

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

NEIL J. GILLESPIE,

Plaintiff,

Case No. 05-CA-007205

Division J

vs.

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

Defendants.

**PLAINTIFF'S MOTION TO QUASH WRIT OF BODILY ATTACHMENT
AND TO RESCIND WARRANT FOR PLAINTIFF'S ARREST**

COMES NOW the Plaintiff (hereinafter, "Mr. Gillespie"), by and through his undersigned attorney, and moves this Honorable Court for both an order quashing the writ of bodily attachment issued by this Court on June 1, 2011, and also for an order rescinding the warrant for the Plaintiff's arrest which naturally followed said writ, and in support thereof would show this Court that:

1. The last attorney representing Mr. Gillespie in this case was permitted to withdraw on October 1, 2009.
2. In the 21 months or so which have transpired since October of 2009, Mr. Gillespie has been without legal counsel, and has represented himself for these past 21 months.
3. Not only has Mr. Gillespie not had the benefit of any legal training, but he also labors under the strain of some serious health issues which have been with him since this litigation began.
4. Notwithstanding the foregoing, Mr. Gillespie has made considerable effort to comply with Mr. Rodems' fairly comprehensive and exhaustive discovery requests, as demonstrated by the

June 25, 2010 letter and attachments which Mr. Gillespie sent to Mr. Rodems.

5. The aforesaid letter and attachments are appended to this Motion and incorporated herein by reference as "Exhibit A."

6. Mr. Gillespie's undersigned attorney has counseled him extensively about his need to comply with the Orders of this Honorable Court, and Mr. Gillespie has been profoundly sobered by the experience of having the Marion County Sheriff's Officers calling him and knocking on his door to arrest him.

7. Marion County Deputy Carl Dunlap advised undersigned counsel via telephone that, were they to ultimately arrest Mr. Gillespie, it would be likely that Mr. Gillespie would sit in the Marion County Jail for weeks until he could be transferred to the Hillsborough County Jail.

8. Justice will not be served if Mr. Gillespie is jailed.

9. Furthermore, given his health status, he will most definitely *not* "hold the keys" to his jail cell, as his ability to respond to discovery will then be virtually lost.

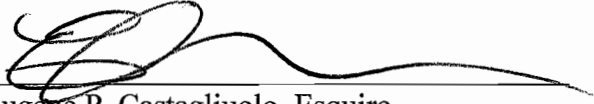
10. Perhaps most importantly to this Honorable Court, this case will not advance any faster nor will the issues be resolved any quicker if Mr. Gillespie is jailed.

11. The only possible interest served by jailing Mr. Gillespie would perhaps be that Mr. Rodems will enjoy some degree of retribution against Mr. Gillespie, although undersigned counsel finds it hard to believe that Mr. Rodems would be so motivated.

WHEREFORE, undersigned counsel and Mr. Gillespie respectfully request this Honorable Court enter an Order quashing the writ of bodily attachment issued by this Court on June 1, 2011, and an order rescinding the warrant for the Plaintiff's arrest.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *PLAINTIFF'S MOTION* has been furnished by hand-delivery to Ryan Christopher Rodems, Esquire, of BARKER, RODEMS & COOK, P. A., 400 N. Ashley Drive, Suite 2100, Tampa, FL 33602 on this 16th day of June, 2011.



Eugene P. Castagliuolo, Esquire

Florida Bar Number: 104360

CASTAGLIUOLO LAW GROUP, P. A.

2451 McMullen Booth Road

Clearwater, FL 33759

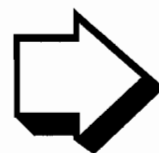
Tel: (727) 712-3333

Fax: (727) 725-0389

AttorneyEPC@yahoo.com

Attorney for Plaintiff NEIL J. GILLESPIE

EXHIBIT “A”



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

June 25, 2010

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:

This is a follow-up to my June 21, 2010 fax good faith effort to provide the discovery without court action and/or response justifying not providing the discovery pursuant to Rule 1.380(a)(4).

I received Judge Cook's Order Denying Motion For Reconsideration of June 22, 2010 yesterday, June 24, 2010. Since I am no longer justified in not providing the discovery, please find enclosed the following:

Exhibit 1. Responses to Defendants' Interrogatories of September 2, 2008

Exhibit 2. Responses to Defendants' Request for Production submitted Sept. 2, 2008

Exhibit 3. Responses to Defendants' Request for Production submitted October 13, 2009

Note: this request for production was made in violation of Judge Barton's Order of October 9, 2009: IT IS FURTHER ORDERED that the above action be shall be stayed for 60 Days to allow the Plaintiff to find replacement counsel. (relevant portion).

Exhibit 4. Responses to Defendants' Request for Production submitted June 1, 2010

Exhibit 5. Responses to Defendants' Motion for Examination Pursuant to Section 56.29(2), Florida Statutes, submitted June 1, 2010.

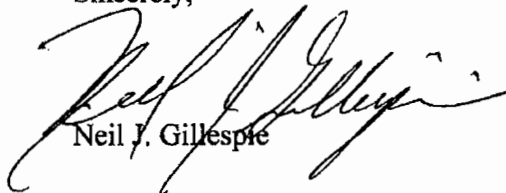
As you know, much of your discovery to me is outstanding, some of it dating to 2006. Currently the following motions to compel your discovery are pending:

1. December 14, 2006, Plaintiff's Motion to Compel Defendants' Discovery
2. February 1, 2007, Plaintiff's Second Motion to Compel Defendants' Discovery
3. March 30, 2010, Plaintiff's Third Motion to Compel Discovery

A letter from you dated December 19, 2006 falsely states "documents have already been produced" but I have not received any documents from you.

Mr. Rodems, when can I expect to receive your outstanding discovery?

Sincerely,

A handwritten signature in black ink, appearing to read "Neil J. Gillespie". The signature is written in a cursive style with a large, sweeping initial "N".

Neil J. Gillespie

Enclosures

Responses to Defendants' Interrogatories of September 2, 2008 were provided by my former lawyer Robert W. Bauer, October 1, 2008, see attached.

The verification page was signed and notarized by me October 2, 2008. Mr. Bauer submitted the signed and notarized verification page to the Clerk of Court October 3, 2008.

New information.

Interrogatory No. 1. Mr. Bauer previously provided bank records. There are no other records available to provide any additional information that would allow the Plaintiff to answer this question. On November 16, 2009 I requested my client file from Mr. Bauer. He responded by letter November 23, 2009 that he was exercising a charging lien and refused to provide the file. The matter is currently subject to regulatory process.

In response to Mr. Rodems' speculation contained in "Defendant's Motion For An Order Compelling Plaintiff To Respond To The Defendant's Interrogatories" that "Defendant in good faith believes Plaintiff uses more than one bank account, has debit cards or credit cards, and operates a business or makes purchases using PayPal or other similar payment services":

Plaintiff has no bank account.

Plaintiff has no credit card.

Plaintiff uses throw-away debit cards that have no records.

Plaintiff does not operate a business or make purchases for the business using PayPal or other similar payment services.

Interrogatory No. 2. Plaintiff provided the answer by way of his "Affidavit and Inventory of Personal Property of Neil J. Gillespie and Designated Exemptions" submitted to the court April 28, 2010, see copy attached.



Responses to Defendants' Request for Production submitted Sept. 2, 2008

1. Objection, relevance, annoyance, embarrassment, or oppression. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment. The Gillespie Family Living Trust has a spendthrift provision. The creditors of the trustee are not entitled to an attachment to subject trust property held by the trustee to the payment of the trustee's debts. Tillman v. Taylor, 99 Fla. 1326, 128 So. 846, Fla. 1930. The remedy is not available even if the debt is chargeable to the trust itself. Johnston v. Smith, 76 Fla. 474, 80 So. 184, Fla. 1918. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment, at least in the absence of express statutory authorization. McLeod v. Cooper, 88 F.2d 194, C.A.5 1937.

2. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

3. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

4. None.

5. None.

6. Already provided. If you want them again, please advise.

7. Already provided. If you want them again, please advise.

8. None.

9. Already provided. If you want them again, please advise.

10. The quit claim deed was provided. If you want it again, please advise.

11. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist. Otherwise none, other than what is owned to Barker, Rodems & Cook.

12. None

13. None.

14. None.

15. None.

16. None.

17. None.
18. None. I opted out of receiving paper documents, see insurer for whatever you want.
19. None. I do not own a home. I do not have renters insurance.
20. None.
21. None that I can recall.
22. None.
23. None.
24. None.
25. None.
26. See Affidavit and Inventory of Personal Property of Neil J. Gillespie, Designated Exemptions, and Motion for Dissolution of Writ of Garnishment, filed April 28, 2010, and related documents.
27. IRS EIN from 2002, already provided, if you want it again, please advise.
28. Already provided, if you want it again, please advise.
29. None.
30. None.
31. None.
32. None.
33. None.
34. None.
35. None.
36. None.
37. "All contracts undue which you currently have any legal rights." Request makes no sense.
38. Objection, vague, what is a trust instrument? Otherwise see #1

39. None.

40. Objection vague. Otherwise none.

41. Repeated request, see the response to #26

42. Repeated request, see the response to #27

43. Objection, vague. Otherwise none.

44. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

45. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

46. I do not have a copy of my credit report.

Responses to Defendants' Request for Production submitted October 13, 2009

1. Objection, relevance, annoyance, embarrassment, or oppression. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment. The Gillespie Family Living Trust has a spendthrift provision. The creditors of the trustee are not entitled to an attachment to subject trust property held by the trustee to the payment of the trustee's debts. Tillman v. Taylor, 99 Fla. 1326, 128 So. 846, Fla. 1930. The remedy is not available even if the debt is chargeable to the trust itself. Johnston v. Smith, 76 Fla. 474, 80 So. 184, Fla. 1918. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment, at least in the absence of express statutory authorization. McLeod v. Cooper, 88 F.2d 194, C.A.5 1937.

2. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

3. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

4. None.

5. None.

6. Already provided. If you want them again, please advise.

7. Already provided. If you want them again, please advise.

8. None.

9. Already provided. If you want them again, please advise.

10. The quit claim deed was provided. If you want it again, please advise.

11. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist. Otherwise none, other than what is owned to Barker, Rodems & Cook.

12. None

13. None.

14. None.

15. None.

16. None.

17. None.
18. None. I opted out of receiving paper documents, see insurer for whatever you want.
19. None. I do not own a home. I do not have renters insurance.
20. None.
21. None that I can recall.
22. None.
23. None.
24. None.
25. None.
26. See Affidavit and Inventory of Personal Property of Neil J. Gillespie, Designated Exemptions, and Motion for Dissolution of Writ of Garnishment, filed April 28, 2010, and related documents.
27. IRS EIN from 2002, already provided, if you want it again, please advise.
28. Already provided, if you want it again, please advise.
29. None.
30. None.
31. None.
32. None.
33. None.
34. None.
35. None.
36. None.
37. "All contracts undue which you currently have any legal rights." Objection, request makes no sense.
38. Objection, vague, what is a trust instrument? Otherwise see #1

39. None.
40. Objection vague. Otherwise none.
41. Repeated request, see the response to #26
42. Repeated request, see the response to #27
43. Repeated request, see the response to #40
44. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.
45. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.
46. I do not have a copy of my credit report.

Responses to Defendants' Deposition Duces Tecum submitted June 1, 2010

1. Objection, relevance, annoyance, embarrassment, or oppression. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment. The Gillespie Family Living Trust has a spendthrift provision. The creditors of the trustee are not entitled to an attachment to subject trust property held by the trustee to the payment of the trustee's debts. Tillman v. Taylor, 99 Fla. 1326, 128 So. 846, Fla. 1930. The remedy is not available even if the debt is chargeable to the trust itself. Johnston v. Smith, 76 Fla. 474, 80 So. 184, Fla. 1918. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment, at least in the absence of express statutory authorization. McLeod v. Cooper, 88 F.2d 194, C.A.5 1937.
2. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.
3. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.
4. None.
5. "All contracts undue which Gillespie currently have any legal rights." Objection, request makes no sense.
6. Objection, vague, what is a trust instrument? Otherwise see #1
7. None.
8. Objection, vague. Otherwise none.
9. See Affidavit and Inventory of Personal Property of Neil J. Gillespie, Designated Exemptions, and Motion for Dissolution of Writ of Garnishment, filed April 28, 2010, and related documents.
10. IRS EIN from 2002, already provided, if you want it again, please advise.
11. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.
12. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.
13. I do not have a copy of my credit report.
14. None.
15. None.

16. Already provided, if you want it again, please advise.
17. Already provided, if you want it again, please advise.
18. None.
19. Already provided, if you want it again, please advise.
20. The quit claim deed was provided. If you want it again, please advise.
21. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist. Otherwise none, other than what is owned to Barker, Rodems & Cook.
22. None.
23. None.
24. None.
25. None.
26. None.
27. None.
28. None. I opted out of receiving paper documents, see insurer for whatever you want.
29. None. I do not own a home. I do not have renters insurance.
30. None.
31. None that I can recall.
32. None.
33. None.
34. None.
35. None.
36. Repeated question, see response to #9.
37. Repeated question, see response to #10.

38. Already provided, if you want it again, please advise.

39. None.

40. None.

41. None.

42. None.

43. None.

44. None.

45. None.

Responses to Defendants' Motion for Examination Pursuant to Section 56.29(2), Florida Statutes, submitted June 1, 2010

4a. Objection, relevance, annoyance, embarrassment, or oppression. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment. The Gillespie Family Living Trust has a spendthrift provision. The creditors of the trustee are not entitled to an attachment to subject trust property held by the trustee to the payment of the trustee's debts. Tillman v. Taylor, 99 Fla. 1326, 128 So. 846, Fla. 1930. The remedy is not available even if the debt is chargeable to the trust itself. Johnston v. Smith, 76 Fla. 474, 80 So. 184, Fla. 1918. The equitable interest of a defendant as beneficiary of a trust is not subject to garnishment, at least in the absence of express statutory authorization. McLeod v. Cooper, 88 F.2d 194, C.A.5 1937.

b. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

c. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

d. None.

e. "All contracts undue which you currently have any legal rights." Request makes no sense.

f. Objection, see #1

g. None.

h. Objection vague. Otherwise none.

i. See Affidavit and Inventory of Personal Property of Neil J. Gillespie, Designated Exemptions, and Motion for Dissolution of Writ of Garnishment, filed April 28, 2010, and related documents.

j. IRS EIN from 2002, already provided, if you want it again, please advise.

k. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

l. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist.

m. I do not have a copy of my credit report.

n. None.

o. None.

p. Already provided. If you want again, please advise.

q. Already provided. If you want again, please advise.

r. None

s. Already provided. If you want again, please advise.

t. The quit claim deed was provided. If you want again, please advise.

u. There is no list of documents responsive to the request and the rules do not require the creation of a record when the record does not exist. Otherwise none, other than what is owned to Barker, Rodems & Cook.

v. None.

w. None.

x. None.

y. None.

z. None.

aa. None.

bb. None. I opted out of receiving paper documents, see insurer for whatever you want.

cc. None. I do not own a home. I do not have renters insurance.

dd. None.

ee. None that I can recall.

ff. None.

gg. None.

hh, None.

ii. None.

jj. See Affidavit and Inventory of Personal Property of Neil J. Gillespie, Designated Exemptions, and Motion for Dissolution of Writ of Garnishment, filed April 28, 2010, and related documents.

kk. IRS EIN from 2002, already provided, if you want again, please advise.

ll. Already provided, if you want again, please advise.

mm. None.

nn. None.

oo. None.

pp. None.

qq. None.

rr. None.

ss. None.