

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

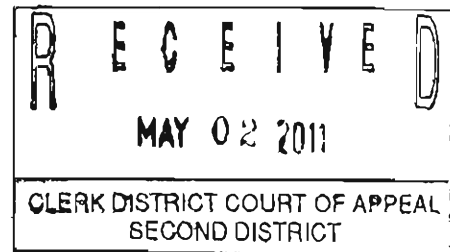
vs.

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

1. 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 representation¹. 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

¹ 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

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

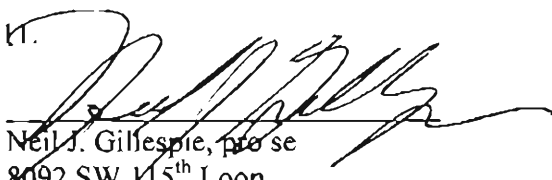
must also avoid appearance of evil. It is party's right to have judge free from any obvious source of possible unconscious bias. Aetna Life & Cas. Co. v. Thom, 319 So.2d 82.

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 115th Loop
Ocala, Florida 34481
Telephone: (352) 854-7807

VERIFICATION

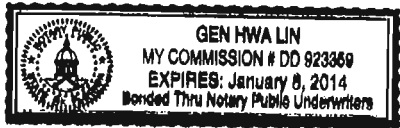
I, Neil J. Gillespie, under penalty of perjury, swear that the facts alleged in herein are true and accurate, and I swear that the documents attached hereto are true and correct copies.

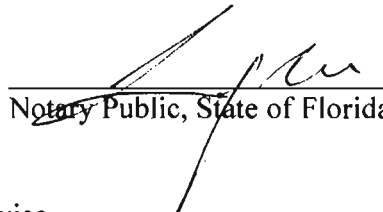
DATED May 2, 2011.


NEIL J. GILLESPIE

STATE OF FLORIDA
COUNTY OF MARION

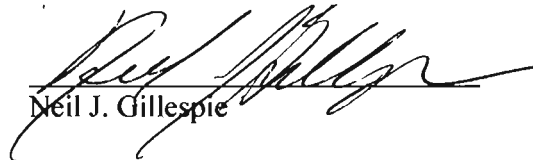
Sworn to (or affirmed) and subscribed before me May 2, 2011, by Neil J. Gillespie, who personally known to me or presented identification.




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.

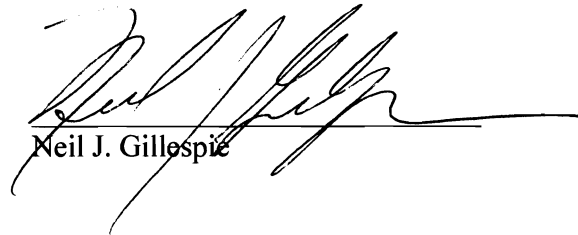

Neil J. Gillespie

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. 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 15th 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 115th 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.¹ 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

¹ See Article I, s. 21, Florida Constitution.



attorney.² And he must adhere to the rules of court and of civil procedure as would any member of the Bar.³ 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.⁴

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 16 2010
MARTHA J. COOK, Circuit Judge
MARTHA J. COOK
CIRCUIT JUDGE

Send copies to:
Neil J. Gillespie
Plaintiff
8092 SW 115th Loop
Ocala, FL 34481

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

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

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

⁴ 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. 5th 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 115th 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 15th 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 115th 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,



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 recorded¹.

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.

¹ 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 Count 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 115th 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.

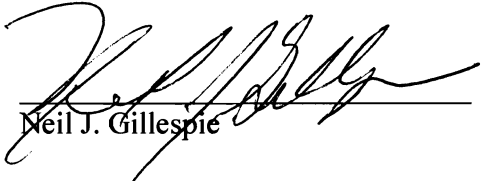
WITNESS my hand and official seal May 2, 2011.




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 ADA 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 ADA 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 ADA 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.