

RECEIPT OF FILING  
8/11/05 E. Brandon  
CLERK OF CIRCUIT COURT

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

NEIL J. GILLESPIE,

Plaintiff,

vs.

BARKER, RODEMS & COOK, P.A.,  
a Florida corporation,

WILLIAM J. COOK,

Defendants.

CASE NO.: OSCA7205

DIVISION: F

DEMAND FOR TRIAL BY JURY

**COMPLAINT FOR BREACH OF CONTRACT AND FRAUD**

Plaintiff, NEIL J. GILLESPIE, sues defendants, BARKER, RODEMS, & COOK, P.A., a Florida professional service corporation, and WILLIAM J. COOK, a corporate officer and natural person, and alleges:

**Parties**

1. Plaintiff, NEIL J. GILLESPIE, resides in Ocala, Marion County, Florida.  
(Hereinafter called "GILLESPIE").
2. Defendant BARKER, RODEMS & COOK, P.A. is a Florida professional service corporation and law firm with offices located at 300 W. Platt Street, Suite 150, in the city of Tampa, Hillsborough County, Florida, 33606. (Hereinafter called the "LAW FIRM").
3. Defendant WILLIAM J. COOK is a lawyer, a member of the Florida Bar, a corporate officer of the LAW FIRM, and a natural person. (Hereinafter called "COOK").

### **Jurisdiction and Venue**

4. This is an action for damages that exceed \$15,000.00.
5. The events complained of occurred in the city of Tampa, Hillsborough County, Florida, 33606. The LAW FIRM has offices located at 300 W. Platt Street, Suite 150, Tampa, Hillsborough County, Florida, 33606.

### **Background Information**

6. GILLESPIE hired the LAW FIRM to represent him in litigation with Amscot Corporation. GILLESPIE and the LAW FIRM had a written Representation Contract. The litigation failed and Amscot settled for business reasons and to avoid an appeal. The LAW FIRM was not satisfied with its contractual entitlement to 45% of the Total Recovery for attorney's fees. The LAW FIRM wanted more money. In fact, the LAW FIRM took over 90% of the Total Recovery. In an effort to break the Representation Contract and legitimize taking 90% of the Total Recovery, COOK used deceit as described in this Complaint. Ultimately though, COOK lied to GILLESPIE about a Court ruling. COOK told GILLESPIE that the *United States Court of Appeals for the Eleventh Circuit* awarded the LAW FIRM \$50,000 in attorney's fees and costs, triggering a "whichever is higher clause" for Court awards. The LAW FIRM then created a false Closing Statement to effect the deception. In fact, GILLESPIE later discovered that the *United States Court of Appeals* never awarded \$50,000 to the LAW FIRM, but ruled that each party must bear their own costs and attorney's fees. The LAW FIRM's unjust enrichment was \$18,675.54.

### **COUNT I - BREACH OF CONTRACT**

7. GILLESPIE realleges and incorporates by reference paragraphs 1 through 6, and alleges and incorporates by reference paragraphs 22 through 51.

8. GILLESPIE entered into a written Class Representation Contract with the LAW FIRM to perform legal services. (Hereinafter the “Representation Contract”). (Exhibit 1).
9. The legal service performed by the LAW FIRM was a contingency lawsuit, further identified as the matter styled Eugene R. Clement, et al. v. Amscot Corporation, Case No. 8:99-cv-2795-T-26C in the United States District Court, Middle District of Florida, Tampa Division; and on appeal Eugene R. Clement, et al. v. Amscot Corporation, Case No. 01-14761-A in the United States Court of Appeals, For the Eleventh Circuit. (Herein after called the “Action”). The subject matter was “payday loan” consumer litigation.
10. There were three plaintiffs in the Action: Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie.
11. The Action sought class action status but the LAW FIRM’s various motions for class action status were denied by the Court.
12. The Action settled in GILLESPIE’s favor on October 30, 2001. The Action settled for business reasons, and the LAW FIRM did not prevail on the merits or appeal.
13. The Total Recovery for the Action was \$56,000 (Exhibit 2).
14. The LAW FIRM refused to honor the terms of the Representation Contract with GILLESPIE when disbursing his share of the \$56,000 Total Recovery.
15. Under the terms and conditions of the Representation Contract, and Florida Bar Rule 4-1.5(f)(4)(B)(i), the LAW FIRM was entitled to \$31,325.46 calculated as follows:
  - a. Attorney’s fees of \$25,200 (45% of the Total Recovery); and
  - b. Cost and expenses, \$3,580.67; and
  - c. Expenses paid to a former law firm, \$2,544.79 (Jonathan L. Alpert).

16. Contrary to law and the Representation Contract, the LAW FIRM took \$50,000 from the Total Recovery under the guise of court-awarded attorney's fees and costs.

17. The LAW FIRM's unjust enrichment was \$18,675.54.

18. GILLESPIE's lawful share of the settlement is \$8,224.78. (Exhibit 3).

19. The LAW FIRM paid GILLESPIE \$2,000.00.

20. The LAW FIRM owes GILLESPIE \$6,224.78.

WHEREFORE plaintiff demands judgment for \$6,224.78 against defendants, together with interest, costs, expenses, and attorney's fees.

### **COUNT II - FRAUD**

21. GILLESPIE realleges and incorporates by reference paragraphs 1 through 20.

22. On August 1, 2001, United States District Judge Richard Lazzara issued an order in the Action denying Class Certification as moot, dismissed Count I with prejudice, dismissed Counts II and III without prejudice to bring in state court, and closed the file.

23. Soon after the ruling described in paragraph 22, COOK told GILLESPIE that during a telephone conversation with lawyer John Anthony, the attorney for Amscot Corporation ("Amscot"), that John Anthony offered COOK a \$5,000 "consulting fee" or "non-refundable retainer" to refrain from appealing the ruling or filing state law claims. COOK described this payment as an "improper payoff attempt" and not an offer to settle. COOK said that "the Florida Bar likely would prohibit such an agreement." Nonetheless COOK did not report John Anthony's "improper payoff attempt" to the Florida Bar.

24. When COOK told GILLESPIE that "the Florida Bar would likely prohibit such an agreement", GILLESPIE believed that John Anthony did something unethical if not

unlawful. Because COOK did not report John Anthony's "improper payoff attempt" to the Florida Bar, GILLESPIE became suspect of COOK's motivation and alliances.

25. COOK told GILLESPIE that Amscot did not want to pay the plaintiffs anything because Amscot resented the plaintiffs for suing. COOK told GILLESPIE that this was a "sticking part" or barrier to a settlement. COOK told GILLESPIE that Amscot did not resent COOK or the LAW FIRM, and Amscot wanted to pay money to COOK and the LAW FIRM to settle the Action. COOK maintained that the "sticking part" was a \$1,000 payment to each of three plaintiffs, not a \$50,000 payment to the LAW FIRM. Because this argument was counterintuitive (and later proved false), GILLESPIE became further suspect of COOK's motivation and alliances.

26. COOK's "sticking part" argument was his segue into evading the Representation Contract with GILLESPIE. COOK deceitfully used the "sticking part" argument to frame the settlement in terms useful to the LAW FIRM and against the interests of his clients.

27. COOK falsely told GILLESPIE that the LAW FIRM incurred costs and expenses in the Action of about \$33,000. COOK used this amount as a basis to justify his \$50,000 demand from Amscot. GILLESPIE later learned that the actual costs and expenses were only \$3,580.67, plus \$2,544.79 paid a former law firm, for a total \$6,125.46.

28. On August 15, 2001, COOK wrote GILLESPIE that he would appeal the ruling described in Paragraph 22, but not file a State lawsuit, and demand \$1,000 each to settle the plaintiff's claims, and \$50,000 for the LAW FIRM's attorney's fees and costs from Amscot. COOK's offer was consistent with his "sticking part" ruse. COOK's separate negotiation with Amscot placed COOK in a position of conflict with his clients. (Ex. 4).

29. On August 16, 2001 GILLESPIE wrote COOK and specifically challenged his “sticking part” argument. (Exhibit 5). GILLESPIE wrote to COOK:

“I agree with you that the Defendant will probably not accept your settlement offer. I believe the sticking point is your request for \$50,000 in attorney’s fees and costs. I do not believe the \$1,000 request each for myself, Mr. Clement and Ms. Blomefield is a barrier to settlement. Therefore I suggest you ask for a lesser amount of attorney’s fees and costs. Given your lack of success in this matter thus far, I suggest you ask for \$10,000 in attorney’s fees and costs. I believe this is a more realistic amount. Given how poorly the case has gone up to now, I believe it is in our interest to settle quickly.”

GILLESPIE was concerned that the ultimate loss of the case would leave him indebted to Amscot for its costs and attorney’s fees. COOK’s separate negotiation with Amscot placed COOK in a position of conflict with GILLESPIE.

30. In a memo dated Monday, August 20, 2001, COOK wrote the following to memorialize his conversation with GILLESPIE: (Exhibit 6).

a. COOK: “I explained to him that I did not believe that the sticking part was created through the attorney’s fees, but rather it was the payment to the clients.”

b. COOK: “I told him of my conversation with John Anthony in which he offered to pay this firm \$5,000.00 but would not agree to pay our client’s anything.”

c. COOK: “I told him I rejected that offer. He asked me why I had not mentioned the settlement offer to him previously. I told him it was not a settlement offer. It was an improper payoff attempt.”

d. COOK: "I told him that the \$50,000.00 demand was not set in stone and we would consider the \$10,000.00 offer that he suggested.

31. Once COOK admitted to GILLESPIE that the LAW FIRM would accept \$10,000 for legal fees, anything more was lawfully part of the Total Recovery to which plaintiffs were entitled a percentage under the terms of the Representation Contract. The proposed settlement was economic in nature, for business reasons, and was not based on any legal victory, nor constrained by Truth In Lending Act (TILA) limitations or its fee-shifting provision. This settlement was market driven and COOK was rolling the dice, not collecting lawyer's fees. COOK's demand was speculative and the LAW FIRM had taken a proprietary interest in the action, under the guise of collecting lawyer's fees.

32. COOK submitted an offer to Amscot on August 20, 2001, asking for \$1,000 for each plaintiff, forgiveness of any outstanding loans (GILLESPIE did not have an outstanding loan), and \$50,000 payment to the LAW FIRM for attorney's fees and costs.

33. Amscot countered COOK's offer in the preceding paragraph with an offer to pay each plaintiff \$1,000, forgive any outstanding debts (GILLESPIE did not owe Amscot any money), and a \$10,000 payment to the LAW FIRM, in a letter dated August 24, 2001.

34. Unexpectedly Amscot offered and then paid the LAW FIRM \$50,000.

35. Likewise Amscot offered and then paid each plaintiff \$2,000.

36. The \$2,000 paid by Amscot to GILLESPIE was substantially less than \$10,000 COOK told GILLESPIE he might recover as a class-action representative. In fact the \$2,000 received was only 20%, or one-fifth, the recovery GILLESPIE expected.

37. The LAW FIRM never sent a bill to Amscot for legal services, nor provided Amscot any basis for the \$50,000 in attorney's fees and cost. Amscot unexpectedly

increased its offer to COOK by \$40,000, with little or no negotiation. COOK was happy that he did not report Mr. Anthony's prior "improper payoff attempt" to the Florida Bar.

38. Once Amscot agreed to pay the plaintiffs a monetary settlement, COOK's earlier "sticking part" argument failed as a strategy to evade the Representation Contract with GILLESPIE. Therefore COOK utilized a new ruse. COOK told GILLESPIE that the *United States Court of Appeals for the Eleventh Circuit* awarded \$50,000 in attorney's fees and costs to the LAW FIRM, and that this fact precluded recovery under the Representation Contract, citing a "whichever is higher" provision for court-awarded attorney's fees and costs.

39. The LAW FIRM prepared a phony Closing Statement dated October 31, 2001 falsely reflecting the \$50,000 court-awarded attorney's fees and costs. (Exhibit 7).

40. The Closing Statement prepared by the LAW FIRM did not list any costs and expenses. In fact the LAW FIRM incurred \$3,580.67 in costs and expenses, and paid a former law firm, Jonathan Alpert, \$2,544.79, for a total of \$6,125.46. COOK did not disclose this information to GILLESPIE until May 9, 2003, over nineteen months later. Also, the LAW FIRM did not disclose that approximately 600 hours of legal work was spent on the Amscot case for GILLESPIE's benefit until June 23, 2003, over twenty months later. Since much of this time was spent at the Jonathan Alpert law firm, and has already been paid by Mr. Alpert, this could represent double-billing by the LAW FIRM. However the details of this information remain secret and concealed at this time.

41. Informed Consent. GILLESPIE lacked the knowledge to make an informed choice when he signed the Closing Statement because of the deceptions used by COOK and the LAW FIRM described in paragraphs 27, 40, and elsewhere in this Complaint.



42. GILLESPIE relied upon COOK's false statements, and the LAW FIRM's false Closing Statement, specifically the fact that the *United States Court of Appeals for the Eleventh Circuit* awarded \$50,000 in attorney's fees and costs, and in reliance thereupon GILLESPIE approved the settlement.

43. The LAW FIRM took \$50,000 from the Total Recovery of the Action under the guise of court-awarded costs and attorney's fees on or about November 1, 2001, and paid GILLESPIE \$2,000. The LAW FIRM also paid \$2,000 each to Eugene R. Clement and Gay Ann Blomefield. This event occurred in the LAW FIRM office in the city of Tampa, Florida, Hillsborough County. (Exhibit 2).

44. On May 9, 2003 COOK disclosed to GILLESPIE the actual costs and expenses incurred by the LAW FIRM in the Action. Because of the significant discrepancy between the actual amount (\$6,125.46) and the false amount (\$33,000) that COOK said were incurred in paragraph 27, GILLESPIE further investigated the settlement.

45. GILLESPIE located the Appellate Court file and read that the *United States Court of Appeals for the Eleventh Circuit* granted a Motion for Dismissal with the parties bearing their own costs and attorney's fees. This proved the falsity of COOK's assertion that the Appellate Court awarded \$50,000 to the LAW FIRM. (Exhibit 7).

46. COOK and the LAW FIRM committed fraud because:

a. COOK's statement to GILLESPIE that the Appellate Court awarded the LAW FIRM \$50,000 in attorney's fees and costs was a material fact that was untrue, as was the LAW FIRM's Closing Statement to GILLESPIE listing court-awarded fees and costs of \$50,000. The Closing Statement's disclosure was a material fact that was untrue; and

b. The falsehood described above was known by COOK and the LAW FIRM to be untrue at the time it was made; and

c. The falsehood by COOK and the LAW FIRM was stated for the purpose of inducing GILLESPIE to approve a settlement; and

d. GILLESPIE relied upon the falsehood from COOK and the LAW FIRM as true and correct, and approved the settlement on October 30, 2001; and

e. By approving the settlement GILLESPIE suffered financial loss of \$6,224.78, by accepting the sum of \$2,000 instead of the sum of \$8,224.78 to which GILLESPIE was entitled under law and the Representation Contract.

47. GILLESPIE notified the LAW FIRM of its Breach of Contract and Fraud June 13, 2003. LAW FIRM partner Chris A. Barker responded but failed to satisfactorily explain the facts described in this complaint. Mr. Barker refused to account for the LAW FIRM's attorney's fees, and refused to honor the terms of the Representation Contract.

48. Mr. Barker wrote GILLESPIE on June 23, 2003 and terminated further discussion. Additionally Mr. Barker wrote that "Furthermore, approximately 600 hours of legal work was spent on the Amscot case for your benefit." But Mr. Barker refused to account for the hours, and it is possible that much of this time was spent at the Jonathan Alpert law firm and has already been paid by Mr. Alpert.

49. GILLESPIE wrote Mr. Barker on June 24, 2003, requesting a meeting for a explanation of the situation. Mr. Barker did not reply. GILLESPIE wrote, in part:

"Yesterday I spoke with Jonathan Alpert about this situation. He reviewed the enclosed documents, but was at a loss to explain

them. Mr. Alpert suggested that I meet with you and Bill for an explanation. I am willing to do this on neutral territory.”

50. GILLESPIE filed an ethics complaint against COOK on June 7, 2004 with the Florida Bar. The initial investigator, William L. Thompson, spent over six months on the complaint, then left employment with the Florida Bar. After changing investigators the Florida Bar wrote on February 9, 2005 that there was insufficient evidence of a violation of the Rules Regulating the Florida Bar to warrant further proceedings, and that its disposition had no effect on any further legal remedy GILLESPIE may choose. During its review, the Florida Bar used an “objective evidence” standard to reach its decision. When GILLESPIE questioned the findings, the Florida Bar could not support its decision. In essence the Florida Bar merely adopted COOK’s response, which itself was inaccurate and self-serving. Also, the Florida Bar’s inquiry was narrow, so narrow that when GILLESPIE asked if John Anthony’s “improper payoff attempt” was unethical, or if COOK was required to report the incident, the Florida Bar responded by saying that the issue was not considered and that a separate complaint must be filed. On June 7, 2005, Susan Bloemendaal, Chief Discipline Counsel wrote that GILLESPIE was “...free to pursue a lawsuit against Mr. Cook and/or his law firm should you so desire.” GILLESPIE chose a lawsuit rather than pursue another complaint or a fee grievance.

51. When GILLESPIE joined this Action as a plaintiff, he believed Amscot had violated consumer law as COOK advised. During the course

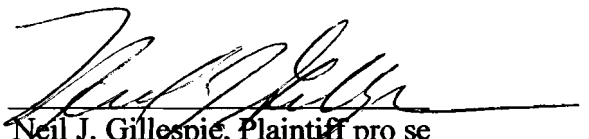
of litigation the Court ruled otherwise, and GILLESPIE accepted the fact that COOK was wrong and that Amscot acted lawfully. Also during the course of litigation it became clear to GILLESPIE that COOK was deceitful, and that the Breach of Contract and Fraud described in this Complaint were far worse than anything of which Amscot was accused. GILLESPIE recently apologized to Amscot's President, Ian Mackechnie. (Exhibit 8).

WHEREFORE plaintiff demands judgment for punitive damages in the amount of three times his loss of \$6,224.78, or \$18,674.34 for fraud against defendants, together with interest, costs, expenses, and attorney's fees.

**Demand for Trial by Jury**

Pursuant to Rule 1.430(b) of the Fla. R. Civ. P., plaintiff demands trial by jury.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of August, 2005.

  
Neil J. Gillespie, Plaintiff pro se  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (813) 810-0151

## **Gillespie v. Barker, Rodems & Cook, PA, et al.**

### **Exhibits**

Exhibit 1	Class Action Representation Contract
Exhibit 2	Closing Statement, Barker, Rodems & Cook, PA
Exhibit 3	Lawful Settlement of Action, spreadsheet
Exhibit 4	August 15, 2001 letter, Cook to Gillespie
Exhibit 5	August 16, 2001 letter, Gillespie to Cook
Exhibit 6	August 20, 2001 Cook memorandum
Exhibit 7	U.S. Court of Appeal for the Eleventh Circuit, Motion to Dismiss with Prejudice (Granted)
Exhibit 8	July 25, 2005 letter, Gillespie to Amscot

## **CLASS REPRESENTATION CONTRACT**

### **I. PURPOSE**

I/We, Neil Gillespie, do hereby retain and employ the law firm of Barker, Rodems & Cook, P.A., to investigate my potential claim resulting from my payday loans with AMSCOT Corporation and, if advisable, to pursue necessary litigation on my behalf.

I/We understand that I/we may be one of several plaintiff(s) or part of a class of plaintiff(s) represented by Barker, Rodems & Cook, P.A.

### **II. COSTS AND EXPENSES**

I/We hereby agree to pay for the costs and expenses of the investigation and preparation of my/our claims for damages. Should it be necessary to institute a lawsuit or arbitration proceeding, I/we agree to pay all costs and expenses associated with any Court or arbitration proceeding. If an appeal of any decision is filed, regardless of the person or party filing such appeal, I agree to pay the costs and expenses associated with initiating or responding to such appeal.

I/We authorize Barker, Rodems & Cook, P.A., to advance and pay any costs and expenses it deems appropriate to the handling of my case. I/We will pay Barker, Rodems & Cook, P.A., for the costs and expenses advanced out of the portion of any recovery remaining after attorneys' fees have been subtracted. I/We will then receive the portion of what remains, which is known as the "net recovery". Thus, the "total recovery" (all monies received or collected, including attorneys' fees, if awarded) less Barker, Rodems & Cook, P.A.'s attorneys' fees and any costs and expenses will equal the "net recovery".

I/We understand that my/our portion of the "net recovery" will be a prorated or per person share which will be proportional to that of all other class members. The amount of money I/we receive will be determined by dividing the "net recovery" (the amount of any recovery remaining after attorneys' fees and expenses have been subtracted) by the number of class members who are determined eligible to receive proceeds from any judgment or settlement. I/We understand that the Court or other tribunal may approve a different ratio or formula depending upon the circumstances.

If there is no recovery, or if the total recovery is not adequate to pay for all of the costs and expenses advanced, I/we understand that Barker, Rodems & Cook, P.A., will not seek payment from me for any expenses.



If I/we terminate this contract, then Barker, Rodems & Cook, P.A., may seek payment from me/us for any costs and expenses allowed by law.

### **III. ATTORNEYS' FEES**

In almost all cases in America, each party to a lawsuit or arbitration proceeding pays its own attorneys' fees. In rare cases, the Defendant(s) may pay all or part of the attorneys' fees or the Court or arbitration panel may award attorneys' fees based upon a statute or otherwise.

I/We agree to pay Barker, Rodems & Cook, P.A., an attorneys' fee if it is successful in obtaining any monies or other benefit on my behalf. I/We understand that Barker, Rodems & Cook, P.A., will receive the attorneys' fees awarded by a Court or arbitration panel or will receive the applicable percentage of the "total recovery" (all monies received from the Defendant(s) including, but not limited to, money for actual damages, punitive damages, interest, penalties, attorneys' fees and expenses), whichever is higher. The applicable percentages shall be as follows:

- A. 33.334% of the "total recovery" prior to the time that an answer is filed or a demand for appointment of arbitrator(s) is made; thereafter,
- B. 40% of the "total recovery" from the time of the filing of an answer or the demand for appointment of arbitrator(s), through the entry of a judgment;
- C. An additional 5% of the "total recovery" after a Notice of Appeal is filed by any person or party or if post-judgment relief or action is required for recovery on the judgment.

In the event that my/our claim is settled on terms of an agreement calling for payment in installments, whether monthly, annually or otherwise, in the future, my/our attorneys' contingent fee percentage shall be calculated on the costs of any structured settlement or, if the cost is unknown, on the present money value of the structured settlement. If both the damages and the attorneys' fees are to be paid out in future installments, this limitation shall not apply.

I/We understand that if there is no recovery, I/we will not be indebted to Barker, Rodems & Cook, P.A., for any attorneys' fees.

If I/we terminate this contract, then Barker, Rodems & Cook, P.A., may seek payment from me/us for any attorneys' fees allowed by law.

#### **IV. BARKER, RODEMS & COOK, P.A. MAY WORK WITH OTHER LAWYERS ON MY CASE**

I/We understand that Barker, Rodems & Cook, P.A., in its discretion, may work with other lawyers on my/our case if deemed necessary. If Barker, Rodems & Cook, P.A., agrees to work with other lawyers on my/our case, I/we understand that the attorneys' fees I/we will have to pay will not increase. Other law firms or lawyers hired by Barker, Rodems & Cook, P.A., will be paid out of the attorneys' fees agreed to in this contract and, if I/we so desire, I/we will be advised regarding how the attorneys' fees are divided.

#### **V. WHAT THIS CONTRACT COVERS**

##### **A. Scope of Representation**

At the time of signing this contract, I/we also signed a Statement of Client's Rights as well as an Acknowledgment regarding investigation of my claim. These three documents encompass the entire agreement between me/us and Barker, Rodems & Cook, P.A. These signed agreements take the place of any prior, oral or written agreements and may only be changed or modified by a separate, written agreement signed and dated by me/us and Barker, Rodems & Cook, P.A.

This contract is to be interpreted in accordance with Florida law.

I/We understand that Barker, Rodems & Cook, P.A., has no duty to represent me/us in any matters other than my/our potential claim resulting from my payday loans with AMSCOT Corporation.

I/We understand that if Barker, Rodems & Cook, P.A., determines, at some later date, that my claim should not or cannot be reasonably prosecuted by the Firm, the Firm may notify me in writing of this decision and withdraw as my attorneys. Under such circumstances, I shall be responsible to Barker, Rodems & Cook, P.A., only for any fees and costs permitted by law.

##### **B. Documents and Information**

I/we authorize the lawyers to utilize my/our documents and/or information in any regulatory, enforcement, or other proceedings of any kind as may be necessary in the lawyers' sole discretion.



### **APPROVAL OF THIS CONTRACT**

The undersigned client(s) has/have, before signing this contract, received and read the Statement of Client's Rights and understands each of the rights set forth therein. The undersigned client(s) has/have signed the Statement and received a signed copy to refer to while being represented by the undersigned attorneys.

This contract may be cancelled by written notification to the attorneys at any time within three (3) business days of the date the contract was signed, as shown below, and if cancelled the client(s) shall not be obligated to pay any fees to the attorneys for the work performed during that time. If the attorneys have advanced funds to others in representation of the client(s), the attorneys are entitled to be reimbursed for such amounts as the attorneys have reasonably advanced on behalf of the client(s).

I/We have read this contract and any documents specifically referenced herein, and agree to all terms referenced within such documents.

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

\_\_\_\_\_  
Barker, Rodems & Cook, P.A.  
300 West Platt Street, Suite 150  
Tampa, Florida 33606  
813/489-1001

of

\_\_\_\_\_  
Client

\_\_\_\_\_  
Client

**BARKER, RODEMS & COOK, P.A.**  
**CLOSING STATEMENT**

Style of Case: Eugene R. Clement, Gay Ann Blomefield, and  
Neil Gillespie v. AMSCOT Corporation.

As of: October 31, 2001

Our File No.: 99.4766

ATTORNEYS' FEES & COSTS	\$ 50,000.00
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PAYMENTS TO CLIENTS

EUGENE R. CLEMENT	\$ 2,000.00
GAY ANN BLOMEFIELD	2,000.00
NEIL GILLESPIE	2,000.00

TOTAL	\$ 56,000.00
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In signing this closing statement, I acknowledge that AMSCOT Corporation separately paid my attorneys \$50,000.00 to compensate my attorneys for their claim against AMSCOT for court-awarded fees and costs. I also acknowledge that I have received a copy of the fully executed Release and Settlement Agreement dated October 30, 2001.

 11-1-01  
\_\_\_\_\_  
Neil Gillespie (Date)

BARKER, RODEMS & COOK, P.A.

By:   
\_\_\_\_\_  
WILLIAM J. COOK, ESQUIRE



## Lawful Settlement of Action

Style of Case: Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie v. AMSCOT Corporation

Total Recovery		\$ 56,000.00	
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Legal Fees (45%) - Barker, Rodems & Cook, P.A.		\$ 25,200.00	
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Costs and expenses - Barker, Rodems & Cook, P.A.		\$ 3,580.88	
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Costs paid to Alpert law firm		\$ 2,544.79	
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	Total amount due Barker, Rodems, & Cook, P.A.		
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	Under the Contract and Bar Rule 4-1.5(f)(4)(B)(i)	\$ 31,325.67	
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	Total amount due plaintiffs		
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	Under the Contract and Bar Rule 4-1.5(f)(4)(B)(i)	\$ 24,674.33	
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	Individual amount due each of three plaintiffs	\$ 8,224.78	
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	Amount already paid to each plaintiff		
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	by Barker, Rodems & Cook, P.A.	\$ 2,000.00	
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	Amount owing to each plaintiff		
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	from Barker, Rodems & Cook, P.A.	\$ 6,224.78	
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**EXHIBIT**

**3**

**BARKER, RODEMS & COOK**  
PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

300 West Platt Street, Suite 150  
Tampa, Florida 33606

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

August 15, 2001

Neil J. Gillespie  
Apartment C-2  
1121 Beach Drive NE  
St. Petersburg, Florida 33701-1434

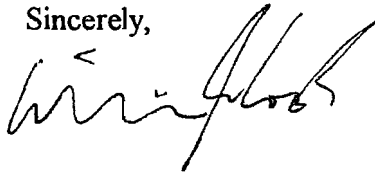
**Re: Eugene R. Clement, individually and on behalf of others similarly situated,  
AMSCOT Corporation**  
**Case No. : 99.2795-Civ-T-26C**  
**Our File No. : 99-4766**

Dear Neil:

This confirms that you authorized us to appeal the decision in the above-referenced case. We will not be filing a new lawsuit in State court. In addition, you authorized us to demand \$1,000.00 to settle your claim plus \$50,000.00 in attorneys' fees and costs.

Of course, we will keep you updated on the appeal and any settlement negotiations. As we discussed, however, we do not believe that the Defendant will accept our settlement offer.

Sincerely,



William J. Cook

WJC/mss



**Neil J. Gillespie**  
1121 Beach Drive NE, Apt. C-2  
St. Petersburg, Florida 33701-1434

Telephone and Fax: (727) 823-2390

VIA FAX AND FIRST CLASS MAIL

August 16, 2001

William J. Cook, Attorney at Law  
Barker, Rodems & Cook, PA  
300 West Platt Street, Suite 150  
Tampa, Florida 33606

**Re: *Eugene R. Clement, individually and on behalf of others similarly situated,  
AMSCOT Corporation***

**Case No. : 99.2795-Civ-T-26C  
Your File No. : 99-4766**

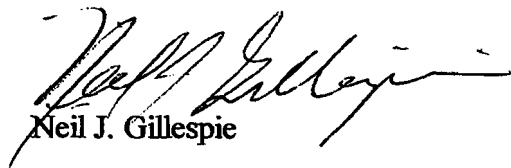
Dear Bill,

Thank you for your letter dated August 15, 2001 relative to the above captioned case. I agree with you that the Defendant will probably not accept your settlement offer. I believe the sticking point is your request for \$50,000 in attorney's fees and costs. I do not believe the \$1,000 request each for myself, Mr. Clement and Ms. Blomefield is a barrier to settlement. Therefore I suggest you ask for a lesser amount of attorney's fees and costs.

Given your lack of success in this matter thus far, I suggest you ask for \$10,000 in attorney's fees and costs. I believe this is a more realistic amount. Given how poorly the case has gone up to now, I believe it is in our interest to settle quickly.

Thank you for your kind consideration.

Sincerely,

  
Neil J. Gillespie

cc: Kindly provide a copy of this letter to Mr. Clement and Ms. Blomefield



## MEMORANDUM

TO : File  
FROM : WJC *WJC*  
DATE : Monday, August 20, 2001  
RE : Clement v. AMSCOT  
: 99.4766

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I spoke with Neil Gillespie on August 17, 2001. We had a fairly lengthy conversation about the pluses and minuses of going forward with the appeal and the settlement offer. I explained to him that I did not believe that the sticking part was created through the attorneys' fees, but rather it was the payment to the clients. I told him of my conversation with John Anthony in which he offered to pay this firm \$5,000.00 but would not agree to pay our clients anything. I told him that I rejected that offer. He asked me why I had not mentioned the settlement offer to him previously. I told him that it was not a settlement offer. It was an improper payoff attempt. At the end of the conversation, when I told him that I would wait until Monday before I sent the settlement offer, he told me that that was not necessary. He simply wanted to advise me that he was not necessarily happy with the \$50,000.00 settlement demand. I told him that the \$50,000.00 demand was not set in stone and we could consider the \$10,000.00 offer that he suggested. I told him that it was not likely that we would receive such an offer, however.

WJC

WJC/mss



IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-14761-AA

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

DEC 07 2001

EUGENE R. CLEMENT,  
individually and on behalf of others similarly  
situated,

GAY ANN BLOMEFIELD,  
NEIL GILLESPIE,

THOMAS K. KAHN

CLERK

Plaintiff-Appellant,

8: 97-CV-2795-T-2C EAS

Plaintiffs-Intervenors-  
Counter-Defendants-Appellants,

versus

AMSCOT CORPORATION,  
A Florida Corporation,

Defendant-Intervenor-Counter  
-Claimant-Appellee.

On Appeal from the United States District Court for the  
Middle District of Florida

BEFORE: EDMONDSON and BARKETT, Circuit Judges.

BY THE COURT:

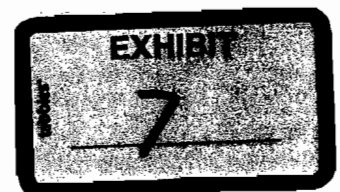
The parties joint stipulation for dismissal of this appeal  
with prejudice, which is construed as a motion to dismiss this  
appeal with prejudice, with the parties bearing their own costs  
and attorney's fees, is GRANTED.

A TRUE COPY - ATTESTED:  
CLERK U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

BY:

DEPUTY CLERK

ATLANTA, GEORGIA



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

Telephone: (813) 810-0151

July 25, 2005

Ian Mackechnie, President  
Amscot Corporation  
600 N. Westshore Blvd., 12<sup>th</sup> Floor  
Tampa, Florida 33609

RE: Clement, et al. v. Amscot Corporation, Case No. 8:99-cv-2795-T-26C, US District Court, Middle District Florida, Tampa Division; on appeal, Case No. 01-14761-A US Court of Appeals, For the Eleventh Circuit

Dear Mr. Mackechnie,

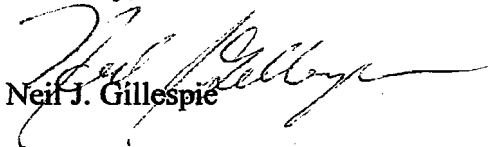
I was a plaintiff in the above captioned lawsuit. While this action is settled, I regret becoming involved, and was pressured into it by my lawyer, William Cook. I am sorry for the consequences you suffered. About two years ago I found discrepancies in the case file. This is part of my attempt to uncover the truth. As I see it, you paid \$43,000.00 too much to settle this case. Here's why.

Prior to my involvement in the above captioned lawsuit, Mr. Cook represented me in a lawsuit against ACE, America's Cash Express, for payday loan roll-over transactions. The lawsuit was joined by Florida Attorney General Robert Butterworth. I still believe the ACE litigation was justified. However, in my view Amscot was not as culpable as ACE, and I initially declined Mr. Cook's solicitation to join the lawsuit. But Mr. Cook said that I was selfish for not suing Amscot, and I relented.

During the course of litigation it became apparent to me that Mr. Cook and his associates were incompetent and not truthful. During the settlement negotiations I tried to settle this case for \$10,000.00 in legal fees and \$1,000.00 to each of the three plaintiffs (see copy of my letter, enclosed). You ultimately paid \$56,000.00 to settle, and I believe this was the result of our lawyers' collusion. This is my opinion, and I welcome any supporting evidence. In the alternative, perhaps your lawyer John Anthony was just a very poor negotiator, and you paid \$43,000.00 too much to settle the lawsuit.

I filed a complaint against William Cook with the Florida Bar (TFB No. 2004-11,734(13C) to no avail. I am available to discuss this further if you wish. Thank you.

Sincerely,

  
Neil J. Gillespie

