

**Division: C**

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

**Defendants.**

**AMENDED NOTICE OF DEPOSITION DUCES TECUM**

PLEASE TAKE NOTICE that the undersigned attorney for Defendants, will take the following deposition for discovery or use at hearings or trial, by sound, sound-and-visual, videotaped, or stenographic means, or all, at the time and place listed below, upon oral examination before an officer designated under Fla. R. Civ. P. 1.300, or a designated court reporter, or any other Notary Public authorized by law to take depositions, as prescribed by Florida Rule of Civil Procedure 1.310:

**Name:** Neil J. Gillespie  
**Date:** December 15, 2009 *a/s*  
**Time:** 12:00 p.m.  
**Location:** Richard Lee Reporting  
100 North Tampa Street, Suite 2060  
Tampa, Florida 33602  
(823) 229-1588

The deponent is to have with him the following:





## **DEFINITION**

As used herein, "document" shall mean: Every writing or record of every type and description that is or has been in your possession, control or custody or of which you have knowledge, including, without limitation on the generality of the foregoing, correspondence, memoranda, tapes, videotapes, stenographic or hand-written notes, studies, publications, books, pamphlets, pictures, films, voice records, maps, reports, surveys, computer files, minutes or statistical compilations; every copy of such writing or record, where the original is not in your possession, custody or control; and every copy of such writing or record where such copy is not an identical copy of any original or where such copy contains any commentary or notation whatsoever that does appear in the original.

## **DOCUMENTS TO BE PRODUCED**

1. Gillespie Family Living Trust Agreement dated February 10, 1997 and all amendments, modifications or changes thereto.
2. Each and every document received from the Trustees of the Gillespie Family Living Trust Agreement dated February 10, 1997.
3. Each and every document discussing, describing or mentioning the Gillespie Family Living Trust Agreement dated February 10, 1997.
4. For years 2005-2009, bank statements, deposit slips and canceled checks for any accounts you have an interest in at Park Avenue Bank, whether individually or jointly.
5. For years 2005-2009, account statements for all money accounts, including checking, savings, credit union, investment accounts, equity accounts, insurance policies or any others for any accounts you have an interest in, whether individually or jointly..
6. Your federal income tax or information returns filed for 2005-2009. (If you have not filed for any of these three years, bring any worksheets or proposed returns.)
7. For years 2005-2009, all W-2 income statements or 1099 forms.
8. Your last five paycheck stubs or wage statements.

9. All title certificates and registrations to all automobiles, trucks, boats, motorcycles or other vehicles you owned singly or jointly with any other person or which you regularly drive.
10. The deed, mortgage, note and closing statement to your home and any and all other real property in the state of Florida or elsewhere owned by you individually or as a co-owner or in which you have any interest whatsoever.
11. All notes, loan agreements, judgments or other documents showing debts that you owe to any other person.
12. All documents that show or tend to show debts incurred for the purchase of real or personal property owned by you, including but not limited to financing contracts and payment books.
13. All notes, judgments, receipts, contracts or any other documents showing debts that other persons owe to you.
14. All certificates of stock or bonds, shares, membership certificates or other securities which you owned individually or jointly with any other person, in corporations, LLCs, LLPs, LLLPs or any other entity.
15. All savings bonds you own individually or jointly with any other person.
16. All certificates of deposit you own individually or jointly with any other person.
17. All policies of insurance on your life.
18. All policies of insurance on your motor vehicles.
19. All policies of insurance on your home, apartment, condominium or residence.
20. Any personal articles floater and master insurance policies.
21. Any loan applications which you have filled out in the last three years.

22. Any leases to which you are a party including the lease on your home or apartment.
23. All documents showing pension and profit-sharing plans in which you have any interest.
24. Your last will and testament.
25. Any inventories of safe deposit box contents.
26. Any inventories of personal property kept for insurance or other purposes.
27. Any and all business permits or licenses.
28. Florida Driver's license.
29. Any and all franchise, patent and copyright certificates.
30. Any and all financial statements showing your financial condition for both of the past two years.
31. All financial statements issued during the past three years by any corporation, partnership or business in which you owned stock or have an interest.
32. All partnership agreements, shareholder agreements and other business agreements in which you are an interest party or by which you have any duties or rights.
33. Any and all documents showing or tending to show any investments or contributions made in whole or in part by you within the last three years, and the amount and value of each investment or contribution.
34. Any and all documents showing or tending to show any distributions made to you as a result of any investments or contributions made in whole or in part by you.
35. All contracts and closing documents connected with the purchase or sale of any

real or personal property by you within the past five years.

36. All contracts and closing documents connected with the sale lease or transfer of any real or personal property by you during the last three years.

37. All contracts undue which you currently have any legal rights.

38. All trust instruments which name you either as a trustee or beneficiary or interested party.

39. All powers of appointment and powers of attorney in which you are named.

40. Any and all documents showing pending litigation in which you are involved.

41. Any inventories of personal property kept for insurance or other purposes.

42. Any and all business permits or licenses.

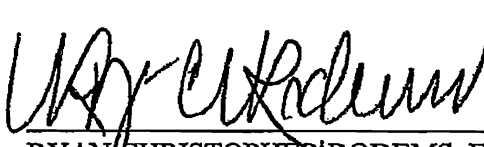
43. Any and all documents showing pending litigation in which you are involved.

44. Any and all documents showing payments you made to any person or entity.

45. Any and all documents showing payments made to you by any person or entity.

46. Credit report.

DATED this 13 day of October, 2009.



RYAN CHRISTOPHER RODEMS, ESQUIRE

Florida Bar No. 947652

BARKER, RODEMS & COOK, P.A.

400 North Ashley Drive, Suite 2100

Tampa, Florida 33602

Phone: 813/489-1001

Fax: 813/489-1008

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala, Florida 34481, this 13 day of October, 2009.

  
\_\_\_\_\_  
RYAN CHRISTOPHER RODEMS, ESQUIRE

cc: Richard Lee Reporting

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05CA7205**

**Division: G**

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

**Defendants.**

**NOTICE OF DEPOSITION DUCES TECUM**

PLEASE TAKE NOTICE that the undersigned attorney for Defendants, will take the following deposition for discovery or use at hearings or trial, by sound, sound-and-visual, videotaped, or stenographic means, or all, at the time and place listed below, upon oral examination before an officer designated under Fla. R. Civ. P. 1.300, or a designated court reporter, or any other Notary Public authorized by law to take depositions, as prescribed by Florida Rule of Civil Procedure 1.310:

**Name: Neil J. Gillespie**

**Date: June 18, 2010**

**Time: 12:00 p.m.**

**Location: Richard Lee Reporting  
100 North Tampa Street, Suite 2060  
Tampa, Florida 33602  
(823) 229-1588**

*CLW*

The deponent is to have with him the following:

**DEFINITION**

As used herein, "document" shall mean: Every writing or record of every type and description that is or has been in your possession, control or custody or of which you have knowledge, including, without limitation on the generality of the foregoing, correspondence, memoranda, tapes, videotapes, stenographic or hand-written notes, studies, publications, books, pamphlets, pictures, films, voice records, maps, reports, surveys, computer files, minutes or



statistical compilations; every copy of such writing or record, where the original is not in your possession, custody or control; and every copy of such writing or record where such copy is not an identical copy of any original or where such copy contains any commentary or notation whatsoever that does appear in the original.

**DOCUMENTS TO BE PRODUCED**

1. Gillespie Family Living Trust Agreement dated February 10, 1997 and all amendments, modifications or changes thereto.
2. Each and every document Gillespie received from the Trustees of the Gillespie Family Living Trust Agreement dated February 10, 1997.
3. Each and every document discussing, describing or mentioning the Gillespie Family Living Trust Agreement dated February 10, 1997.
4. All contracts, receipts or closing documents connected with the purchase, sale, lease or transfer of any real or personal property by Gillespie during the last three years.
5. All contracts undue which Gillespie currently has any legal rights.
6. All trust instruments which name Gillespie either as a trustee or beneficiary or interested party.
7. All powers of appointment and powers of attorney in which Gillespie is named.
8. Any and all documents showing pending litigation in which Gillespie is involved.
9. Any inventories of personal property kept for insurance or other purposes.
10. Any and all business permits or licenses.
11. Any and all documents showing payments Gillespie made to any person or entity in the last five years.
12. Any and all documents showing payments made to Gillespie by any person or entity in the last five years.

13. Gillespie's Credit report.
14. For years 2005-present, Gillespie's bank statements, deposit slips and canceled checks for any accounts he has or had an interest in, whether individually or jointly.
15. For years 2005-present, Gillespie's account statements for all money accounts, including checking, savings, credit union, investment accounts, equity accounts, insurance policies or any others for any accounts he has or had an interest in, whether individually or jointly.
16. Gillespie's federal income tax or information returns filed for 2005-2009.
17. For years 2005-present, all W-2 income statements or 1099 forms.
18. Gillespie's last five paycheck stubs or wage statements.
19. All title certificates and registrations to all automobiles, trucks, boats, motorcycles or other vehicles you owned singly or jointly with any other person or which you regularly drive.
20. The deed, mortgage, note and closing statement to his home and any and all other real property in the state of Florida or elsewhere owned by him individually or as a co-owner or in which he has or had any interest whatsoever.
21. All notes, loan agreements, judgments or other documents showing debts that Gillespie owes to any other person or entity.
22. All documents that show or tend to show debts incurred for the purchase of real or personal property owned by Gillespie, including but not limited to financing contracts and payment books.
23. All notes, judgments, receipts, contracts or any other documents showing debts that other persons owe to Gillespie.
24. All certificates of stock or bonds, shares, membership certificates or other securities which Gillespie owned individually or jointly with any other person, in corporations, LLCs, LLPs,



LLLPs or any other entity.

25. All savings bonds Gillespie owns or owned within the last five years, individually or jointly with any other person.

26. All certificates of deposit Gillespie owns or owned within the last five years, individually or jointly with any other person.

27. All policies of insurance on Gillespie's life.

28. All policies of insurance on Gillespie's motor vehicles.

29. All policies of insurance on Gillespie's home, apartment, condominium or residence.

30. Any personal articles floater and master insurance policies.

31. Any loan applications which Gillespie has filled out in the last three years.

32. Any leases to which Gillespie is a party including the lease on his home or apartment.

33. All documents showing pension and profit-sharing plans in which Gillespie has any interest.

34. Gillespie's last will and testament.

35. Inventories of safe deposit box contents.

36. Inventories of personal property kept for insurance or other purposes.

37. Any and all business permits or licenses.

38. Florida Driver's license.

39. Any and all franchise, patent and copyright certificates.

40. Any and all financial statements showing Gillespie's financial condition for both of the past two years.

41. All financial statements issued during the past three years by any corporation, partnership or business in which Gillespie owned stock or had an interest.

42. All partnership agreements, shareholder agreements and other business agreements in which Gillespie is an interest party or by which he has any duties or rights.

43. Any and all documents showing or tending to show any investments or contributions made in whole or in part by Gillespie within the last three years, and the amount and value of each investment or contribution.

44. Any and all documents showing or tending to show any distributions made to Gillespie as a result of any investments or contributions made in whole or in part by him.

45. All contracts and closing documents connected with the purchase or sale of any real or personal property by Gillespie within the past five years.

DATED this 1<sup>st</sup> day of June, 2010.



RYAN CHRISTOPHER RODEMS, ESQUIRE  
Florida Bar No. 947652  
BARKER, RODEMS & COOK, P.A.  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602  
Phone: 813/489-1001  
Fax: 813/489-1008  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala, Florida 34481, this 1<sup>st</sup> day of June, 2010.

  
RYAN CHRISTOPHER RODEMS, ESQUIRE

cc: Richard Lee Reporting

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

NEIL J. GILLESPIE,

Plaintiff,

vs.

Case No.: 05CA7205

Division: G

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

Defendants.

NOTICE OF DEPOSITION DUCES TECUM

PLEASE TAKE NOTICE that the undersigned attorney for Defendants, will take the following deposition for discovery or use at hearings or trial, by sound, sound-and-visual, videotaped, or stenographic means, or all, at the time and place listed below, upon oral examination before an officer designated under Fla. R. Civ. P. 1.300, or a designated court reporter, or any other Notary Public authorized by law to take depositions, as prescribed by Florida Rule of Civil Procedure 1.310:

Name: Neil J. Gillespie  
Date: September 3, 2010  
Time: 12:00 p.m.  
Location: Richard Lee Reporting  
100 North Tampa Street, Suite 2060  
Tampa, Florida 33602  
(823) 229-1588

The deponent is to have with him the following:

DEFINITION

As used herein, "document" shall mean: Every writing or record of every type and description that is or has been in your possession, control or custody or of which you have knowledge, including, without limitation on the generality of the foregoing, correspondence, memoranda, tapes, videotapes, stenographic or hand-written notes, studies, publications, books, pamphlets, pictures, films, voice records, maps, reports, surveys, computer files, minutes or



statistical compilations; every copy of such writing or record, where the original is not in your possession, custody or control; and every copy of such writing or record where such copy is not an identical copy of any original or where such copy contains any commentary or notation whatsoever that does appear in the original.

#### **DOCUMENTS TO BE PRODUCED**

1. Gillespie Family Living Trust Agreement dated February 10, 1997 and all amendments, modifications or changes thereto.
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6. All trust instruments which name Gillespie either as a trustee or beneficiary or interested party.
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12. Any and all documents showing payments made to Gillespie by any person or entity in the last five years.

LLLPs or any other entity.

25. All savings bonds Gillespie owns or owned within the last five years, individually or jointly with any other person.

26. All certificates of deposit Gillespie owns or owned within the last five years, individually or jointly with any other person.

27. All policies of insurance on Gillespie's life.

28. All policies of insurance on Gillespie's motor vehicles.

29. All policies of insurance on Gillespie's home, apartment, condominium or residence.

30. Any personal articles floater and master insurance policies.

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32. Any leases to which Gillespie is a party including the lease on his home or apartment.

33. All documents showing pension and profit-sharing plans in which Gillespie has any interest.

34. Gillespie's last will and testament.

35. Inventories of safe deposit box contents.

36. Inventories of personal property kept for insurance or other purposes.

37. Any and all business permits or licenses.

38. Florida Driver's license.

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40. Any and all financial statements showing Gillespie's financial condition for both of the past two years.

41. All financial statements issued during the past three years by any corporation, partnership or business in which Gillespie owned stock or had an interest.

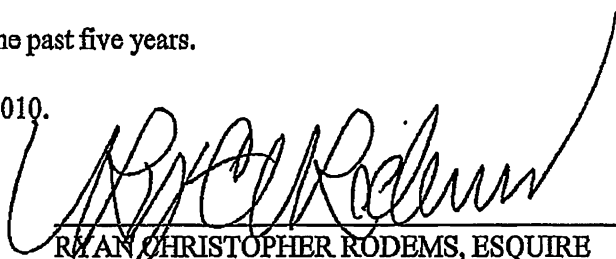
42. All partnership agreements, shareholder agreements and other business agreements in which Gillespie is an interest party or by which he has any duties or rights.

43. Any and all documents showing or tending to show any investments or contributions made in whole or in part by Gillespie within the last three years, and the amount and value of each investment or contribution.

44. Any and all documents showing or tending to show any distributions made to Gillespie as a result of any investments or contributions made in whole or in part by him.

45. All contracts and closing documents connected with the purchase or sale of any real or personal property by Gillespie within the past five years.

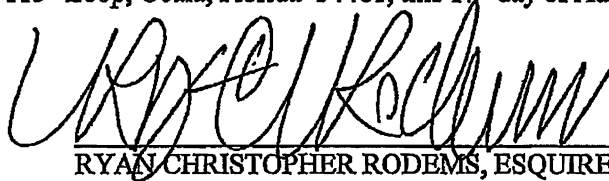
DATED this 17<sup>th</sup> day of August, 2010.



RYAN CHRISTOPHER RODEMS, ESQUIRE  
Florida Bar No. 947652  
BARKER, RODEMS & COOK, P.A.  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602  
Phone: 813/489-1001  
Fax: 813/489-1008  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala, Florida 34481, this 17<sup>th</sup> day of August, 2010.



RYAN CHRISTOPHER RODEMS, ESQUIRE

cc: Richard Lee Reporting

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

September 3, 2010

VIA FAX (813) 489-1008

Mr. Ryan Christopher Rodems, Attorney at Law  
Barker Rodems & Cook, PA  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

RE: Gillespie v. Barker, Rodems & Cook, PA, et al., case No.: 05-CA-7205, Division G

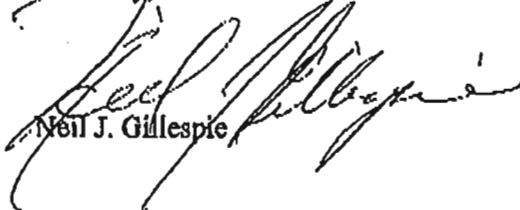
Dear Mr. Rodems:

Please be advised that I will not be attending your deposition duces tecum today. The court has not responded to nor provided accommodations requested under the Americans with Disabilities Act (ADA). Furthermore Warren A. Lee, president of Richard Lee Reporting, Inc., has not responded to my letter of July 6, 2010 about the ADA. These and other matters will be included in a soon to be commenced ADA lawsuit. Please note that I assert the same Responses to Defendants' Deposition Duces Tecum submitted August 17, 2010 as to Defendants' Deposition Duces Tecum submitted June 1, 2010.

In addition, the Governor's Office of Open Records referred me to an attorney at the Florida Department of State who provided copies of the Oath of Office for judges in this matter that are not legally sufficient, calling into question rulings in this matter. That matter is still unfolding and you will be apprised as appropriate.

Finally, you are unlawfully representing your client as set forth in Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010. Your representation is aggravating my disability.

Sincerely,

  
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-7205

vs.

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

DIVISION: J

Defendants.

\_\_\_\_\_ /

**PLAINTIFF'S NOTICE OF UNAVAILABILITY**

Plaintiff pro se, Neil J. Gillespie, files this Notice of Unavailability and states:

1. Plaintiff is unavailable during the time set by the Second District Court of Appeal, and the Florida Rules of Appellate Procedure, to file Petitioner's Amended Initial Brief in Appeal No. 2D10-5197. The Appellate Court, in an Order dated April 8, 2011, Granted Appellant's (Plaintiff's) motion for leave to file an amended initial brief. The amended brief shall be served within 30 days of the order. That date is May 8, 2011. Within 20 days of the service of the amended initial brief, the appellee may file an amended answer brief. That day is May 28, 2011. Pursuant to Rule 9.210(f), Fla. R. App. P., Plaintiff will file a Reply Brief 20 days after service of the answer brief, or June 17, 2011. A copy of the Appellate Court Order of April 8, 2011 is attached as Exhibit A.
2. The undersigned requests that no appointments, mediations, conferences, hearings, depositions, depositions duces tecum, or other legal proceedings be scheduled during that time, or prior to June 20, 2011.

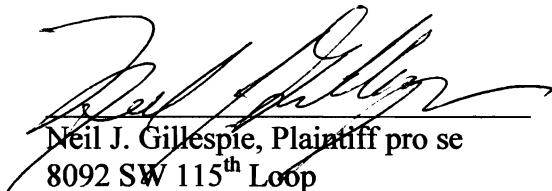
**EXHIBIT**

**4**



3. Defendants' counsel Ryan Christopher Rodems unilaterally set for hearing without coordinating the time and date with Plaintiff, "Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued" for May 3, 2011 at 11:30am. Setting hearings without coordinating the time and date with Plaintiff is an ongoing problem with Mr. Rodems and wastes valuable court time and resources. Furthermore, the order that gives rise to the motion, Order Adjudging Plaintiff Neil J. Gillespie In Contempt, date September 30, 2010 by Judge Cook, is currently on appeal in Appeal No. 2D10-5197.

RESPECTFULLY SUBMITTED April 16, 2011



Neil J. Gillespie, Plaintiff pro se  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed April 16, 2011 to Ryan C. Rodems, at Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602.



Neil J. Gillespie

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

April 8, 2011

**CASE NO.: 2D10-5197**  
L.T. No. : 05-CA-7205

Neil J. Gillespie

v.

Barker, Rodems & Cook,  
P. A. & William J. Cook

---

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

The appellant's motion for leave to file an amended initial brief is granted. The initial brief already filed and its appendix are stricken. The amended brief shall be served within 30 days of this order.

The request for limitations on the initial brief found in the appellees' response is denied. However, the amended initial brief must not exceed 50 pages. See Fla. R. App. P. 9.210(a)(5).

Within 20 days of the service of the amended initial brief, the appellee may file an amended answer brief.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

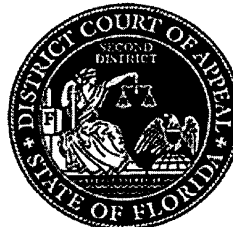
Neil J. Gillespie

Ryan Christopher Rodems, Esq.

Pat Frank, Clerk

dm

  
James Birkhold  
Clerk



**EXHIBIT**

**A**

April 16, 2011

Mr. Ryan C. Rodems  
Barker Rodems & Cook, PA  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

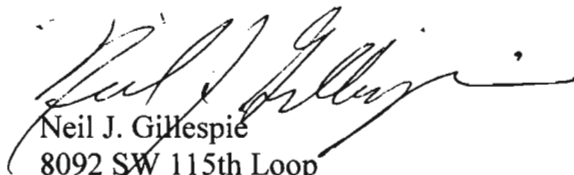
Dear Mr. Rodems:

Please find enclosed Plaintiff's Notice of Unavailability. As described in the notice, I am unavailable through June 20, 2011 relative to the appeal in 2D10-5197.

As for Defendants' Evidentiary Hearing unilaterally set for May 3, 2011 at 11:30am, you set the hearing without coordinating the time and date with me. Since I am not available during that time, kindly cancel the hearing immediately. In the future, please refrain from setting hearings without coordinating the time and date with me.

Thank you for your cooperation.

Sincerely,

  
Neil J. Gillespie  
8092 SW 115th Loop  
Ocala, Florida 34481

cc: The Honorable James D. Arnold

Enclosure

EXHIBIT

5

April 16, 2011

The Honorable James D. Arnold  
Circuit Court Judge  
Circuit Civil Division J  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

RE: Gillespie v Barker, Rodems & Cook, PA, Case No. 05-CA-7205, Circuit Civil  
Division J, Hillsborough County, Florida

Dear Judge Arnold:

Please find enclosed courtesy copies of Plaintiff's Notice of Unavailability. As described in the notice, I am unavailable through June 20, 2011 relative to the appeal in 2D10-5197.

Opposing counsel Mr. Rodems unilaterally set Defendants' Evidentiary Hearing for hearing before you May 3, 2011 at 11:30am. Mr. Rodems set the hearing without coordinating the time and date with me. Since I am not available during that time, I requested he cancel the hearing immediately. A copy of my letter to Mr. Rodems is enclosed.

Should Mr. Rodems fail to cancel the hearing, I request the Count cancel it sua sponte.

Thank you for your consideration.

Sincerely,



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

cc: Mr. Rodems

Enclosures

EXHIBIT

6

**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-7205

vs.

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

DIVISION: J

Defendants.

---

**MOTION TO STAY PENDING APPEAL**

The Plaintiff moves for a stay of the of the Order Adjudging Plaintiff Neil J. Gillespie In Contempt, and Writ Of Bodily Attachment, pursuant to Rule 9.310 of the Florida Rules of Appellate Procedure. In support of the motion, the Plaintiff states:

1. On September 30, 2010 Judge Martha Cook rendered “Order Adjudging Plaintiff Neil J. Gillespie In Contempt”, with threat of Writ of Bodily Attachment. On its face the Order is a sham. Judge Cook wrote at footnote 1, “Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return.” This is false. Judge Cook ordered the Plaintiff removed, and he had no representation at the hearing.
2. The Plaintiff filed an appeal to the Second District Court of Appeal on October 22, 2010 to review the “Order Adjudging Plaintiff Neil J. Gillespie In Contempt”, and the “Final Summary Judgment as to Count I”, of Judge Cook. In addition, pursuant to Rule 9.110(h), Fla. R. App. P, the court may review any ruling or matter occurring before filing of the notice. The appellate court rejected Defendant’s request to limit the appeal.

**EXHIBIT**

**7**

3. Rule 9.310(a) authorizes this court to stay the Order Adjudging Plaintiff Neil J. Gillespie In Contempt. According to the rule, the initial decision to grant or deny a stay is discretionary with the lower tribunal.

4. A stay is necessary in this case to preserve the status quo during the pendency of the appeal. A stay is also necessary because the Plaintiff, a person with disabilities, faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates, according to a letter dated October 28, 2010 by Dr. Karin Huffer, the Plaintiff's ADA coordinator. A copy of Dr. Huffer's letter accompanies this motion as Exhibit A.

5. This motion for stay should be granted because the Plaintiff will likely prevail on appeal. Major James Livingston, Commander of the Court Operations Division, provided Plaintiff a letter dated January 12, 2011 that supports his claim that Judge Cook falsified the Order finding Neil Gillespie in contempt and unlawfully denied him participation in the judicial process. A copy of the letter accompanies this motion as Exhibit B.

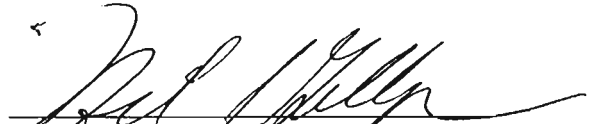
The appeal will also show that Ryan Christopher Rodems is unlawfully representing his law firm against a former client in a matter that is the same or substantially the same as the prior representation. Most if not all the problems in this case are due to Mr. Rodems' unlawful behavior toward a former client whom he hates for suing his law firm.

6. Time is of the essence. Defendants' counsel Mr. Rodems unilaterally set for hearing without coordinating the time and date with Plaintiff, an Evidentiary Hearing on the Order Adjudging Plaintiff Neil J. Gillespie In Contempt for May 3, 2011 at 11:30am. The Plaintiff filed a Notice of Unavailability April 16, 2011 that coincides with the

appeal process and runs through June 20, 2011. The Plaintiff requested that no appointments, mediations, conferences, hearings, depositions, depositions duces tecum, or other legal proceedings be scheduled during that time, or prior to June 20, 2011.

WHEREFORE, the Plaintiff respectfully moves the Court for an order granting a stay pending appeal of the "Order Adjudging Plaintiff Neil J. Gillespie In Contempt".

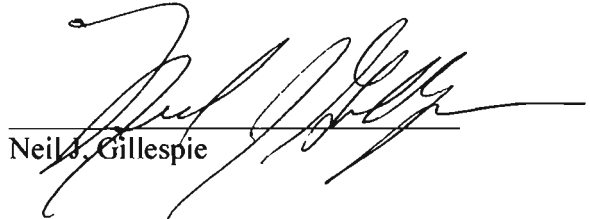
RESPECTULLY SUBMITTED April 23, 2011.



Neil J. Gillespie, Plaintiff 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 of the foregoing was mailed April 23, 2011 to  
Ryan C. Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100,  
Tampa, Florida 33602.



Neil J. Gillespie

## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell



cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services. (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.



*David Gee, Sheriff*  
*Jose Docobo, Chief Deputy*

---

P.O. Box 3371  
Phone (813)247-8000  
[www.hcso.tampa.fl.us](http://www.hcso.tampa.fl.us)

*Hillsborough County*  
*Tampa, Florida 33601*

January 12, 2011

Mr. Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Dear Mr. Gillespie:

In response to your letter dated November 13, 2010, I made contact with Deputy Christopher E. Brown concerning your request for an explanation regarding why he escorted you out of the courthouse on September 28, 2010 after a hearing with Judge Martha Cook. Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance. Other than the official records maintained by the Court, I am not aware of any other records related to the hearing before Judge Cook.

As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "James P. Livingston".

James P. Livingston, Major  
Court Operations Division



## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services. (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.

**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-7205

vs.

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

DIVISION: J

Defendants.

\_\_\_\_\_ /

**AFFIDAVIT OF NEIL J. GILLESPIE**

Neil J. Gillespie, under oath, testifies as follows:

1. My name is Neil J. Gillespie, and I am over eighteen years of age. This affidavit is given on personal knowledge unless otherwise expressly stated. At all times pertinent I am a disabled adult as defined by, but not limited to, section 825.101(4), Florida Statutes, and as further described in documents in this lawsuit.
2. The Thirteenth Judicial Circuit ("Court") has jurisdiction of this lawsuit and responsibility under federal and state law for compliance with the Americans with Disabilities Act ("ADA").
3. Plaintiff retained at his own expense Dr. Karin Huffer as his ADA program designer and advocate. Plaintiff applied to the Court February 19, 2010 for reasonable accommodation under the ADA. An ADA disability report was submitted by Dr. Huffer. Court Counsel David Rowland denied Plaintiff's ADA accommodation request.
4. Attorney Ryan Christopher Rodems is unlawfully representing his firm against Plaintiff, a former client, on a matter that is the same or substantially similar to the prior

representation, specifically their litigation with AMSCOT Corporation. (“AMSCOT”).

Mr. Rodems knows about Plaintiff’s disability from his firm’s other representation of him on disability matters. Mr. Rodems separately commenced a counterclaim against Plaintiff for libel over his letter to AMSCOT about the prior litigation. AMSCOT’s attorney Charles L. Stutts of Holland & Knight, LLP wrote Plaintiff February 13, 2007 that “This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.” A copy of Mr. Stutts’ letter is attached as Exhibit A.

5. Since March 3, 2006 Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward Plaintiff that has aggravated his disability, caused substantial emotional distress, and serves no legitimate purpose, in violation of § 784.048, Florida Statutes. Mr. Rodems engaged in other abuse calculated to harm Plaintiff in violation of chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Plaintiff was formerly represented by attorney Robert Bauer in this case. Mr. Bauer complained on the record about Mr. Rodems unprofessional behavior: “...Mr. Rodems has, you know, decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner. It is my mistake for sitting back and giving him the opportunity to take this full blast attack.” (Aug-14-08, transcript page 16, line 24).

6. This case was commenced August 11, 2005. There have been five trial court judges, four appeals to the 2dDCA, and a Petition for Writ of Prohibition. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems’ independent professional judgment is materially limited by his own interest and conflict, as further

described in Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010.

7. Judge Martha Cook presided over this lawsuit from May 24, 2010 through November 18, 2010. While presiding over this case Judge Cook misused and denied the Plaintiff judicial process under the color of law. Plaintiff moved to disqualify Judge Cook five times, all of which were all denied. Plaintiff filed a Petition for Writ of Prohibition to remove Judge Cook November 18, 2010, Case No. 2D10-5529, Second District Court of Appeal. Judge Cook recused herself from the case the same day.

8. Because of the forgoing Plaintiff concluded that he could not obtain justice in this Court and commenced a Federal Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida et. al, Case No. 5:10-cv-503-oc-10-DAB, US District Court, Middle District of Florida, Ocala Division. Plaintiff lives in Ocala. The complaint was stamped FILED at 7:47 AM September 28, 2010 by the US District Court Clerk. Plaintiff planned to file the suit weeks earlier by was delayed by his worsening disability. A copy of the Clerk-stamped cover page of the complaint is attached as Exhibit B. Judge Cook is named as a Defendant in the lawsuit in her capacity as a judge and personally.

9. After filing the federal lawsuit described in the preceding paragraph, Plaintiff drove to the Court in Tampa for a 11:00 AM hearing before Judge Cook for a "Court-Ordered Hearing On Defendants' Motion For Final Summary Judgment". A second matter heard was a contempt on an alleged violation of the "Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010.

10. When Plaintiff arrived in Tampa for the hearing before Judge Cook at 11:00 AM she was unaware of the Federal Civil Rights lawsuit against the Court and herself.

Plaintiff had a duty to inform Judge Cook of the lawsuit prior to the hearing, and did so by handing a copy of the complaint to Deputy Henderson prior to the hearing and asked him to give it to the judge in chambers. This was not for service of process, but to inform Judge Cook that she was a defendant in a lawsuit. Rule 3, FRCP, Commencement of Action, a civil action is commenced by filing a complaint with the court.

11. Deputy Henderson refused to take the complaint from Plaintiff, and he refused to hand it to Judge Cook in chambers. As such Plaintiff had no choice but to address the issue in open court as shown in the record. A transcript of the hearing shows the following: (Exhibit C, Transcript, Sep-28-10, pages 1-5; 19)

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 3)

16 MR. GILLESPIE: Your Honor, this morning I  
17 filed a federal lawsuit against you. I have a  
18 complaint here if you would like to read it. I  
19 move to disqualify you.

20 THE COURT: Your motion to disqualify  
21 based on a federal lawsuit is legally  
22 insufficient and is denied.

23 Please continue with your Motion for  
24 Summary Judgment.

25 MR. RODEMS: Thank you, Your Honor.

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 4)

1 MR. GILLESPIE: I move to disqualify you  
2 on the basis that I have a financial  
3 relationship with your husband.



4 THE COURT: All right. Your motion to  
5 disqualify me on that basis is denied.

6 MR. GILLESPIE: I move to disqualify  
7 you --

8 THE COURT: Sir --

9 MR. GILLESPIE: -- on the basis of an  
10 affidavit that you made misrepresentations at  
11 the last hearing about whether or not I was --

12 THE COURT: Sir, file a written motion.

13 I'm not going to allow you to disrupt these  
14 proceedings again. The last proceedings you  
15 feigned illness. You left this courtroom --

16 MR. GILLESPIE: No, I did not feign  
17 illness.

18 THE COURT: Sir, if you interrupt me you  
19 will be escorted out.

20 MR. GILLESPIE: Well, I'm leaving.

21 THE COURT: This is your last warning,  
22 sir.

23 MR. GILLESPIE: I'm leaving.

24 THE COURT: All right, sir. Escort the  
25 gentleman out. He's leaving. All right.

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 5)

1 Continue with your motion, please. The hearing  
2 will continue.

3 MR. GILLESPIE: For the record, I'm  
4 leaving because I didn't get my ADA  
5 accommodation.

6 THE COURT: That's not true, sir.

7 MR. GILLESPIE: I'm leaving the federal  
8 lawsuit on this table for you.

9 THE COURT: You must go, sir. It's not  
10 proper service. Leave.

11 (THEREUPON, Mr. Gillespie exited the courtroom)

12 THE COURT: Go ahead.

13 MR. RODEMS: Thank you, Your Honor.

12. The transcript of the hearing shows Judge Cook ordered Plaintiff removed prior to any discussion of Defendants' Motion For Final Summary Judgment. Plaintiff was escorted out of the courthouse by the bailiff, Deputy Christopher E. Brown, of the Hillsborough County Sheriff's Office (HCSO). The transcript shows Judge Cook cut Plaintiff the first two times he attempted to say "I'm leaving the federal lawsuit on the table for you" (page 4, lines 20 and 23; Page 5 lines 7 and 8). The hearing continued without Plaintiff and he had no representation.

13. Later during the hearing September 28, 2010 Judge Cook announced on the record that Plaintiff "elected" to leave the hearing voluntarily:

(Transcript, Sep-28-10, Defendants' Motion For Final Summary Judgment, Page 19)

6 [THE COURT]...[A]s you know,  
7 this is a Motion for an Order of Contempt and  
8 Writ of Bodily Attachment. And let the record

9 reflect that Mr. Gillespie elected to leave  
10 even though he was advised that the hearing  
11 would continue in his absence...

14. Judge Cook signed "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" September 30, 2010. On page 1, footnote 1, Judge Cook wrote "Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return." (Exhibit D). This statement is false. Judge Cook ordered Plaintiff removed from the courtroom prior to Defendants' motion for summary judgment. The rest of the order is equally bogus and is currently on appeal to the Second District Court of Appeal, Case No. 2D10-5197.

15. Major James Livingston, HCSO, is Commander of the Court Operations Division for the Court. Major Livingston provided Plaintiff a letter dated January 12, 2011 that impeaches Judge Cook's assertion the Plaintiff left the hearing voluntarily September 28, 2010. Major Livingston wrote: "Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance." (Exhibit E).

16. Dr. Huffer assessed the foregoing in a letter dated October 28, 2010. (Exhibit F).

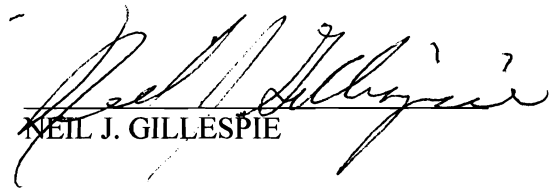
Dr. Huffer wrote in part:

"As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like

threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.” (p1, ¶2). “He [Gillespie] is left with permanent secondary wounds” (p2, top). “Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates.” (p2, ¶1). “It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.” (p2, ¶1).

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 25th day of April 2011.

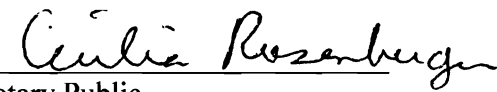
  
NEIL J. GILLESPIE

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, personally appeared NEIL J. GILLESPIE, known to me, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal this 25th day of April 2011.



  
Notary Public  
State of Florida

Charles L. Stutts  
813 227 6466  
charles.stutts@hklaw.com

February 13, 2007

VIA FEDEX

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Re: Gillespie v. Barker, Rodems & Cook, P.A., et al.; Case No. 05-CA-7205

Dear Mr. Gillespie:

Amscot Corporation has asked me to respond to your letter of February 10, 2007 in which you request that Mr. Ian MacKechnie, President of Amscot, agree to his deposition in the above-referenced matter.

The U.S. District Court for the Middle District of Florida in 2001 dismissed all claims brought by you, Eugene R. Clement and Gay Ann Blomefield, individually and on behalf of others, against Amscot in connection with its deferred deposit transactions. This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.

Mr. MacKechnie views the prior litigation as closed, and neither he nor others at Amscot have any interest in voluntarily submitting to deposition or otherwise participating in the pending matter. Accordingly, Mr. MacKechnie must decline your request.

Please contact me if you have questions or care to discuss the matter.

Sincerely yours,

HOLLAND & KNIGHT LLP



Charles L. Stutts

cc: Ian MacKechnie

FILED

2010 SEP 28 AM 7:47

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

CLERK, U.S. DISTRICT COURT  
OCALA, FLORIDA

NEIL J. GILLESPIE,

CASE NO.: 5:10-CV-503-DC-10-DAB

Plaintiff,

vs.

DEMAND FOR JURY TRIAL

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
GONZALO B. CASARES, ADA Coordinator, and individually,  
DAVID A. ROWLAND, Court Counsel, and individually,  
CLAUDIA RICKERT ISOM, Circuit Court Judge, and individually,  
JAMES M. BARTON, II, Circuit Court Judge, and individually,  
MARTHA J. COOK, Circuit Court Judge, and individually,

BARKER, RODEMS & COOK, P.A.,  
RYAN CHRISTOPHER RODEMS,

THE LAW OFFICE OF ROBERT W. BAUER, P.A.,  
ROBERT W. BAUER,

Defendants.

COMPLAINT FOR VIOLATION OF THE AMERICANS WITH  
DISABILITIES ACT (ADA), AND CIVIL RIGHTS VIOLATIONS

Plaintiff pro se NEIL J. GILLESPIE sues the Defendants and alleges as follows:

JURISDICTION AND VENUE

1. This lawsuit arises under the Americans With Disabilities Act ("ADA"), 42 U.S.C., Chapter 126, Equal Opportunities for Individuals with Disabilities, Subchapter II, Public Services, Part A, §§ 12131 - 12134, Subchapter III, Public Accommodations and Services Operated by Private Entities, §§ 12181 - 12189, Subchapter IV, §§ 12201 - 12213, including the ADA Amendments Act of 2008 (ADAAA) updates. Plaintiff also

EXHIBIT

B

C-8835  
6350

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL  
CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL LAW DIVISION  
CASE NO. 05-CA-007205

-----X  
NEIL J. GILLESPIE,

Plaintiff,

and

BARKER, RODEMS & COOK, P.A.  
A Florida Corporation, and  
WILLIAM J. COOK,

Defendants.  
-----X

Division:

FILED  
CLERK CIRCUIT COURT  
2010 OCT 22 PM 1:42  
HILLSBOROUGH CNTY, FL  
CIRCUIT CIVIL

BEFORE: THE HONORABLE MARTHA J. COOK

PLACE: Hillsborough County Courthouse  
800 East Twiggs Street  
Tampa, Florida 33602

DATE: September 28, 2010

TIME: 11:04 a.m. - 11:28 a.m.

REPORTED BY: Robbie E. Darling  
Court Reporter

-----  
DEFENDANTS' MOTION FOR FINAL SUMMARY JUDGMENT;  
CORRECTED TRANSCRIPT  
-----

Pages 1 - 26

DEMPSTER, BERRYHILL & ASSOCIATES  
1875 NORTH BELCHER ROAD, SUITE 102  
CLEARWATER, FLORIDA 33765  
(727) 725-9157

ORIGINAL

EXHIBIT

C

APPEARANCES

**RYAN CHRISTOPHER RODEMS, ESQUIRE**

Barker, Rodems & Cook, P.A.

400 North Ashley Drive, Suite 2100

Tampa, Florida 33602

Attorney for Defendants

NEIL GILLESPIE

Pro Se



1 PROCEEDINGS

2 THE COURT: Good morning, folks. All  
3 right. I believe we're here today on a Motion  
4 for Final Summary Judgment -- or, Motion for  
5 Summary Judgment filed by the defendant; is  
6 that correct?

7 MR. RODEMS: Yes, Your Honor. There is  
8 two other matters as well.

9 THE COURT: Well, let's address the one  
10 that has been scheduled first, which is the  
11 Motion for Summary Judgment.

12 MR. GILLESPIE: Your Honor --

13 THE COURT: Please be seated. Folks, you  
14 don't need to stand to argue. Both of you.  
15 Please be seated.

16 MR. GILLESPIE: Your Honor, this morning I  
17 filed a federal lawsuit against you. I have a  
18 complaint here if you would like to read it. I  
19 move to disqualify you.

20 THE COURT: Your motion to disqualify  
21 based on a federal lawsuit is legally  
22 insufficient and is denied.

23 Please continue with your Motion for  
24 Summary Judgment.

25 MR. RODEMS: Thank you, Your Honor.

1           MR. GILLESPIE: I move to disqualify you  
2 on the basis that I have a financial  
3 relationship with your husband.

4           THE COURT: All right. Your motion to  
5 disqualify me on that basis is denied.

6           MR. GILLESPIE: I move to disqualify  
7 you --

8           THE COURT: Sir --

9           MR. GILLESPIE: -- on the basis of an  
10 affidavit that you made misrepresentations at  
11 the last hearing about whether or not I was --

12          THE COURT: Sir, file a written motion.  
13 I'm not going to allow you to disrupt these  
14 proceedings again. The last proceedings you  
15 feigned illness. You left this courtroom --

16          MR. GILLESPIE: No, I did not feign  
17 illness.

18          THE COURT: Sir, if you interrupt me you  
19 will be escorted out.

20          MR. GILLESPIE: Well, I'm leaving.

21          THE COURT: This is your last warning,  
22 sir.

23          MR. GILLESPIE: I'm leaving.

24          THE COURT: All right, sir. Escort the  
25 gentleman out. He's leaving. All right.

1 Continue with your motion, please. The hearing  
2 will continue.

3 MR. GILLESPIE: For the record, I'm  
4 leaving because I didn't get my ADA  
5 accommodation.

6 THE COURT: That's not true, sir.

7 MR. GILLESPIE: I'm leaving the federal  
8 lawsuit on this table for you.

9 THE COURT: You must go, sir. It's not  
10 proper service. Leave.

11 (THEREUPON, Mr. Gillespie exited the courtroom)

12 THE COURT: Go ahead.

13 MR. RODEMS: Thank you, Your Honor.

14 The plaintiff filed a two-count complaint  
15 against the two defendants; Barker, Rodems and  
16 Cook and Cook. Count One alleged breach of  
17 contract, Count Two alleged fraud.

18 By orders dated November 28th, 2007 and  
19 July 7th, 2008 the Court granted judgment in  
20 favor of Cook on both counts and for Defendant  
21 BRC on the fraud count. The only count  
22 remaining by plaintiff against Defendant BRC is  
23 for Breach of Contract against BRC, and we're  
24 moving for Summary Judgment.

25 The following facts that are in my motion

1           THE COURT: This can be mailed, and I  
2 believe you can give this back to counsel.  
3 There were only two conformed copies, one for  
4 Mr. Gillespie -- all right.

5           You can make a record. I did have your  
6 motion, it was noticed for today. As you know,  
7 this is a Motion for an Order of Contempt and  
8 Writ of Bodily Attachment. And let the record  
9 reflect that Mr. Gillespie elected to leave  
10 even though he was advised that the hearing  
11 would continue in his absence. You have  
12 noticed him for deposition, you indicate,  
13 several times?

14          MR. RODEMS: Yes, Your Honor. Prior to  
15 the order of July 29th, 2010 we noticed  
16 Mr. Gillespie twice for deposition, and both  
17 times he failed to appear.

18          The second -- and this is all reflected in  
19 the motion. On the second occasion he did file  
20 some sort of motion for protection, but he  
21 never made any effort to have it heard or  
22 anything.

23          So, when the Court entered the order on  
24 July 29th, 2010 denying his Motion for Order of  
25 Protection the Court was fairly clear that

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05CA7205  
Division: G**

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

**Defendants.**

\_\_\_\_\_ /

**ORDER ADJUDGING PLAINTIFF NEIL J. GILLESPIE IN CONTEMPT**

THIS CAUSE came before the Court on Tuesday, September 28, 2010, on Defendants' Motion for an Order of Contempt and Writ of Bodily Attachment,<sup>1</sup> and the proceedings having been read and considered and counsel having been heard, and the Court being otherwise fully advised in the premises, the Court finds and concludes that Plaintiff Neil J. Gillespie has wilfully and with contumacious disregard violated the Court's Notice of Case Management Status and Orders on Outstanding Res Judicata Motions entered July 29, 2010 by refusing to appear for a duly noticed deposition on September 3, 2010.

On July 29, 2010, the Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, which stated: "The Plaintiff's 'Motion for Order of Protection,' (no date provided in Judge Barton's order) renewed in his 'Motion to Cancel Deposition' (6-16-10) is DENIED. The Plaintiff has repeatedly been the subject of Motions to

<sup>1</sup> Prior to this motion being heard, the Court heard Defendants' motion for summary judgment. During that hearing, Plaintiff Neil J. Gillespie voluntarily left the hearing and did not return.



Compel by the Defendants during the course of these proceedings, and has ignored Court orders requiring his participation. The Court will not accept these or any further attempts by the Plaintiff to avoid the Defendant's right to discovery in this case and to bring this matter to a close. Non-compliance with the Court's orders is grounds for dismissal of the Plaintiff's remaining count with prejudice.” (Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, ¶8).

The record shows that Plaintiff previously failed to appear for two properly noticed depositions. Defendants served a notice of deposition on October 13, 2009, scheduling Plaintiff's deposition on December 15, 2009. On June 1, 2010, Defendants served another notice of deposition, scheduling Plaintiff's deposition on June 18, 2010. While Plaintiff served “Plaintiff's Motion to Cancel Deposition Duces Tecum June 18, 2010 and for an Order of Protection” on June 14, 2010, he did not attempt to have it heard before the deposition, and did not appear at the deposition.<sup>2</sup>

After the Court's Order entered July 29, 2010, Defendants served a notice of deposition on August 17, 2010, scheduling the deposition for September 3, 2010. Plaintiff did not respond until September 3, 2010, asserting that he would not be attending the deposition for three reasons: First, Plaintiff asserted that “[t]he court has not responded to nor provided accommodations requested under the Americans with disabilities Act . . . .” Second, he asserted that “the Oath of Office for judges in this matter [ ] are not legally sufficient, calling into question rulings in this matter.” Finally, Plaintiff again asserted that Defendants' counsel's

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<sup>2</sup> As stated above, on July 29, 2010, this Court entered the Notice of Case Management Status and Orders on Outstanding Res Judicata Motions, denying the Plaintiff's motions for protection from being deposed.

representation of Defendants is "unlawful." Defendants contend that each of these reasons is either specious or has been expressly rejected by the Court. The Court agrees. Based on these findings

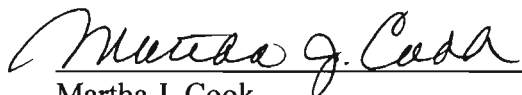
IT IS ORDERED AND ADJUDGED that the Plaintiff Neil J. Gillespie is guilty of contempt of this Court for failing to appear for deposition on September 3, 2010 and he will continue to be guilty of contempt unless and until the Plaintiff is deposed in this matter.

IT IS FURTHER ORDERED that Plaintiff shall submit to a deposition in Tampa, Florida, within 45 days. Plaintiff is directed to propose to Defendants' counsel, in writing, three dates on which his deposition may be taken on or before November 12, 2010.

IT IS FURTHER ORDERED that, if Plaintiff violates this Order by failing to submit to a deposition on or before November 12, 2010, then the Court will enter an Order to Show Cause requiring Plaintiff's appearance before the Court, and the Court will consider appropriate sanctions.

The Court retains jurisdiction to impose additional sanctions, as necessary, and to tax attorneys' fees and costs.

DONE AND ORDERED in Chambers this 30 day of September, 2010.

  
Martha J. Cook  
Circuit Judge

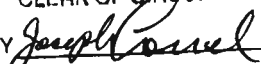
Copies to:

Mr. Neil J. Gillespie, pro se  
Ryan Christopher Rodems, Esquire (Counsel for Defendants)

3

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )  
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE  
AND CORRECT COPY OF THE DOCUMENT ON FILE IN  
MY OFFICE. WITNESS MY HAND AND OFFICIAL SEAL  
THIS 22nd DAY OF October 2010



PAT FRANK  
CLERK OF CIRCUIT COURT  
BY  D.C.



*David Gee, Sheriff*  
*Jose Docobo, Chief Deputy*

---

P.O. Box 3371  
Phone (813)247-8000  
[www.hcso.tampa.fl.us](http://www.hcso.tampa.fl.us)

*Hillsborough County*  
*Tampa, Florida 33601*

January 12, 2011

Mr. Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Dear Mr. Gillespie:

In response to your letter dated November 13, 2010, I made contact with Deputy Christopher E. Brown concerning your request for an explanation regarding why he escorted you out of the courthouse on September 28, 2010 after a hearing with Judge Martha Cook. Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance. Other than the official records maintained by the Court, I am not aware of any other records related to the hearing before Judge Cook.

As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "James P. Livingston".

James P. Livingston, Major  
Court Operations Division

EXHIBIT

E



## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services. (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.

Charles L. Stutts  
813 227 6466  
charles.stutts@hklaw.com

February 13, 2007

VIA FEDEX

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Re: Gillespie v. Barker, Rodems & Cook, P.A., et al.; Case No. 05-CA-7205

Dear Mr. Gillespie:

Amscot Corporation has asked me to respond to your letter of February 10, 2007 in which you request that Mr. Ian MacKechnie, President of Amscot, agree to his deposition in the above-referenced matter.

The U.S. District Court for the Middle District of Florida in 2001 dismissed all claims brought by you, Eugene R. Clement and Gay Ann Blomefield, individually and on behalf of others, against Amscot in connection with its deferred deposit transactions. This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.

Mr. MacKechnie views the prior litigation as closed, and neither he nor others at Amscot have any interest in voluntarily submitting to deposition or otherwise participating in the pending matter. Accordingly, Mr. MacKechnie must decline your request.

Please contact me if you have questions or care to discuss the matter.

Sincerely yours,

HOLLAND & KNIGHT LLP



Charles L. Stutts

cc: Ian MacKechnie

VIA US CERTIFIED MAIL, RRR  
Article No.: 7010 0780 0000 8981 6467

April 21, 2011

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Disability Rights - NYAV  
Washington, D.C. 20530


Dear DOJ Civil Rights Division:

Please find enclosed a complaint under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Discrimination Complaint Form, OMB No. 1190-0009, related to my lawsuit in the Thirteenth Judicial Circuit, Florida, Gillespie v Barker, Rodems & Cook, et. al, Case No. 05-CA-007205, Circuit Civil Division.

Also enclosed are the following supporting documents:

1. ADA Report by Karin Huffer to Gonzalo B. Casares, ADA Coordinator for the 13th Judicial Circuit, Hillsborough County, Florida. Dr. Huffer is my ADA advocate.
2. Letter of Dr. Karin Huffer, October 28, 2010.
3. ADA Request for Accommodation by Persons with Disabilities to the 13th Judicial Circuit by Neil J. Gillespie.
4. Federal lawsuit complaint, Gillespie v. Thirteenth Judicial Circuit, et. al, Case No. 5:10-cv-503-oc-10DAB, US District Court, Middle District of Florida, Ocala Division, filed September 28, 2010.
5. Notice of Claim against the Thirteenth Judicial Circuit pursuant to § 768.28(6)(a) Fla. Stat.

Sincerely,

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

cc: Dr. Karin Huffer

Enclosures

U.S. Department of Justice  
Civil Rights Division  
*Disability Rights Section*

---

OMB No. 1190-0009

**Title II of the Americans with Disabilities Act  
Section 504 of the Rehabilitation Act of 1973  
Discrimination Complaint Form**

Instructions: Please fill out this form completely, in black ink or type. Sign and return to the address on page 3.

Complainant: Neil J. Gillespie

Address: 8092 SW 115<sup>th</sup> Loop

City, State and Zip Code: Ocala, Florida 34481

Telephone: Home:

Business:

Person Discriminated Against:  
(if other than the complainant)

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone: Home:

Business:

Government, or organization, or institution which you believe has discriminated:

Name: Thirteenth Judicial Circuit, Florida

Address: 800 E. Twiggs Street

County: Hillsborough

City: Tampa

State and Zip Code: Florida 33602

Telephone Number: (813) 272-6843

When did the discrimination occur? Date: 2006-2011

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary):

See the accompanying letter from Dr. Karin Huffer, my  
ADA Advocate

Have efforts been made to resolve this complaint through the internal grievance procedure of the government, organization, or institution?

Yes \_\_\_\_\_ No ✓

If yes: what is the status of the grievance?

Has the complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes ✓ No \_\_\_\_\_

If yes: Federal Lawsuit, Gillespie v. Thirteenth Circuit, Case 5:10-cv-503-OC-10DAB

Agency or Court: US District Court, Middle District Florida, Ocala Division

Contact Person: US District Judge William Terrell Hodges

Address: 207 NW second street

City, State, and Zip Code: Ocala, Florida 34475

Telephone Number: (352) 369-4860

Date Filed: September 28, 2010

Do you intend to file with another agency or court?

Yes \_\_\_\_\_ No ✓

Agency or Court: \_\_\_\_\_

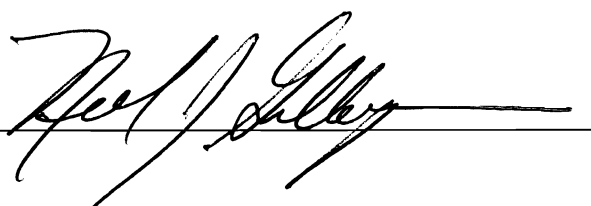
Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Additional space for answers:

A Related complaint was made to Mark J. Kappelhoff, Section  
Chief, US Department of Justice, Civil Rights Division, Criminal  
Section, for the Misuse and denial of Judicial Process  
under the color of Law by the Thirteenth Judicial Circuit  
Florida

Signature: 

Date: \_\_\_\_\_

Return to:

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Disability Rights - NYAV  
Washington, D.C. 20530



last updated October 3, 2007



## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 [www.lvaallc.com](http://www.lvaallc.com)

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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.

---

**ADDENDUM**

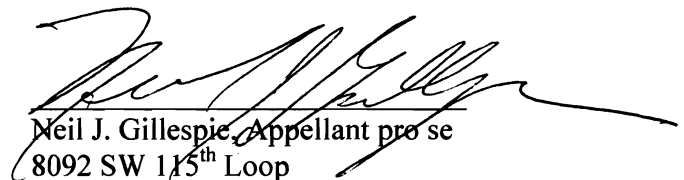
**APPELLANT'S VERIFIED EMERGENCY MOTION TO STAY PENDING  
APPEAL, MOTION FOR ORDER OF PROTECTION,  
AND MOTION FOR EXTENSION OF TIME**

1. Subsequent to serving Appellant's Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time, Appellant remembered that he is prohibited from appearing pro se in the trial court.
2. Judge Cook issued "Order Prohibiting Plaintiff From Appearing Pro Se" November 15, 2010. A copy of the Order is attached as Exhibit A.
3. Appellant has been unable to find counsel to represent him. Attached is a letter dated November 4, 2010 from Bradford D. Kimbro of Holland & Knight LLP declining representation. (Exhibit B). Appellant sought to hire Holland & Knight for the limited purpose of representing him at a court-ordered deposition in Tampa. Appellant offered to pay Holland & Knight's full hourly rate for representation. This is one example of a number of firms that have declined representation, even for a court-ordered deposition.

4. Because Appellant cannot appear pro se in the trial court, and cannot find representation even at full hourly rates, his previously filed Motion To Stay Pending Appeal in the lower court is moot. It appears the stay must be decided by this Court.

5. Appellant apologizes to this Court for his lapse of memory. It is an ongoing problem as described by Dr. Huffer in her letter of October 28, 2010, "...Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice..." (Exhibit 8, Appellant's Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time.

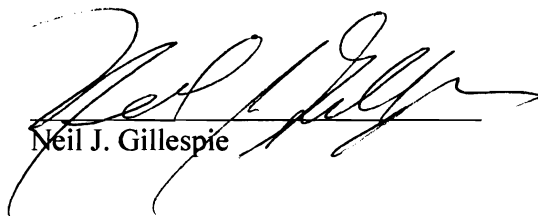
RESPECTFULLY SUBMITTED April 25, 2011.



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

Certificate of Service

I certify that a copy hereof has been furnished to Ryan Christopher Rodems,  
Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida  
33602 by mail on April 25, 2011.



Neil J. Gillespie

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

**NEIL J. GILLESPIE,**  
Plaintiff,

CASE ID: 05-CA-7205

v.

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

---

DIVISION: G

**ORDER PROHIBITING PLAINTIFF FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants' "motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*," filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. Defendants allege that Plaintiff's prosecution is an affront to the dignity of the judicial system and an unacceptable burden on its resources. On November 4, 2010, this court issued the order to show cause why Plaintiff should not be prohibited from appearing *pro se*.

Among Plaintiff's response were his fourth and fifth attempts to disqualify this court. This response is typical of Plaintiff's litigation style. And his continuing course of conduct in this case is all the more troublesome because this case is presently pending appellate review of a final summary judgment order. There is nothing left to litigate at this time. Yet Plaintiff continues to file spurious pleadings with this court, each of which must be reviewed and evaluated by members of the court staff. For these reasons and the reasons enumerated in the motion, the Court hereby finds that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system, his right to full access to the court should be curtailed to the extent described in this order. Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida.



The Court therefore **ORDERS** as follows:

1. Plaintiff **SHALL CEASE** filing any pleading, correspondence, or other document in this case unless the document is signed by an attorney who is duly licensed to practice law in the State of Florida.
2. The Clerk of Court **SHALL REJECT** for filing any document received from Plaintiff which does not bear the clear and conspicuous signature of an attorney duly licensed to practice law in this state.
3. The Clerk of Court **SHALL NOT DOCKET** any pleading, correspondence or other document received from Plaintiff which is prohibited by this order.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 15<sup>th</sup> day of November, 2010.

ORIGINAL SIGNED

**NOV 15 2010**

**MARTHA J. COOK, Circuit Judge**

MARTHA J. COOK  
CIRCUIT JUDGE

Send copies to:

Neil J. Gillespie  
Plaintiff  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

# Holland & Knight

100 North Tampa Street, Suite 4100 | Tampa, FL 33602 | T 813.227.8500 | F 813.229.0134  
Holland & Knight LLP | www.hklaw.com

Bradford D. Kimbro  
813.227.6660  
brad.kimbrow@hklaw.com

November 4, 2010

VIA FEDERAL EXPRESS

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala FL 34481

Re: Declined Representation

Dear Mr. Gillespie:

Enclosed is your letter of November 3, 2010, which was addressed to me as Executive Partner of the Tampa Bay Region. I have not read the letter, which was screened (but not studied) by my legal assistant. Also enclosed are the various pleadings and CDs received with your letter.

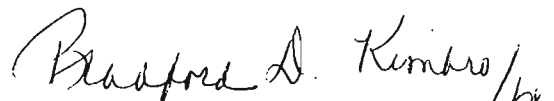
This is to notify you that Holland & Knight LLP will not represent you with respect to the items in your November 3<sup>rd</sup> letter.

If you choose to pursue your matter with another lawyer, you should act promptly to do so. There may be important deadlines involved in preserving or asserting your rights.

We have not obtained or reviewed any information from or about you or the matter that is confidential.

Sincerely yours,

HOLLAND & KNIGHT LLP



Bradford D. Kimbro

Enclosures

**Signed in Mr. Kimbro's  
absence to avoid delay.**

Atlanta | Bethesda | Boston | Chicago | Fort Lauderdale | Jacksonville | Lakeland | Los Angeles | Miami | New York  
Northern Virginia | Orlando | Portland | San Francisco | Tallahassee | Tampa | Washington, D.C. | West Palm Beach  
Abu Dhabi | Beijing | Caracas\* | Mexico City | Tel Aviv\*

\* Representative Office



**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-7205

vs.

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

DIVISION: J

Defendants.

---

**PLAINTIFF'S MOTION TO DISQUALIFY JUDGE ARNOLD**

1. Plaintiff pro se Gillespie moves to disqualify Circuit Court Judge James D. Arnold as trial judge in this action pursuant to chapter 38 Florida Statutes, Rule 2.330, Florida Rules of Judicial Administration, and the Code of Judicial Conduct.
2. Canon 3E(1) provides that a judge has an affirmative duty to enter an order of disqualification in any proceeding "in which the judge's impartiality might reasonably be questioned." The object of this provision of the Code is to ensure the right to fair trials and hearings, and to promote confidence in a fair and independent judiciary by avoiding even the appearance of partiality.
3. On April 26, 2011 Plaintiff telephoned Judy D. Williams, the Judicial Assistant for Judge Arnold at (813) 272-6991 to discuss an improperly set hearing by opposing counsel Ryan C. Rodems. Ms. Williams would not speak with Plaintiff and hung up on a pretext that the phone



call was recorded<sup>1</sup>.

4. In question is Defendants' Evidentiary Hearing set for hearing May 3, 2011 at 11:30 AM on "Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued." The hearing was set without coordinating the date and time with Plaintiff. This is an ongoing problem with Mr. Rodems, his contumacious disregard for rules, regulations, law, and statutes in this case due to his unlawful representation of his law firm against Plaintiff, a former client, in a matter that is the same or substantially the same as the prior representation. The problems in this case are due to Mr. Rodems' unlawful behavior toward a former client as set forth in the Affidavit of Neil J. Gillespie of April 25, 2011.

5. Previously this matter was scheduled for hearing January 26, 2011, also without coordinating the date and time. In relation to that improperly set hearing Plaintiff called Ms. Williams January 14, 2011 who informed him that Mr. Rodems is "required to clear the hearing time" with Plaintiff. Ms. Williams instructed Plaintiff to send Mr. Rodems a letter about the matter. Plaintiff told Ms. Williams that hearing concerned the "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" entered September 30, 2010 and currently on appeal in Case No. 2D10-5197. Ms. Williams confirmed this online during the call with Plaintiff. Ms. Williams told Plaintiff that the hearing would not take place because Judge Arnold was on medical leave and did not want the covering senior judge to hear the motion.

6. Mr. Rodems had, in fact, already canceled the hearing January 12, 2011.

---

<sup>1</sup> All calls on plaintiff's home office business telephone extension are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4Xa)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991), See Plaintiff's Notice of Telephone Hearing filed December 30, 2009.

7. Plaintiff followed Ms. Williams' instruction relative to the improperly hearing set for May 3, 2011 at 11:30AM, wrote Mr. Rodems April 16, 2011 and requested he cancel the hearing. Plaintiff also filed a Notice of Unavailability for the duration of Case No. 2D10-5197, a final appeal of "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" and "Final Summary Judgment As to Count 1". Mr. Rodems did not respond to Plaintiff's letter, Notice of Unavailability, or cancel the hearing.

8. Plaintiff separately wrote Judge Arnold April 16, 2011 and provided him copies of his letter to Mr. Rodems and Plaintiff's Notice of Unavailability. Plaintiff also requested "Should Mr. Rodems fail to cancel the hearing, I request the Court cancel it sua sponte." Judge Arnold did not respond to Plaintiff or cancel the hearing.

9. Pursuant to Fla. R. App. P., Rule 9.600(b), the jurisdiction of the lower tribunal has been divested by an appeal from a final order, making any further hearings improper in the lower tribunal unless the appellate court by order permits the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Therefore Defendants' Evidentiary Hearing is unlawful because "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" is part of a final appeal in Case No. 2D10-5197.

10. Plaintiff is a person with a disability who needs accommodation in order to participate in any proceeding in the Thirteenth Judicial Circuit, including depositions. Plaintiff so notified the ADA Coordinator, 800 E. Twiggs Street, Room 604 Tampa, FL 33602 on February 19, 2010. Court Counsel David Rowland notified Plaintiff by letter July 9, 2010 that it refused his ADA accommodation request. Accordingly Plaintiff filed a federal ADA/Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no.: 5:10cv-00503, US District Court, Middle District of Florida, Ocala Division, September 28, 2010. Rule 3, FRCP, Commencement

of Action, a civil action is commenced by filing a complaint with the court.

Disclosure under Rule 2.330(c)(4), Fla.R.Jud.Admin

11. Pursuant to Rule 2.330(c)(4), a motion to disqualify shall include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions. The case is in its 6th year. The case is on its 5th trial judge. There have been 4 appeals to the 2dDCA and a Petition for Writ of Prohibition to remove Judge Cook. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems' independent professional judgment is materially limited by his own interest and conflict, as further described in paragraph 4, and numerous pleadings such as Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010, Plaintiff's First Amended Complaint filed May 5, 2010, and Affidavit of Neil J. Gillespie of April 25, 2011.

a. Judge Richard A. Neilsen recused sua sponte November 22, 2006.

b. Judge Claudia Isom Rickert recused sua sponte February 13, 2007.

c. Judge James M. Barton was disqualified May 24, 2010.

c. Petition for Writ of Prohibition was filed November 18, 2010 to remove Judge Martha Cook and she recused sua sponte the same day.

12. Because of the forgoing Plaintiff fears he cannot receive a fair hearing before Judge Arnold. Given the totality of the prejudice against Plaintiff cited above, should Judge Arnold fail to disqualify himself, that itself would either be dishonest and proof that Plaintiff could not receive a fair hearing, or show that Judge Arnold is not of sound judgment and therefore unfit to preside. While Ms. Williams told Plaintiff that Judge Arnold was on medical leave in January 2011, she did not specify why Judge Arnold was disabled or the extent of his disability.

WHEREFORE, the undersigned movant certifies that the motion and the movant's statements are made in good faith.

Submitted and Sworn to May 2, 2011.

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

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, appeared NEIL J. GILLESPIE, personally known to me, or produced identification, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

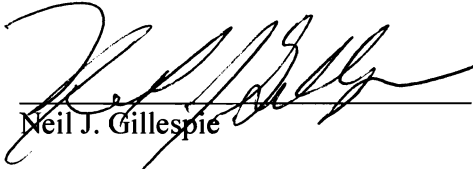
WITNESS my hand and official seal May 2, 2011.



  
Notary Public, State of Florida

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was faxed and mailed May 2, 2011 to Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602.

  
Neil J. Gillespie

# Fax

From: Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

To: Circuit Court Judge James D. Arnold

---

Fax: (813) 276-2725

---

Date: May 2, 2011

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Pages: six (6), including this page

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Re: Motion to Disqualify Judge Arnold

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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).

# Fax

From: Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

To: Mr. Ryan C. Rodems, Barker, Rodems & Cook, PA

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Fax: (813) 489-1008

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Date: May 2, 2011

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Pages: six (6), including this page

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Re: Motion to Disqualify Judge Arnold

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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.

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

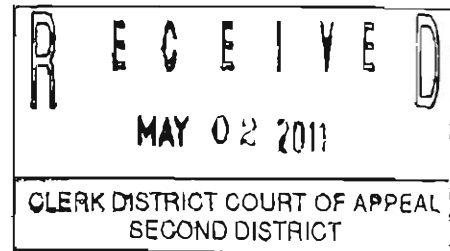
NEIL J. GILLESPIE

Plaintiff/Petitioner,

Case No.: \_\_\_\_\_  
Related Appeal: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and WILLIAM J. COOK,  
  
CIRCUIT COURT JUDGE JAMES D. ARNOLD,  
  
THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
  
Defendants/Respondent.



**VERIFIED EMERGENCY PETITION FOR WRIT OF PROHIBITION**

**MOTION FOR CHANGE OF VENUE**

Neil J. Gillespie ("Gillespie") Petitions the Second District Court of Appeal for an Emergency Writ of Prohibition to remove CIRCUIT COURT JUDGE JAMES D. ARNOLD as trial court judge, and to remove the THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, as venue and jurisdiction in Lower Court Case No. 05-CA-007205, and motion for a Change of Venue, and states:

Verified Emergency Petition For Writ of Prohibition, Judge James D. Arnold

I. The "Order Prohibiting Plaintiff From Appearing Pro Se" was issued in the lower tribunal September 15, 2010 by Judge Cook. (Exhibit A). On its face the Order is a sham because Judge Cook issued the Order before the time expired to respond. Judge Cook's

“Order to Show Cause Why Plaintiff Should Not Be Prohibited From Appearing Pro Se” was issued November 4, 2010 (Exhibit B) and mandates:

It is therefore **ORDERED** that Plaintiff **SHALL RESPOND** to the motion, in writing, within twenty days of the date of this order and **SHOW CAUSE**, if any, why the Clerk of Court should not be instructed to reject for filing any future pleadings, petitions, motions or other documents which he submits for filing unless they are signed by a member of The Florida Bar.

The twenty day time period to respond would have run through November 24, 2010 plus an additional 5 days for service by mail, or November 29, 2010. “Order Prohibiting Plaintiff From Appearing Pro Se” was issued in the lower tribunal September 15, 2010 thereby denying Gillespie nine (9) days to respond.

2. The “Order Prohibiting Plaintiff From Appearing Pro Se” (Exhibit A) states this case is presently pending appellate review of a final summary judgment order and “There is nothing left to litigate at this time.” Yet Mr. Rodems continues to file spurious pleadings in the trial court, each of which must be reviewed and evaluated by Gillespie, members of the lower court staff, and now this Court.

3. On April 25, 2011 Gillespie served upon this Court Appellant’s Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time because opposing counsel Ryan Christopher Rodems is seeking Gillespie’s incarceration that will disrupt the appellate process. This Court granted Gillespie’s motion for leave to file an amended initial brief, to be served within 30 days, which is May 8, 2011. Mr. Rodems’ evidentiary hearing set for May 3, 2011 in the lower tribunal on “Order Adjudging Plaintiff Neil J. Gillespie In Contempt” is



seeking Gillespie's incarceration on a Writ of Bodily Attachment that will deny Gillespie time to file the brief in contempt of this Court's Order.

4. Pursuant to Fla. R. App. P., Rule 9.600(b), the jurisdiction of the lower tribunal has been divested by an appeal from a final order, making any further hearings improper in the lower tribunal unless the appellate court by order permits the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Therefore Defendants' Evidentiary Hearing is unlawful because "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" is part of a final order appeal in Case No. 2D10-5197.

5. Mr. Rodems unilaterally set for hearing without coordinating the time and date with Gillespie, an Evidentiary Hearing on the "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" (currently on appeal in 2D10-5197) for May 3, 2011 at 11:30AM.

6. Gillespie filed a Notice of Unavailability in the lower court that he is unavailable during the time set by this Court, and the Florida Rules of Appellate Procedure, to file his amended initial brief, and reply brief, and requested that no appointments, mediations, conferences, hearings, depositions, depositions duces tecum, or other legal proceedings be scheduled during that time, or prior to June 20, 2011.

7. Gillespie requested Mr. Rodems cancel the improperly set Evidentiary Hearing by letter. Mr. Rodems has not responded or canceled the hearing.

8. Gillespie informed the Honorable James D. Arnold of the foregoing by letter. Judge Arnold has not responded or canceled the hearing.

9. Gillespie filed a Motion To Stay Pending Appeal in the lower court. Mr. Rodems moved to strike on the basis that Gillespie cannot appear pro se and must have all pleadings signed by a member of the Florida Bar. (Exhibit C).

10. Because of the forgoing Gillespie fears he cannot have a fair hearing before Judge Arnold and moved to disqualify the Judge May 2, 2011. (Exhibit D). However since Gillespie cannot appear pro se, and is unable to have his pleadings signed by a member of the Florida Bar, this Court is his last resort.

Verified Emergency Petition For Writ of Prohibition, Thirteenth Judicial Circuit, Florida

Petitioner Gillespie Faces Risk To His Life And Health

11. Dr. Karin Huffer is Gillespie's disability advocate and wrote "...Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates." (October 28, 2010). Dr. Huffer's letter is attached as Exhibit E.

Introduction

12. Petitioner sued his former lawyers Barker, Rodems & Cook, PA for defrauding him of \$6,224.78 in prior representation. Barker, Rodems & Cook, PA is unlawfully representing itself against a former client on matter that is substantially the same as the prior representation<sup>1</sup>. The case is in its 6th year. The case is on its 5th trial judge. There have been 4 appeals to the 2dDCA and a previous Petition for Writ of Prohibition to remove Judge Martha J Cook, who recused sua sponte the same day. Petitioner was represented by counsel, Robert W. Bauer of Gainesville, but he dropped the case when it became too difficult. Attorney Seldon J. Childers subsequently reviewed the case for Petitioner and determined Barker, Rodems & Cook actually defrauded him of \$7,143, not \$6,224.78 claimed in the original pro se complaint. Petitioner filed Plaintiff's First

Amended Complaint May 5, 2010 but the trial court refused to consider even one amended complaint. This case shows that the Thirteenth Judicial Circuit obstructed justice to help Barker, Rodems & Cook avoid paying Gillespie \$7,143 lawfully owed him. Therefore Gillespie brought a federal Civil Rights and ADA lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no.: 5:10-cv-00503, US District Court, Middle District of Florida, Ocala Division, September 28, 2010.

Court Counsel David A. Rowland - Behind The Scene Control of Judges, ADA

13. Court Counsel David A. Rowland has been preemptively defending the Thirteenth Judicial Circuit against Petitioner's lawsuit formally announced July 12, 2010 in the notice of claim made under section 768.28(6)(a) Florida Statutes but first raised in Gillespie's letter to Mr. Rowland of January 4, 2010 requesting information about section 768.28(6)(a) Florida Statutes. Mr. Rowland is controlling the judges in this case from behind the scene since at least January 4, 2010.

14. On July 9, 2010 Mr. Rowland seized control of Petitioner's ADA accommodation request from Gonzalo B. Casares, the Court's ADA Coordinator, and issued his own letter denying the request. Likewise there is evidence that Mr. Rowland controlled Judge Cook in this case from behind the scene.

15. On July 22, 2010 at 12:24 PM Gillespie spoke by phone with Mr. Rowland about his letter of July 9, 2010 denying Gillespie's ADA request. Gillespie and Mr. Rowland discussed the notice of claim made under section 768.28(6)(a) Florida Statutes. They also discussed Mr. Rodems' representation of his firm and Gillespie's emergency motion to disqualify Rodems pending before Judge Cook. Mr. Rowland expresses surprise when

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<sup>1</sup> See Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker,

Gillespie informed him that the motion, filed July 9th, was still pending. Later that day Judge Cook denied the motion without a hearing. Judge Cook's Order was filed with the Clerk July 22, 2010 at 3.17 PM according to the Clerk's time stamp on the Order.

16. Gillespie believes the timing of events is not circumstantial, and that following the aforementioned phone call Mr. Rowland instructed Judge Cook to deny Gillespie's emergency motion to disqualify Rodems pending before her. The Order itself is unlawful, *see* Affidavit of Neil J. Gillespie, October 28, 2010, *Judge Martha J. Cook falsified an official court record, and unlawfully denied Gillespie due process on the disqualification of Ryan Christopher Rodems as counsel*, filed November 1, 2010.

#### Thirteenth Judicial Circuit's Unlawful Conduct So Extreme Gillespie Can't Retain Counsel

17. The Thirteenth Judicial Circuit's unlawful conduct toward Gillespie is so extreme as to discourage counsel from representing him. Small firms and sole proprietors do not want to represent Gillespie and cite full caseloads as an excuse. But even Tampa's premiere 'Big Law' firm Holland & Knight would not represent Gillespie for a court-ordered deposition at its full hourly rate. The Thirteenth Judicial Circuit's departure from the rule of law offends public policy when litigants cannot obtain counsel lest they incur the court's wrath. The Thirteenth Judicial Circuit has denied Gillespie the basic requirements of justice, fairness and equality that we should all expect from our courts. The Thirteenth Judicial Circuit's behavior is immoral, unethical, oppressive, unscrupulous and substantially injurious to Gillespie. Bradford D. Kimbro, Holland & Knight's Executive Partner of the Tampa Bay Region, declined to represent Gillespie. Mr. Kimbro wrote "I have not read the letter, which was screened (but not studied) by my legal assistant... This

is to notify you that Holland & Knight LLP will not represent you...”. This is one of many firms who declined representation.

Major James Livingston, Commander Court Operations Division,  
Hillsborough County Sheriff’s Office (HCSO)

18. Major James Livingston provided Gillespie a letter January 12, 2011 that impeached Judge Cook’s “Order Adjudging Plaintiff Neil J. Gillespie In Contempt” issued September 30, 2010. See Appellant’s Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time.

19. On April 20, 2011 Gillespie requested Major Livingston prosecute violations under chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Major Livingston responded today, May 2, 2011 by email “You are under a misunderstanding concerning my official role at the Courthouse - my primary responsibility is to ensure the safety and security of the Courthouse Complex facilities, its occupants, and members of the public who are visiting or conducting business here. Any investigation of Judge Cook will have to be done by another investigative entity.”

Disability Discrimination by HCSO, Thirteenth Judicial Circuit

20. The St. Petersburg Times reported February 13, 2008 about quadriplegic Brian Sterner who was dumped out of a wheelchair and onto a jail floor by HCSO Deputy Charlette Marshall-Jones. The Sheriff’s Office video shows Deputy Marshall-Jones dumping Sterner from his wheelchair like cargo from a wheelbarrow, pushing up the handles as he fell to the ground. The other deputies in the video do not intervene. One walked away smiling. A CNN video about the incident is posted on YouTube at [http://www.youtube.com/watch?v=huRYZAJ8wzA&feature=player\\_embedded](http://www.youtube.com/watch?v=huRYZAJ8wzA&feature=player_embedded)

21. HCSO Deputy Marshall-Jones dumped quadriplegic Brian Sterner out of a wheelchair and onto a jail floor because she believed Mr. Sterner was faking disability. In this case Judge Cook accused Gillespie in open court September 28, 2010 of feigning illness. (Transcript, page 3). Opposing counsel Mr. Rodems routinely accuses Gillespie of feigning illness or disability, even though his firm previously represented Gillespie on disability matters. Dr. Huffer noted this in her letter of October 28, 2010 (Exhibit E):

“As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.”

Dr. Huffer is correct but for one detail, in the Thirteenth Judicial Circuit they dump paraplegics out of their wheelchair and accuse them of faking disability.

Gillespie Marked

Retaliation Against Gillespie by the Thirteenth Judicial Circuit, Florida

22. As a result of Gillespie’s accusations of wrongdoing against the Thirteenth Judicial Circuit, he finds himself in a position not unlike Judge Gregory P. Holder who during 2001 and 2002 cooperated with the FBI in the courthouse corruption investigation. According to testimony by Detective Bartoszak, the courthouse corruption investigation team was concerned that Judge Holder’s activities were being monitored by targets of the

investigation. Judge Holder was advised by federal law enforcement agents to carry a weapon, and he was provided with a secure cell phone to communicate with the authorities. [Bartoszak Tr. pp. 7-8, at App. 3.]. Detective Bartoszak testified that because of Judge Holder's cooperation, the investigation's targets had motive and resources to seek retribution against him. [Id. at pp. 7-8] Indeed, these targets faced not just loss of position but potential incarceration. [Id.]. At this time Gillespie fear retribution from judges, employees, and third party supporters of the Thirteenth Judicial Circuit as a result of his accusations of wrongdoing.

23. The Florida Judicial Qualifications Commission (JQC) also retaliated against Judge Holder. The JQC filed Notice of Formal Charges against Judge Holder July 18, 2003 alleging Judge Holder plagiarized 10 pages of a 21 page research report to the Faculty of the Air War College Directorate of Nonresident Studies, Air University, titled "An Analysis of the Anglo-American Combined Bomber Offensive in Europe During World War II, 1942-45." At the time Judge Holder held the rank of Lieutenant Colonel, United States Air Force Reserve. Like Gillespie, Judge Holder was accused of faking, in his case plagiarizing a research paper; Gillespie is accused of feigning disability.

24. During the trial, Judge Holder presented compelling evidence that the purported Holder paper was fabricated to retaliate against him for participating in the courthouse corruption investigation. [Bartoszak Tr. pp. 7, 12-13, at App. 3.] On June 23, 2005, the Hearing Panel of the JQC voted unanimously to dismiss the charges against Judge Holder. [Order of Dismissal, at App. 4.] Research indicates that this is the first trial defense verdict against the JQC in almost twenty years. The JCQ commenced two bogus, retaliatory inquires against Judge Holder:

- a. Inquiry Concerning a Judge No. 01-303, Supreme Court Case Number: SC02-33
- b. Inquiry Concerning a Judge No. 02-487, Supreme Court Case Number: SC03-1171

25. Judge Holder fought back and was awarded \$70,000 by the Florida Supreme Court for successfully defending an unsuccessful JQC Inquiry. On September 15, 2009 the Supreme Court of Florida, Case No. SC03-1171, ordered entry of judgment for Judge Gregory P. Holder for recovery of costs from the Judicial Qualifications Commission in the amount of \$70,000 for successfully defending Inquiry No. 02-487. Judge Holder's actual expenses were \$1,779,691.81 in legal fees, and cost of \$140,870.79.

#### Jurisdiction - Petition For Writ of Prohibition

26. A party may seek review of an order denying a motion for disqualification by filing a petition for writ of prohibition in the appellate court. In this case Gillespie is prohibited from filing a motion to disqualify. See Wal-Mart Stores, Inc. v. Carter, 768 So. 2d 21 (Fla. 1st DCA 2000); Carrow v. The Florida Bar, 848 So. 2d 1283 (Fla. 2d DCA 2003); Castro v. Luce, 650 So. 2d 1067 (Fla. 2d DCA 1995); Aberdeen Property Owners Ass'n, Inc. v. Bristol Lakes Homeowners Ass'n, Inc., 8 So. 3d 469 (Fla. 4th DCA 2009); J & J Towing, Inc. v. Stokes, 789 So. 2d 1196 (Fla. 4th DCA 2001); Cardinal v. Wendy's of South Florida, Inc., 529 So. 2d 335 (Fla. 4th DCA 1988); Hayslip v. Douglas, 400 So. 2d 553 (Fla. 4th DCA 1981).

27. The Thirteenth Judicial Circuit is a defendant in a federal Civil Rights and ADA lawsuit, Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTH-DAB, US District Court, MD Florida, Ocala Division. Judges have intentionally inflicted severe emotional distress on Gillespie. Judge Cook in particular misused and denied Gillespie of judicial process under the color as described in the following affidavits:



*Affidavit of Neil J. Gillespie, October 28, 2010, Judge Martha J. Cook, falsified record of Gillespie's panic attack; ADA*

*Affidavit of Neil J. Gillespie, October 28, 2010, Judge Martha J. Cook falsified an official court record, and unlawfully denied Gillespie due process on the disqualification of Ryan Christopher Rodems as counsel*

*Affidavit of Neil J. Gillespie, October 28, 2010, Judge Martha J. Cook ordered Gillespie removed from the hearing of September 28, 2010, and accused Gillespie in open court of feigning illness; ADA*

*Affidavit of Neil J. Gillespie, November 1, 2010, Judge Martha J. Cook ordered Gillespie removed from the hearing on Defendants' Final Summary Judgment Count I, proceeded without Gillespie, granted SJ for Defendants on TILA fees previously denied with prejudice and by three different federal courts*

*Affidavit of Neil J. Gillespie, November 1, 2010, Judge Martha J. Cook ordered Gillespie removed from the hearing on Defendants' Motion for an Order of Contempt and Writ of Bodily Attachment, then falsified the Order stating Gillespie voluntarily left the hearing and did not return*

*Affidavit of Neil J. Gillespie, April 25, 2011, letter of Major Livingston impeaches Judge Cook's "Order Adjudging Neil J. Gillespie in Contempt"*

#### Standard On Disqualification

28. The basic principles underlying the procedure for disqualification are the same as those expressed in the Code of Judicial Conduct. Canon 3E(1) provides that a judge has an affirmative duty to enter an order of disqualification in any proceeding "in which the judge's impartiality might reasonably be questioned." The object of this provision of the Code is to ensure the right to fair trials and hearings, and to promote confidence in a fair and independent judiciary by avoiding even the appearance of partiality.

29. The central question in every motion for disqualification is whether the moving party has cause to believe that he or she will be treated unfairly. While it may be true that the judge could treat the litigant fairly in spite of the alleged facts, that is immaterial to the motion. As the supreme court explained "the question of disqualification focuses on

those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially.” Livingston v. State, 441 So. 2d 1083, 1086 (Fla. 1983).

30. The standard in determining legal sufficiency is whether a reasonable person would fear that he or she could not get a fair trial with the present judge under the circumstances outlined in the motion. See Department of Agriculture and Consumer Services v. Broward County, 810 So. 2d 1056 (Fla. 1st DCA 2002); Jimenez v. Ratine, 954 So. 2d 706 (Fla. 2d DCA 2007); Jarp v. Jarp, 919 So. 2d 614 (Fla. 3d DCA 2006); Deakter v. Menendez, 830 So. 2d 124, 49 U.C.C. Rep. Serv. 2d 849 (Fla. 3d DCA 2002); Baez v. Koelemij, 960 So. 2d 918 (Fla. 4th DCA 2007); Winburn v. Earl's Well Drilling & Pump Service, 939 So. 2d 199 (Fla. 5th DCA 2006).

31. Rule 2.330(d) defines the general grounds for disqualification and identifies several specific grounds. As previously noted, the legal procedure for disqualification is intended to serve the same general goals as the Code of Judicial Conduct. A judge is obligated by the Code of Judicial Conduct to enter an order of disqualification in any of these circumstances even if a party has not filed a motion for disqualification. It follows that a motion for disqualification is legally sufficient if it alleges any of these matters listed in Canon 3E(1).

32. A motion for disqualification can be based on the actions of the trial judge as well as the statements made by the judge. Improper conduct on the part of the judge may serve as a ground for disqualification if that conduct could prejudice the rights of a party to the case. Conflict arising from an association between the trial judge and a litigant may serve as a ground for disqualification depending on the circumstances of the case. So too, a

personal conflict that develops during the course of a proceeding may support a motion for disqualification. There are a number of Florida cases involving a trial judge's comments about a litigant. The appellate courts have generally sustained a request for disqualification if the trial judge has expressed a general opinion on the character or credibility of the litigant. A judge who renders an opinion on the character or credibility of a litigant should ordinarily be disqualified. See Brown v. St. George Island, Ltd., 561 So. 2d 253 (Fla. 1990); De-Metro v. Barad, 576 So. 2d 1353 (Fla. 3d DCA 1991).

33. Ordinarily the fact that a party has filed a civil lawsuit against the judge is not a legally sufficient basis for disqualification. May v. South Florida Water Management Dist., 866 So. 2d 205 (Fla. 4th DCA 2004). But May and similar cases do not apply in the instant case. In this case Court Counsel David A. Rowland began preemptively defending the Thirteenth Judicial Circuit against Petitioner's lawsuit formally announced July 12, 2010 in the notice of claim made under section 768.28(6)(a) Florida Statutes, but first raised in Gillespie's letter to Mr. Rowland of January 4, 2010 requesting information about section 768.28(6)(a) Florida Statutes. (Exhibit 2). Mr. Rowland is controlling the judges in this case from behind the scene since at least January 4, 2010.

34. Successive Motions. A judge may evaluate the facts alleged in a motion for disqualification if the moving party had previously disqualified another judge. Rodriguez Diaz v. Abate, 598 So. 2d 197 (Fla. 3d DCA 1992). A second motion by a party is reviewable under the stricter "legal sufficiency" standard. In Fogan v. Fogan, 706 So. 2d 382 (Fla. 4th DCA 1998), the court reversed an order by a successor judge denying a motion for disqualification because the record showed that the judge could not be impartial. In this case the record is clear that the Thirteenth Judicial Circuit can not be

impartial. The basic tenet for disqualification of a judge is that justice must satisfy appearance of justice, and this tenet must be followed even if record is lacking of any actual bias or prejudice on judge's part, and even though this stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh scales of justice equally between contending parties. Kielbania v. Jasberg 744 So.2d 1027. Florida courts hold that when trial judge leaves realm of civility and directs base vernacular towards attorney or litigant in open court, there is sufficient grounds to require disqualification. Olszewska v. Ferro 590 So.2d 11. In this case the court accused Gillespie in open court of feigning illness at a prior hearing. Tampa Fire Rescue treated Gillespie immediately following the prior hearing and produced a record supporting Gillespie's claim of illness. The Court left the realm of civility and directed base vernacular toward Gillespie when it made a gratuitous, unsupported claim of feigning illness. "A judge should be patient, dignified and courteous to litigants, ... lawyers, and others with whom he deals in his official capacity...." Fla. Bar Code Jud. Conduct, Canon 3(A)(3) (1991). When a trial judge leaves the realm of civility and directs base vernacular towards an attorney or litigant in open court, there are sufficient grounds to require disqualification. See, e.g., Lamendola v. Grossman, 439 So.2d 960 (Fla. 3d DCA 1983); Brown v. Rowe, 96 Fla. 289, 118 So. 9 (1928) (once a basis for disqualification has been established, prohibition is both appropriate and necessary). It is a fundamental right that every litigant is entitled to nothing less than the cold neutrality of an impartial judge, and it is the duty of a judge to scrupulously guard this right and refrain from attempting to exercise jurisdiction in any matter where his qualification to do so is seriously brought in question. Crosby v. State, 97 So.2d 181. Judge not only must be free of evil intent but he

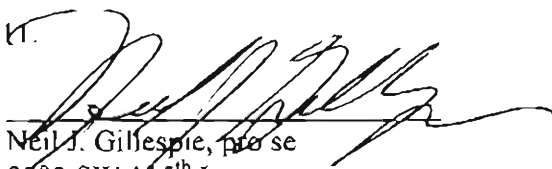
must also avoid appearance of evil. It is party's right to have judge free from any obvious source of possible unconscious bias. Aetna Life & Cas. Co. v. Thom, 319 So.2d 82.

Motion for Change of Venue to Marion County, Florida

35. Because of the foregoing Gillespie cannot have a fair hearing in the Thirteenth Judicial Circuit and moves for a change of venue to Marion County, Florida, where he resides. In the alternative Gillespie moves to consolidate this case with the federal lawsuit Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTH-DAB, US District Court, MD Florida, Ocala Division.

WHEREFORE, Gillespie pro se demands Writ of Prohibition to remove Circuit Court Judge James D. Arnold as trial judge in the lower tribunal, and to remove the THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, as venue and jurisdiction in Lower Court Case No. 05-CA-007205, and change Venue to Marion County, Florida or the federal lawsuit Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTH-DAB, US District Court, MD Florida, Ocala Division.

RESPECTFULLY SUBMITTED May 2, 2011.

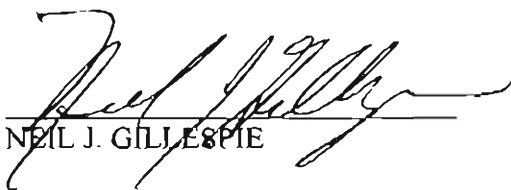


Neil J. Gillespie, pro se  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807

VERIFICATION

I, Neil J. Gillespie, under penalty of perjury, swear that the facts alleged in herein are true and accurate, and I swear that the documents attached hereto are true and correct copies.

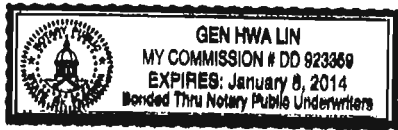
DATED May 2, 2011.

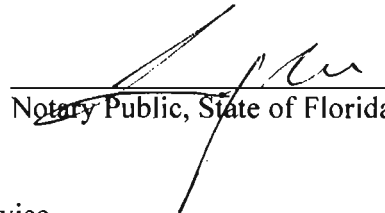


NEIL J. GILLESPIE

STATE OF FLORIDA  
COUNTY OF MARION

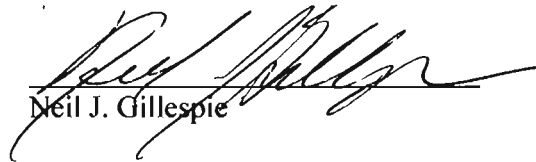
Sworn to (or affirmed) and subscribed before me May 2, 2011, by Neil J. Gillespie, who personally known to me or presented identification.



  
\_\_\_\_\_  
Notary Public, State of Florida

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed May 2, 2011 to  
Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite  
2100, Tampa, Florida 33602.

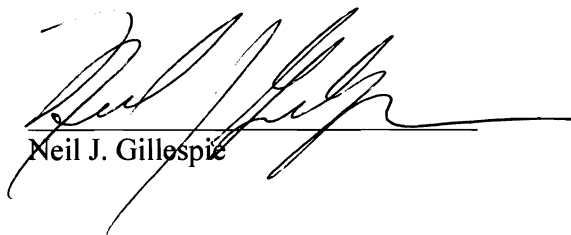
  
\_\_\_\_\_  
Neil J. Gillespie

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed May 2, 2011 to the following:

The Honorable James D. Arnold  
Circuit Court Judge  
Circuit Civil Division "J"  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

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



Neil J. Gillopie

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

**NEIL J. GILLESPIE,**  
Plaintiff,

CASE ID: 05-CA-7205

v.

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

---

DIVISION: G

**ORDER PROHIBITING PLAINTIFF FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants' "motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*," filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. Defendants allege that Plaintiff's prosecution is an affront to the dignity of the judicial system and an unacceptable burden on its resources. On November 4, 2010, this court issued the order to show cause why Plaintiff should not be prohibited from appearing *pro se*.

Among Plaintiff's response were his fourth and fifth attempts to disqualify this court. This response is typical of Plaintiff's litigation style. And his continuing course of conduct in this case is all the more troublesome because this case is presently pending appellate review of a final summary judgment order. There is nothing left to litigate at this time. Yet Plaintiff continues to file spurious pleadings with this court, each of which must be reviewed and evaluated by members of the court staff. For these reasons and the reasons enumerated in the motion, the Court hereby finds that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system, his right to full access to the court should be curtailed to the extent described in this order. Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida.





The Court therefore **ORDERS** as follows:

1. Plaintiff **SHALL CEASE** filing any pleading, correspondence, or other document in this case unless the document is signed by an attorney who is duly licensed to practice law in the State of Florida.
2. The Clerk of Court **SHALL REJECT** for filing any document received from Plaintiff which does not bear the clear and conspicuous signature of an attorney duly licensed to practice law in this state.
3. The Clerk of Court **SHALL NOT DOCKET** any pleading, correspondence or other document received from Plaintiff which is prohibited by this order.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 15<sup>th</sup> day of November, 2010.

ORIGINAL SIGNED

**NOV 15 2010**

**MARTHA J. COOK, Circuit Judge**

MARTHA J. COOK  
CIRCUIT JUDGE

Send copies to:

Neil J. Gillespie  
Plaintiff  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

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

**NEIL J. GILLESPIE,  
Plaintiff,**

**CASE ID: 05-CA-7205**

**v.**

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

\_\_\_\_\_ /

**DIVISION: G**

**ORDER TO SHOW CAUSE WHY PLAINTIFF  
SHOULD NOT BE PROHIBITED FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants’ “motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*,” filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. The catalogue of Plaintiff’s disruptive conduct is extensive.

The court is ever mindful of the constitutional right each citizen enjoys to access the courts of this state for the redress of their grievances.<sup>1</sup> The court is equally mindful that this is a right shared by all of this state’s citizens. Without each court’s attention to the efficient administration of justice and without each litigant’s exercise of decorum, discretion and competence in the pursuit of their claims, the right of all to access the courts becomes, in application, one which is exercised only by the litigant whose voice is loudest and whose presence is most disruptive. This the constitution does not require. The constitution grants no particular individual the right to waste those judicial resources which are vouchsafed to us all equally – judicial resources are scarce and they must be allocated prudently so that all citizens may benefit from them. And so there are standards, both of competence and of decency, which each litigant is expected to meet in the pursuit of justice. The *pro se* litigant is held to the same standard of competency as an

<sup>1</sup> See Article I, s. 21, Florida Constitution.

attorney.<sup>2</sup> And he must adhere to the rules of court and of civil procedure as would any member of the Bar.<sup>3</sup> There is no reason to hold the *pro se* litigant to a lesser standard of decency. So we may justly look to the rules of professional conduct as well as to our common notions of decorum to find what conduct is required of every litigant. The motion alleges many facts which contradict these ideals. An abusive litigant will not be tolerated to handicap the judicial function upon which all citizens depend.<sup>4</sup>

It is therefore **ORDERED** that Plaintiff **SHALL RESPOND** to the motion, in writing, within twenty days of the date of this order and **SHOW CAUSE**, if any, why the Clerk of Court should not be instructed to reject for filing any future pleadings, petitions, motions or other documents which he submits for filing unless they are signed by a member of The Florida Bar. Failure to file a timely response to the motion may result in its being granted.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this \_\_\_\_ day of November, 2010.

ORIGINAL SIGNED  
NOV 14 2010  
MARTHA J. COOK, Circuit Judge  
MARTHA J. COOK  
CIRCUIT JUDGE

Send copies to:

Neil J. Gillespie  
Plaintiff  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

---

<sup>2</sup> See *Kohn v. City of Miami Beach*, 611 So. 2d 538, 539-40 (Fla. 3d DCA 1993).

<sup>3</sup> See *Carr v. Grace*, 321 So. 2d 618 (Fla. 3d DCA 1975), *cert. denied*, 348 So. 2d 945 (Fla. 1977).

<sup>4</sup> See e.g. *Day v. State*, 903 So. 2d 886, 888 (Fla. 2005); *Platel v. Maguire, Voorhies & Wells, P.A.*, 436 So. 2d 303, 304 (Fla. 5<sup>th</sup> DCA 1983).

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05-CA-007205**

**Division: J**

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

**Defendants.**

\_\_\_\_\_ /

**DEFENDANTS' MOTION TO STRIKE PRO SE FILINGS BY PLAINTIFF**

Defendants Barker, Rodems & Cook, P.A. and William J. Cook move to strike all pro se filings by Plaintiff Neil J. Gillespie on or after November 15, 2010, and as grounds therefor would state:

1. On November 15, 2010, this Court entered the Order Prohibiting Plaintiff from Appearing Pro Se (November 15, 2010 Order), which Plaintiff did not appeal. A true and correct copy of the November 15, 2010 Order is attached hereto.
2. In the November 15, 2010 Order, the Court found "that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system . . . Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida." (Emphasis in original).
3. The November 15, 2010 Order also directed the Clerk to reject any filings from Plaintiff and to not docket any filings from Plaintiff.
4. In contumacious disregard of the November 15, 2010 Order, Plaintiff continues to file documents without the signature of an attorney duly licensed to practice in the State of Florida.

WHEREFORE, Defendants move to strike Plaintiffs' filings on or after November 15, 2010 that are not signed by an attorney duly licensed to practice in the State of Florida.

DATED this 26th day of April, 2011.



RYAN CHRISTOPHER RODEMS, ESQUIRE  
Florida Bar No. 947652  
Barker, Rodems & Cook, P.A.  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602  
Telephone: 813/489-1001  
Facsimile: 813/489-1008  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala Florida 34481 this 26th day of April, 2011.



Ryan Christopher Rodems, Esquire

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

NEIL J. GILLESPIE,  
Plaintiff,

CASE ID: 05-CA-7205

v.

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

---

DIVISION: G

**ORDER PROHIBITING PLAINTIFF FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants' "motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*," filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. Defendants allege that Plaintiff's prosecution is an affront to the dignity of the judicial system and an unacceptable burden on its resources. On November 4, 2010, this court issued the order to show cause why Plaintiff should not be prohibited from appearing *pro se*.

Among Plaintiff's response were his fourth and fifth attempts to disqualify this court. This response is typical of Plaintiff's litigation style. And his continuing course of conduct in this case is all the more troublesome because this case is presently pending appellate review of a final summary judgment order. There is nothing left to litigate at this time. Yet Plaintiff continues to file spurious pleadings with this court, each of which must be reviewed and evaluated by members of the court staff. For these reasons and the reasons enumerated in the motion, the Court hereby finds that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system, his right to full access to the court should be curtailed to the extent described in this order. Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida.

The Court therefore **ORDERS** as follows:

1. Plaintiff **SHALL CEASE** filing any pleading, correspondence, or other document in this case unless the document is signed by an attorney who is duly licensed to practice law in the State of Florida.
2. The Clerk of Court **SHALL REJECT** for filing any document received from Plaintiff which does not bear the clear and conspicuous signature of an attorney duly licensed to practice law in this state.
3. The Clerk of Court **SHALL NOT DOCKET** any pleading, correspondence or other document received from Plaintiff which is prohibited by this order.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 15<sup>th</sup> day of November, 2010.

ORIGINAL SIGNED

NOV 15 2010

MARTHA J. COOK  
CIRCUIT JUDGE

**MARTHA J. COOK**, Circuit Judge

Send copies to:

Neil J. Gillespie  
Plaintiff  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

**COPY**

**BARKER, RODEMS & COOK**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

Telephone 813/489-1001  
Facsimile 813/489-1008

April 26, 2011

The Honorable James D. Arnold  
Circuit Court Judge  
Circuit Civil, Division "J"  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

**Re: Neil J. Gillespie v. Barker, Rodems & Cook, P.A.,  
a Florida Corporation; and William J. Cook  
Case No.: 05-CA-7205; Division "J"**

Dear Judge Arnold:

Enclosed please find a courtesy copy of Defendants' Motion to Strike Pro Se Filings by Plaintiff which was filed on even date in the above-referenced matter. By Order of this Court entered November 15, 2010, Mr. Gillespie is prohibited from filing any documents pro se.

Thank you for your time and attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "RCR", followed by a stylized signature that appears to be "Rodems".

Ryan Christopher Rodems

RCR/so  
Enclosure  
cc: Neil J. Gillespie (w/encl)



**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-7205

vs.

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

DIVISION: J

Defendants.

---

**PLAINTIFF'S MOTION TO DISQUALIFY JUDGE ARNOLD**

1. Plaintiff pro se Gillespie moves to disqualify Circuit Court Judge James D. Arnold as trial judge in this action pursuant to chapter 38 Florida Statutes, Rule 2.330, Florida Rules of Judicial Administration, and the Code of Judicial Conduct.
2. Canon 3E(1) provides that a judge has an affirmative duty to enter an order of disqualification in any proceeding "in which the judge's impartiality might reasonably be questioned." The object of this provision of the Code is to ensure the right to fair trials and hearings, and to promote confidence in a fair and independent judiciary by avoiding even the appearance of partiality.
3. On April 26, 2011 Plaintiff telephoned Judy D. Williams, the Judicial Assistant for Judge Arnold at (813) 272-6991 to discuss an improperly set hearing by opposing counsel Ryan C. Rodems. Ms. Williams would not speak with Plaintiff and hung up on a pretext that the phone



call was recorded<sup>1</sup>.

4. In question is Defendants' Evidentiary Hearing set for hearing May 3, 2011 at 11:30 AM on "Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued." The hearing was set without coordinating the date and time with Plaintiff. This is an ongoing problem with Mr. Rodems, his contumacious disregard for rules, regulations, law, and statutes in this case due to his unlawful representation of his law firm against Plaintiff, a former client, in a matter that is the same or substantially the same as the prior representation. The problems in this case are due to Mr. Rodems' unlawful behavior toward a former client as set forth in the Affidavit of Neil J. Gillespie of April 25, 2011.

5. Previously this matter was scheduled for hearing January 26, 2011, also without coordinating the date and time. In relation to that improperly set hearing Plaintiff called Ms. Williams January 14, 2011 who informed him that Mr. Rodems is "required to clear the hearing time" with Plaintiff. Ms. Williams instructed Plaintiff to send Mr. Rodems a letter about the matter. Plaintiff told Ms. Williams that hearing concerned the "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" entered September 30, 2010 and currently on appeal in Case No. 2D10-5197. Ms. Williams confirmed this online during the call with Plaintiff. Ms. Williams told Plaintiff that the hearing would not take place because Judge Arnold was on medical leave and did not want the covering senior judge to hear the motion.

6. Mr. Rodems had, in fact, already canceled the hearing January 12, 2011.

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<sup>1</sup> All calls on plaintiff's home office business telephone extension are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4Xa)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991), See Plaintiff's Notice of Telephone Hearing filed December 30, 2009.

7. Plaintiff followed Ms. Williams' instruction relative to the improperly hearing set for May 3, 2011 at 11:30AM, wrote Mr. Rodems April 16, 2011 and requested he cancel the hearing. Plaintiff also filed a Notice of Unavailability for the duration of Case No. 2D10-5197, a final appeal of "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" and "Final Summary Judgment As to Count 1". Mr. Rodems did not respond to Plaintiff's letter, Notice of Unavailability, or cancel the hearing.

8. Plaintiff separately wrote Judge Arnold April 16, 2011 and provided him copies of his letter to Mr. Rodems and Plaintiff's Notice of Unavailability. Plaintiff also requested "Should Mr. Rodems fail to cancel the hearing, I request the Court cancel it sua sponte." Judge Arnold did not respond to Plaintiff or cancel the hearing.

9. Pursuant to Fla. R. App. P., Rule 9.600(b), the jurisdiction of the lower tribunal has been divested by an appeal from a final order, making any further hearings improper in the lower tribunal unless the appellate court by order permits the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Therefore Defendants' Evidentiary Hearing is unlawful because "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" is part of a final appeal in Case No. 2D10-5197.

10. Plaintiff is a person with a disability who needs accommodation in order to participate in any proceeding in the Thirteenth Judicial Circuit, including depositions. Plaintiff so notified the ADA Coordinator, 800 E. Twiggs Street, Room 604 Tampa, FL 33602 on February 19, 2010. Court Counsel David Rowland notified Plaintiff by letter July 9, 2010 that it refused his ADA accommodation request. Accordingly Plaintiff filed a federal ADA/Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no.: 5:10cv-00503, US District Court, Middle District of Florida, Ocala Division, September 28, 2010. Rule 3, FRCP, Commencement

of Action, a civil action is commenced by filing a complaint with the court.

Disclosure under Rule 2.330(c)(4), Fla.R.Jud.Admin

11. Pursuant to Rule 2.330(c)(4), a motion to disqualify shall include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions. The case is in its 6th year. The case is on its 5th trial judge. There have been 4 appeals to the 2dDCA and a Petition for Writ of Prohibition to remove Judge Cook. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems' independent professional judgment is materially limited by his own interest and conflict, as further described in paragraph 4, and numerous pleadings such as Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010, Plaintiff's First Amended Complaint filed May 5, 2010, and Affidavit of Neil J. Gillespie of April 25, 2011.

a. Judge Richard A. Neilsen recused sua sponte November 22, 2006.

b. Judge Claudia Isom Rickert recused sua sponte February 13, 2007.


c. Judge James M. Barton was disqualified May 24, 2010.

c. Petition for Writ of Prohibition was filed November 18, 2010 to remove Judge Martha Cook and she recused sua sponte the same day.

12. Because of the forgoing Plaintiff fears he cannot receive a fair hearing before Judge Arnold. Given the totality of the prejudice against Plaintiff cited above, should Judge Arnold fail to disqualify himself, that itself would either be dishonest and proof that Plaintiff could not receive a fair hearing, or show that Judge Arnold is not of sound judgment and therefore unfit to preside. While Ms. Williams told Plaintiff that Judge Arnold was on medical leave in January 2011, she did not specify why Judge Arnold was disabled or the extent of his disability.

WHEREFORE, the undersigned movant certifies that the motion and the movant's statements are made in good faith.

Submitted and Sworn to May 2, 2011.

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

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, appeared NEIL J. GILLESPIE, personally known to me, or produced identification, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

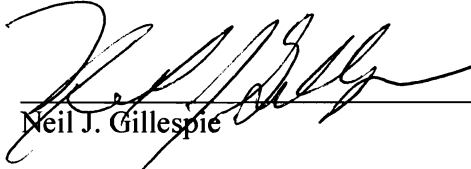
WITNESS my hand and official seal May 2, 2011.



  
Notary Public, State of Florida

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was faxed and mailed May 2, 2011 to Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602.

  
Neil J. Gillespie

## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services." (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.