IN THE SUPREME COURT OF THE STATE OF FLORIDA

NEIL J. GILLESPIE

Petitioner,

Case No.: SC11-1622
Lower Tribunal No(s).: 2D10-5197, 05-CA-7205

vs.

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

Respondents.
_____/

PETITION FOR WRIT OF MANDAMUS

1. In compliance with the Fla. R. App. P. 9.100 and leave of this Court, Petitioner pro se NEIL J. GILLESPIE respectfully submits this petition for a writ of mandamus addressing why the proceedings in the Second District Court of Appeal (2dDCA) should not have been dismissed.

2. In compliance with Rule 9.100(g) the petition is accompanied by an Appendix(es) as prescribed by Rule 9.220. The Appendix will be cited as follows: "A.[v].[e].[p]" referring to the Volume number, the Exhibit number, and the Page number only if referring to a specific page. For multi-page citations, the ending page is provided after a dash. For quotations from a transcript, line numbers will include the word "line" followed by the line number. Appendix Volume 3 has Parts

1 through 4 and will be cited “A.3.Part[#].[e].[p]”. There may be a few unavoidable deviations from this citation plan, and I apologize for any unintended confusion. A list of the Appendixes, 1-16, follows the last page of the petition.

3. In compliance with Rule 9.100(i) the Record is not submitted because the Court has not so ordered. However the Index and Record was prepared by the Clerk of the lower tribunal and is available. A copy of the Index and Record is provided. (A.1.5). The Clerk’s Progress Docket is provided. (A.1.6). Also provided is a copy the Clerk’s Certificate that shows two affidavits are missing from the lower tribunal file. (A.1.4). The affidavits disappeared from the Clerk’s file while Circuit Judge Martha J. Cook presided over the case. Copies of the missing affidavits are provided. (A.10). The affidavit at A.10.2 shows the Respondents failed to sign a representation agreement with me in a contingent fee case. The affidavit at A.10.3 shows Mr. Rodems unlawfully notarized his own firm’s garnishment documents.

OPENING STATEMENT

4. My name is Neil Gillespie and I am the Petitioner appearing pro se. I am mentally ill and have other disabilities like type 2 adult onset diabetes, high blood pressure, and communication disorders. (A.3.Part1.2). On June 1, 2011 Judge Arnold issued a politically-motivated warrant to arrest me for the purpose of forcing a walk-away settlement agreement in my civil litigation with Respondents

BRC and Mr. Cook, as well as to force a walk-away settlement agreement in my federal civil rights and ADA lawsuit against the Thirteenth Judicial Circuit, Florida, et al., for the misuse and denial of judicial process under the color of law, and denial of disability accommodation. Judge Arnold relived the Public Defender appointed to represent me and I had no counsel at the contempt hearing June 1, 2011. In order to rescind the warrant for my arrest, Judge Arnold required I attend a full deposition, instead of a deposition in aid of execution, even though the case was on appeal on a final summary judgment in 2D10-5197. The civil contempt order was also on appeal. Mr. Rodems asked for a deposition in aid of execution in his efforts to collect $11,550 in § 57.105 sanctions against me. Those unjust sanctions were on appeal also.[1]

5. At the direction of Judge Arnold I voluntarily appeared June 21, 2011 for a deposition at the Edgecomb Courthouse in Tampa to purge the contempt and rescind the arrest warrant, but that turned out to be a trap to force a walk-away

[1] When appeal jurisdiction has been invoked to review a final order or judgment, the appellate court may review the entire case in the lower court, including all issues preserved for review during the trial and pretrial proceedings. Rule 9.110(h) of the Florida Rules of Appellate Procedure authorizes the appellate court to "review any ruling or matter occurring before filing of the notice" of appeal. An appeal from a final order brings up for review the correctness of all prior orders. Fla. R. App. P. 9.110(h). The appellate courts are authorized to review all interlocutory rulings and orders of the trial court in plenary appeals from final orders and judgments.

settlement agreement in the lawsuits. Upon my arrival at the courthouse, I was taken into custody and involuntarily confined by two Hillsborough County Sheriff's Deputies, Deputy Randy Olding and Deputy Larry Berg. I was denied accommodation under the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq., and the Federal Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801 et seq. After being held in custody during the deposition for over four (4) hours without a lunch break, or the usual mid-day meal provided to a prisoner, I became confused and disoriented. The record (A.4.1.125) shows that I was so impaired that I could not make a decision to sign the agreement. My counsel Eugene Castagliuolo (A.7), whom I hired from Craigslist a couple weeks earlier, made the decision to settle because "judges have mud on their shoes". I signed the agreement while confused and in a diminished state. Castagliuolo disobeyed my prior written and verbal instructions not to accept a walk-away settlement agreement. Once I was released from custody and had a meal, I realized the settlement was a mistake and promptly disaffirmed the agreement by written notice to Mr. Rodems, Mr. Castagliuolo and Major James Livingston of the Hillsborough County Sheriff's Office. (A.2.1.2-3).

6. I am departing from the usual practice of writing in the third person because that has not worked for me in the past. Doing the same thing over and over again and expecting different results is the definition of insanity, and I am not insane,

just mentally ill. The lawyers at Respondent Barker, Rodems & Cook, P.A. know about my disabilities from their prior representation of me and my efforts with Florida Vocational Rehabilitation. (A.14). Messrs. Barker, Rodems and Cook also previously represented me in the Amscot action which is at the heart of my pending action against Barker, Rodems & Cook. (A.8)(A.13)(A.14). That is why this case is so difficult: The Respondents' lawyer, Ryan Christopher Rodems, a partner at Barker, Rodems & Cook, P.A., his exercise of independent professional judgment is materially limited by his own interest and conflict. (A.9). As such, this is not a legitimate legal proceeding, but rather, as Mr. Castagliuolo noted, a "pissing contest" - one that began in 2005. Mr. Rodems would not cooperate with Mr. Castagliuolo, who in turn emailed me June 14, 2011 at 7:46 p.m.:

> "Based on what I know right now about your case, your debt to this asshole Rodems would be discharged in your Chapter 7 bankruptcy, and he would get NOTHING from you." (A.7.page 4, and exhibit 8)

Prior to Mr. Castagliuolo's representation, attorney Rober W. Bauer represented me, and stated on the record August 14, 2008 during an Emergency Hearing on a garnishment before the Honorable Marva Crenshaw (Transcript page 16, line 24):

> " ... Mr. Rodems has, you know, decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner. It is my mistake for sitting back and giving him the opportunity to take this full blast attack."

After charging me over $30,000, Mr. Bauer dropped the case. When I complained to the Florida Bar, Mr. Bauer and Mr. Rodems joined forces and mislead the Bar in conduct prejudicial to the administration of justice. (A.15). Until Mr. Rodems is disqualified as counsel for the Respondents, this litigation may also meet the colloquial definition of insanity. (A.9).

7. I retained at my own expense Dr. Karin Huffer as my ADA advocate. I applied February 19, 2010 to the Hillsborough Circuit Court for reasonable accommodation under the ADA, and submitted a disability report by Dr. Huffer. Court Counsel David Rowland denied my ADA request. To my knowledge no medically qualified person has reviewed Dr. Huffer's report, which states I have the following mental illness: Depression 296/3,and Post Traumatic Stress Disorder, 309.81 with chronic and acute symptoms anxiety. (A.3.Part1.2).

Dr. Huffer assessed the foregoing in a letter dated October 28, 2010. (Attached). Dr. Huffer wrote in part:

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

up at a deposition leaving his wheelchair behind. This is precedent setting in my experience." (p1, ¶2). "He [Gillespie] is left with permanent secondary wounds" (p2, top). "Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates." (p2, ¶1). "It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem."

Because of its significance, a copy of Dr. Huffer's letter is attached to this petition.

II. PARTIES

8. I am the Petitioner Neil J. Gillespie, and the Appellant in Case No. 2D10-5197, 2dDCA, which is an appeal (A.1.1) of the following Orders of Circuit Judge Martha J. Cook in Gillespie v. Barker, Rodems & Cook, et al., Case No. 05-CA-7205, Hillsborough County:

a. Final Summary Judgment As To Count 1; September 28, 2010

b. Order Adjudging Plaintiff Neil J. Gillespie Contempt; September 30, 2010

I am a non-lawyer, disabled, indigent and/or insolvent litigant appearing pro se at this time. I sued the Respondents Barker, Rodems & Cook, P.A. and William J. Cook for stealing $7,143 from my settlement in the Amscot case. (A.8).

9. Respondent Barker, Rodems & Cook, P.A. ("BRC") is a Tampa law firm that formerly represented me in the Amscot case (A.8)(A.9)(A.11)(A.13), a case at the heart of the present case, and also represented me on disability matters. (A.14). BRC is representing itself against me in all courts, by partner Ryan Christopher Rodems, Bar ID No. 947652. ("Rodems"). On January 19, 2006 Mr. Rodems brought a counterclaim against me on behalf of Respondents for libel. (A.11.14). Mr. Rodems is a named Defendant in Plaintiff's First Amended Complaint filed May 5, 2010 with a motion to amend. (A.8).

10. Respondent William J. Cook, Bar ID No. 986194, formerly represented me in the Amscot case, a case at the heart of the present case (A.8)(A.9)(A.11)(A.13), and also represented me on disability matters. (A.14). ("Cook").

11. Respondent 2dDCA is the appellate tribunal in the appeal of the following Orders of Circuit Judge Martha J. Cook in Case No. 05-CA-7205: (A.1.1)

a. Final Summary Judgment As To Count 1; September 28, 2010.

b. Order Adjudging Plaintiff Neil J. Gillespie Contempt; September 30, 2010.

NOTE: There have been six (6) interlocutory actions in the 2dDCA. (A.1.3).

12. Respondent Hillsborough County Circuit Court is the lower tribunal trial court in Gillespie v. Barker, Rodems & Cook, et al., Case No. 05-CA-7205.

13. Respondent Circuit Judge James D. Arnold ("Judge Arnold") succeeded Judge Cook and presided in the lower tribual November 18, 2010 to June 21, 2011.

14. Respondent Circuit Judge Martha J. Cook ("Judge Cook") presided May 24, 2010 to November 18, 2010, entered the following Orders on appeal in 2D10-5197:

a. Final Summary Judgment As To Count 1; September 28, 2010 (A.1.1)

b. Order Adjudging Plaintiff Neil J. Gillespie Contempt; September 30, 2010 After I filed a Notice of Appeal in 2D10-5197 on October 22, 2010 Judge Cook entered seven (7) additional orders, including:

c. Order To Show Cause Why Plaintiff Should Not Be Prohibited From Appearing Pro Se, entered November 4, 2010, with 20 days to respond.

d. Order Prohibiting Plaintiff From Appearing Pro Se, entered November 15, 2010, 14 days prior to the expiration of the time to respond. (with mailing time). NOTE: See APPELLANT'S MOTION TO AMEND NOTICE OF APPEAL (A.1.13) for a reason Judge Cook was trying to silence me. The timing of Judge Cook's Order, November 15, 2010, is suspect and coincides with her Order Denying Fourth Motion To Disqualify Trial Judge of even date which showed Judge Cook was insolvent. Judge Cook's Order prohibiting me from appearing pro se was an effort to silence legitimate inquiry into her financial affairs, which showed that Judge Cook was insolvent due to a near-collapse of the family business, Community Bank of Manatee, which was operating under Consent Order, FDIC-09-569b and OFR 0692-FI-10/09. Judge Cook's financial affairs violated the Code of Judicial Canons 2, 3, 5 and 6. Judge Cook's small ($276M)

nonmember FDIC insured bank lost over $10 million dollars in 2009 and 2010. In 2009 the bank sold a controlling interest to a foreign national, who during the review process in Florida, failed to disclose that his past employer, ABN AMRO Bank, faced one of the largest Money Laundering and Trading With The Enemy cases ever brought by the Department of Justice.

e. Order Directing Clerk To Close Case, November 15, 2010.

f. Sua Sponte Order To Recuse Assigned Judge, November 18, 2010. Judge Cook recused sua sponte November 18, 2010 upon my Verified Emergency Petition for Writ of Prohibition, and Motion for Order of Protection, filed November 18, 2010, 2dDCA Case No. 2D10-5529. Previously Judge Cook denied five (5) motions to disqualify. I will provide copies of the forgoing upon request of the Court.

III. BASIS FOR INVOKING JURISDICTION

15. This Court granted jurisdiction August 22, 2011 for me to file a petition for writ of mandamus addressing why the proceedings in the district court of appeal should not have been dismissed, pursuant to the Court's authority under Article V, section 3(b)(8) of the Florida Constitution. In addition, The Florida Supreme Court possesses discretionary jurisdiction over cases that "pass upon a question certified to be of great public importance" under Fla. R. App. P. 9.030(a)(2)(A)(v), and under Article V, section 3(b)(4). One such question may be whether an indigent, disabled, mentally ill, civil contemnor facing incarceration is entitled to counsel at

a hearing to issue the arrest warrant. The United States Supreme Court in Turner v. Rogers, U.S. Docket 10-10, 564 U. S. ____ (2011), Argued March 23, 2011 and Decided June 20, 2011, found no automatic right to counsel for indigent civil defendants facing jail time, though it ruled on behalf of a father who served a year in prison for failing to pay child support and was deprived of his 14th Amendment right to due process. The Court found that counsel was not required because in child support hearings the opposing party is not usually represented, and requiring appointed counsel would be unfair to the unrepresented part. In my case the opposing party is my former lawyers, the Respondents BRC and Mr. Cook, who are representing themselves through Mr. Rodems. In my effort to obtain counsel prior to the June 1, 2011 contempt hearing with Judge Arnold, I personally contacted many, if not all of the law firms listed on SCOTUSblog as interested in Turner, and almost obtained counsel. On May 25, 2011 Krista Sterken, an associate of Foley & Lardner LLP, called offering me legal representation. Ms. Sterken was co-counsel with Michael D. Leffel, a partner at Foley & Lardner LLP, who filed an amicus brief in Turner. Mr. Leffel declined the offer May 27, 2011. (A.12).

In addition, Court has exclusive jurisdiction under Article 5, Section 15 of the Florida Constitution "to regulate the admission of persons to the practice of law and the discipline of persons admitted." In this case there has been considerable misconduct by attorneys. In Gillespie v. Robert W. Bauer, The Florida Bar File No.

2011-073(8B), Mr. Bauer and Mr. Rodems joined forces and mislead the Bar in conduct prejudicial to the administration of justice. (A.15). Mr. Bauer wrote a letter January 4, 2010 to the 13th Circuit JNC recommending Mr. Rodems for judge. (A.15.11). In return Mr. Rodems wrote a letter of support for Mr. Bauer August 13, 2010 in the Bar complaint. (A.15.2). Mr. Castagliuolo failed to disclose a conflict with his daughter, attorney Maria Castagliuolo, who works for the Public Defender appointed to represent me. (A.7.page 4 and exhibit 4). Mr. Castagliuolo also admitted having "mental problems". (A.7.page 4 and exhibit 10, page 7-8).

IV. STATEMENT OF THE FACTS

Recent Case History

16. Three days before Judge Arnold ordered my arrest, I hand delivered a letter to the office of Judge Arnold at the courthouse May 27, 2011. (A.3.Part1.1).

> "Dear Judge Arnold:
>
> Please find enclosed courtesy copies of the following:
>
> 1. PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL, ADA ACCOMODATION REQUEST, and MEMORANDUM OF LAW
>
> 2. VERIFIED NOTICE OF FILING DISABILITY INFORMATION OF NEIL J. GILLESPIE
>
> Please note that Mr. Rodems mislead you during the hearing about my attempts to resolve this matter. Please read the motion for appoint of counsel, and my letter to Mr. Rodems dated November 8, 2010, copy attached with notice of filing. Mr. Rodems also mislead you about my

> disability and ADA requests. Please see the notice of filing disability information.
>
> I cannot appear at any contempt hearing without counsel. I cannot have unmoderated contact with Mr. Rodems, his partners or employees. I may file an emergency stay with the US Supreme Court. If the hearing is not canceled or I do not obtain counsel I may file chapter 7 bankruptcy which will dispose of defendants' judgment.
>
> Thank you for your consideration.
>
> Sincerely,
>
> Neil J. Gillespie:

My letter to Judge Arnold was clear, concise, stated that Mr. Rodems mislead the court, a claim substantiated in the accompanying documents, such as a copy of "Plaintiff's Notice of Filing Letters, Mr. Rodems & Gillespie" served November 8, 2011. I filed Mr. Rodems' letter to me dated October 26, 2010, and my responsive letter dated November 8, 2010. (A.3.Part1.1.1-11).

17. My May 27, 2011 letter to Judge Arnold was also accompanied by "PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL, ADA ACCOMODATION REQUEST, and MEMORANDUM OF LAW" filed in the lower tribunal May 24, 2011, and provided to the 2dDCA July 18, 2011. The motion is provided with this petition. (A.3.Part1.Exhibit 3.1). The memorandum of law is provided with this petition. (A.3.Part1.Exhibit 3.2). Forty-five (45) exhibits

to the motion are provided with this petition. (A.3.Part2.Exhibits 1-22) (A.3.Part3.Exhibits 23-45).

18. My May 27, 2011 letter to Judge Arnold was also accompanied by "VERIFIED NOTICE OF FILING DISABILITY INFORMATION OF NEIL J. GILLESPIE" filed in the lower tribunal May 27, 2011, and provided to the 2dDCA July 18, 2011. My disability information is provided with this petition. (A.3.Part1.2). In addition, I made a separate, prior ADA accommodation request to the 2dDCA November 18, 2010 addressed to the ADA Coordinator: (A.1.18)

> Marshal Jacinda Suhr, ADA Coordinator
> Second District Court of Appeal
> 1005 E. Memorial Blvd.
> Lakeland, FL 33801

I hand delivered the following to Marshal Suhr for use in cases 2D10-5197, and a petition for writ of prohibition to remove Judge Cook, 2D10-5529. (A.1.18)

1. Florida State Courts System ADA Title II Accommodation Request Form
2. ADA Assessment and Report, Dr. Karin Huffer, February 17, 2010
3. ADA Accommodation Request of Neil J. Gillespie, February 18, 2010
4. Notice of ADA Request of Neil J. Gillespie, February 19, 2010
5. Transcript, hearing before the Honorable Claudia Isom, February 5, 2007
6. Letter of Dr. Huffer, October 10, 2010, re Neil Gillespie
7. CV of Dr. Karin Huffer

As of today the 2dDCA has not responded to my ADA request, at least as far as I can recall at this time.

19. As stated in my letter to Judge Arnold of May 27, 2011, I planned, and later filed, not one, but two (2) emergency Rule 22 Application to Justice Thomas in the United States Supreme Court. As with all my communication with Judge Arnold, he simply ignored it. Copies were provided to Mr. Rodems and Court Counsel David Rowland, the Clerk, and others. The two Rule 22 Applications, without exhibits, and email and fax notices, accompany this petition. (A.16)

20. My May 27, 2011 letter to Judge Arnold gives notice that I was considering bankruptcy protection under Chapter 7 to discharge the $11,550 final judgment to Respondents on sanctions awarded under § 57.105, Florida Statutes. This was also the plan of Mr. Castagliuolo, a bankruptcy specialist, but he failed to do so:

> "Based on what I know right now about your case, your debt to this asshole Rodems would be discharged in your Chapter 7 bankruptcy, and he would get NOTHING from you." June 14, 2011 at 7:46 p.m. (A.7.page 4 & exh 5)

21. On May 3, 2011, I filed an Emergency Petition For Writ of Habeas Corpus/Prohibition, The Supreme Court of Florida, Case No. SC11-858, to stop an Evidentiary Hearing on the writ of bodily attachment on "Order Adjudging Neil J. Gillespie In Contempt" that was on appeal as part of a Final Summary Judgment final order in case no. 2D10-5197. The Court denied my petition May 18, 2011.

Affidavit of Neil J. Gillespie - Representation by Eugene P. Castagliuolo

22. My affidavit made January 6, 2012 sets forth the representation of me in this matter by attorney Eugene P. Castagliuolo, FL Bar ID no. 104360. (A.7).

23. After Judge Arnold ordered me arrested for allegedly failing to appear for a deposition after the case was closed and on appeal in 2D10-5197, I hired on June 3, 2011 attorney Eugene P. Castagliuolo from an ad on Craigslist to prepare for, and represent me at, the deposition in order to purge the contempt and rescind the arrest warrant. (A.7.page1). (A.2.1.3-4, Exhibit F). Mr. Castagliuolo responded to my ad on Craigslist within about one (1) hour of posting. Mr. Castagliuolo's email states that the Castagliuolo Law Group is a debt relief agency helping people to file for bankruptcy relief. (A.7.page 2;Exhibit 2). We signed a $1,000 flat fee agreement. (A.7.page 2;Exhibit 3). I paid Mr. Castagliuolo the full $1,000 flat fee in advance from my monthly disability income that arrived June 3, 2011. Because I am indigent and live hand-to-mouth, I was not able to afford private counsel for the hearing June 1, 2011 where Judge Arnold ordered me arrested. And because of the animosity created by Mr. Rodems' conflict representing his firm against me, a former client, no one wanted to represent me, I was *persona non grata*. (A.3.Part1.Exhibit3.1,page3).

Mr. Castagliuolo Failed To Disclose Conflict With Public Defender

24. At the time of hire, Mr. Castagliuolo failed to disclose a conflict with his daughter, Maria E. Castagliuolo, an attorney with the Public Defender previously appointed to represent me. The Public Defender was hostile to my cause as set forth in my affidavit (A.7.4), Exhibit 4, Notice of Conflict: Eugene P. Castagliuolo,

Maria E. Castagliuolo, and The Law Offices of Julianne M. Holt, Public Defender of the 13th Judicial Circuit. Shortly after the walk-away settlement agreement was signed Maria E. Castagliuolo received a job promotion.

25. I first visited the Public Defender May 24, 2011 and spoke with attorney Moira Freeman about my case, and provided Ms. Freeman a cover letter and copy of "Plaintiff's Motion For Appointment of Counsel, ADA Accommodation Request, and Memorandum of Law". (A.7.4). The Public Defender was appointed to represent me May 27, 2011 by Allison Raistrick of Clerk's Indigent Screening Unit, and I paid the $50 indigent fee. (A.7.4)(A.2.1.5).

26. I met attorney Anthony Lopez May 27, 2011, the Public Defender supervisor of Moira Freeman. After a short discussion, Mr. Lopez said he would not recognize the Clerk's appointment of the Public Defender to represent me. (A.7.4).

27. Attorney Mike Peacock of the Public Defender's office appeared June 1, 2011 before Judge Arnold on a hearing for me to show cause on contempt with arrest on a writ of bodily attachment. Mr. Peacock filed Office of the Public Defender's Motion For Clarification seeking relief from representing me. The Court granted the motion and I did not have representation. The Court did not allow time for me to find other counsel, and immediately ordered my arrest. A transcript of this June 1, 2011 hearing is provided. (A.3.Part4.6).

28. On July 15, 2011 I requested by email and phone call a conflict check with the Public Defender's office and it's employee attorney Maria E. Castagliuolo and Mr. Castagliuolo. The phone call only revealed that Maria E. Castagliuolo was recently promoted to the felony unit. An email response July 18, 2011 from Julianne M. Holt, the Public Defender, stated: (A.7.page3;Exhibit4)

> "Without further explanation for your request, I do not feel it is appropriate to respond to this request."

29. On July 19, 2011 I received a threatening email from Mr. Castagliuolo. (A.7.page3;Exhibit4). Mr. Castagliuolo's threatening response suggests he has been working as a shill against my interests.

<u>Mr. Castagliuolo Failed To Seek ADA Accommodations</u>

30. I have diabetes type II adult onset, and other disabilities, and gave notice of my disabilities to Mr. Castagliuolo by email June 4, 2011 at 7.50 p.m. with PDF copies of seven (7) ADA documents. (A.7.page 2-3;exhibit 5). Mr. Castagliuolo was aware of my disabilities but failed to seek reasonable accommodations for me during the June 21, 2011 deposition. (A.7.page2-3). Instead, Mr. Castagliuolo told Judge Arnold this June 16, 2011 at a hearing to quash the arrest warrant:

> 13 MR. CASTAGLIUOLO: Judge, I've known
> 14 Mr. Gillespie for about, oh, I'm going to say,
> 15 almost 14 days. Not longer than that. And, it's
> 16 readily -- readily apparent to me that this
> 17 gentleman has some problems, which cause him to be
> 18 contentious, to say the least.

(A.3.part 4, exhibit 5, page 3, lines 13-18)

3 And the linchpin of all this, Judge, is that,
4 for the last 21 months, he's been without counsel.
5 So he's been on the internet. He's been left to
6 his own devices and his own -- he's my client and
7 I've had this discussion with him. He's left to
8 his own delusions about the way this process should
9 work.

(A.3.part 4, exhibit 5, page 5, lines 3-9)

Mr. Rodems Failed To Cooperate with Mr. Castagliuolo

31. Mr. Castagliuolo complained that Mr. Rodems and his staff failed to cooperate with him. (A.7.page3-4). Rodems would not return phone calls or provide a copy of the writ of bodily attachment. (A.7.14). Mr. Castagliuolo became angry over Rodems' failure to cooperate and sent me this message June 14, 2011 at 7:46 p.m. calling Rodems an "asshole":

> "As for a new agreement, this is my suggestion. Give me another $1,000.00 on July 1, and I won't take another dime from you. Consider it a flat fee to get you out from under this writ (BUT WITHOUT entering an appearance in this state court case) and/or to file a Chapter 7 bankruptcy for you. The only other things you would have to pay for if we go the bankruptcy route(and these are NOT my fees, they are costs) is the filing fee of $299.00, a credit report fee of $30.00, and the credit counseling fee(s) which will be at most $80.00 (sometimes you can find a cheaper vendor). Based on what I know right now about your case, your debt to this asshole Rodems would be discharged in your Chapter 7 bankruptcy, and he would get NOTHING from you." (A.7.page 4;exhibit 8)

32. I agreed to bankruptcy and provided Mr. Castagliuolo a copy of "Assignment of Unliquidated Lawsuit Proceeds" (A.7.page 4;exhibit 9) prepared in 2008 by attorney Jeffery Shelquist who researched and believed the assignment would survive my filing for bankruptcy, and allow the case to continue for adjudication on its merits. Mr. Castagliuolo did not mention bankruptcy again. I take this to mean that Mr. Castagliuolo did not want me to file bankruptcy if the case would continue as suggested by Mr. Shelquist. Mr. Castagliuolo wanted to end the case for his benefit, to quickly earn his flat fee, and for his daughter's benefit at her job with the Public Defender.

Mr. Castagliuolo's Disabilities - Ineffective Counsel

33. Mr. Castagliuolo failed to disclose that he has "mental problems" when I retained him. (A.7.page 4;exhibit 10). This is how Castagliuolo explained his strategy for the heating June 16, 2011 to quash the arrest warrant:

> "The game plan is this: "Judge, I've prevailed upon Mr. Gillespie to appear for a deposition. Due to his health issues and my health issues, I am requesting 60 days to get this done. Will you please vacate/quash the writ, with a specific instruction to law enforcement to rescind the warrant ?"" (A.7.page 5;exhibit 12)

I believe Mr. Castagliuolo's disabilities prevented him from effectively representing me.

Mr. Castagliuolo Complained About Flat Fee Agreement - Terminated

34. Mr. Castagliuolo complained that he was not earning his usual hourly rate of $295 per hour under our flat fee agreement. At one point Castagliuolo demanded $5,000 from me. Mr. Castagliuolo became more and more angry, so I terminated him as counsel by email June 9, 2011 at 12.44 p.m. Mr. Rodems was not cooperating with Castagliuolo which added time and difficulty to the case. In response Mr. Castagliuolo launched one of his trademark threats, which often end with some reference to a former role as prosecutor for added intimidation. (A.7.page 5;exhibit 13). Castagliuolo apologized 29 minutes later but refused to make a refund in exchange for canceling our agreement. Since an active arrest warrant was outstanding against me, I had no viable alternatives to hire other counsel, and consented to Castagliuolo's later requests for a promise of more money. (A.7.pages 5-6).

Mr. Castagliuolo Threatened to Quit Prior to The Deposition

35. Mr. Castagliuolo notified me by email Wednesday, June 15, 2011 at 7:43 p.m. that he would no longer represent me after the hearing June 16, 2011 to vacate the writ of bodily attachment. (A.7.page 6;exhibit 15). Castagliuolo wrote in part:

> "My sole role tomorrow, after which I shall be finished as your lawyer, shall be to do my utmost best to prevail upon the kindness of Judge Arnold to vacate the writ and resultant arrest warrant….Tomorrow, I will be your staunch advocate, but after tomorrow, my role in this matter will be over."

Mr. Rodems' Threatening Email to Mr. Castagliuolo June 20, 2011

36. On the eve of the deposition, Mr. Rodems sent the following threatening email to Mr. Castagliuolo, Monday, June 20, 2011, 1:22 PM. (A.2.1.10-13)

a. Mr. Rodems announced a "walk-away" settlement, followed by a number of threats if I did not agree to a settlement agreement attached to the email in PDF. I believe this shows the actual purpose of the deposition, to force a settlement.

> "Please advise Gillespie of the following:
>
> We will offer a walk-away once again, and for the final time. Gillespie can avoid the deposition and have the writ of bodily attachment dissolved if he settles his case with us. We offer a "walk-away," with a release in the form attached. What this means is Gillespie pays us nothing and all of our claims, potential claims, and disputes occurring before tomorrow are fully and finally resolved. You can tell him that If he rejects it, it will never be offered again."

b. Mr. Rodems threatened the following if I did not agree to a settlement:

> "And, if he rejects it, here is what tomorrow will look like: Once Gillespie arrives at the courthouse, he will be taken into custody by the HCSO deputies and brought before Judge Arnold. He should make no mistake, from the moment he walks in, Gillespie will be in custody. The writ of bodily attachment is in effect, and must be executed the moment any law enforcement office identifies him."
>
> "I expect Judge Arnold will advise Gillespie that until the deposition is complete, the writ of bodily attachment will remain in full force and effect. What that would mean is that Gillespie will remain in custody until such time as Judge Arnold announces that the writ is dissolved – which will not occur until the deposition is complete."
>
> "The deputies will be either inside the room or right outside during the deposition. If Gillespie does not bring the documents or he refuses to answer questions, or behaves like he has in past hearings, I will stop the deposition, and advise the deputies that we need to see Judge Arnold. Obviously, Judge

Arnold is extremely busy, and he is not going to stop his docket or hearings to rule immediately, and so the HCSO deputies will hold Gillespie in custody until we can find time on the Judge's calendar to resolve the issues."

"Gillespie needs to understand that I will not accept any refusals by him to answer my questions, and I will not tolerate any intemperate behavior. He will not threaten to "slam me against the wall,"[2] like he did in the past, he will not yell[3] at me or interrupt me, like he has done in the past. The first time he goes "off the reservation," like he did when Judge Isom ruled against him[4], and like he did at the summary judgment hearing before Judge Cook[5], and like he did when he threatened me on the telephone[6], I will suspend the deposition, ask the deputies to take him into custody, and contact Judge Arnold."

"Also, because this is a deposition under oath, I will need to be assured, through questions and answers, that Gillespie is not under the influence of any substances, legal or otherwise, that affect his memory. I want to be certain that if Gillespie gives me an answer that later proves to be false, he cannot claim physical or mental impairment[7]."

"This will not be a short deposition. I have no choice but to be as thorough as possible because I will likely not have another opportunity to depose him. He has been spending a lot of money on filing fees[8], service f process[9],

---

[2] This is typical of Mr. Rodems' false and disparaging remarks he has made against Gillespie throughout this litigation. The Tampa Police Department investigated Mr. Rodems' accusation, made in a sworn affidavit dated March 6, 2006. Kibry Rainesberger of the TPD concluded that Mr. Rodems was not right and not accurate in representing to the Court a quote Rodems attributed to Gillespie.

[3] Gillespie did not yell at Mr. Rodems

[4] The transcript of the hearing does not reflect Mr. Rodems' accusation.

[5] The transcript of the hearing does not reflect Mr. Rodems' accusation.

[6] Gillespie did not threaten Mr. Rodems on the telephone.

[7] Gillespie has disabilities that affect his memory. See *Verified Notice of Filing Disability Information of Neil J. Gillespie*, May 27, 2011.

[8] This is a false statement by Rodems. The Courts have waived Gillespie's last four filing fees.

[9] This is a false statement by Rodems. The last service of process fees Gillespie paid were $20 each ($40 total) in 2005 to serve Barker, Rodems & Cook, PA, and Mr. Cook with this lawsuit. Gillespie was unable to pay $160 in fees to serve four (4) subpoenas for the hearing June 1, 2011.

certified letters[10], court reporters[11], his website[12], etc., so I need to find out where this money is coming from[13]."

"If Gillespie finds the deposition process exhausting, as he has claimed in the past, and cannot complete it tomorrow, we can go as many days as he requires, but he needs to understand that he will remain in the custody of the HCSO until it is complete[14]."

"The settlement offer is open until 5:00 p.m. today. If he accepts[15], then you can communicate it by telephone before 5:00 p.m. He can sign the attached tomorrow, but it must be hand-delivered before 10:30 a.m. If it is hand-delivered before 10:30 a.m., I will advise the Judge of the settlement, you and he can probably appear by telephone."

I Rejected Mr. Rodems' Settlement Agreement June 20, 2011

37. I did not accept Mr. Rodems' "walk-away" settlement offer by the 5:00 PM deadline June 20, 2011. I rejected the offer Monday, June 20, 2011 2:53 PM. (A.2.14-15). I told Mr. Castagliuolo I'm not interested in his walk-away offer:

---

[10] The cost of certified mail is $2.85 per letter and is paid from Gillespie's monthly Social Security disability payment of $1,741.

[11] Court reporters have made payment arrangements, such as allowing Gillespie to postpone payment until arrival of his monthly Social Security disability payment of $1,741.

[12] Gillespie's website is billed quarterly at $59.97 or about $20 per month, and is paid from his monthly Social Security disability payment of $1,741. On one occasion when Gillespie could not pay the bill, court reporter Susan DeMichelle paid the quarterly website bill of $59.97.

[13] Mr. Rodems knows Gillespie's financial background from his firm's prior representation of Gillespie, from depositions in the AMSCOT and ACE Cash Express lawsuits.

[14] This threat to incarcerate Gillespie on an ongoing basis is designed to intimidate him to agree to a settlement.

[15] Gillespie responded to, and rejected the offer in writing by email, through Mr. Castagliuolo Monday, June 20, 2011 at 2.53 PM.

“Eugene,

Thanks for Rodems’ email. Now you know why I could not appear unrepresented with him at a deposition. Rodems’ email is a MILD example of how he has conducted himself in this case.

So long as you are by my side I feel confident attending the deposition and getting it behind me.

From what I read in the transcript of the June 16th hearing, Judge Arnold is reasonable, even if he doesn’t read much about the case beforehand. If problems develop with Mr. Rodems I think Judge Arnold will be able to resolve the issues, so long as you are present to represent me.

I’m not interested in his walk-away offer. His last walk-away offer was presented in equally dramatic fashion. As I noted before, Mr. Rodems has repeatedly offered a walk-away settlement because if he looses the appeal in 2D10-5197 that could jeopardize his legal career, and that of his partners’, who stand accused of fraud and breach of contract against a former client.

Today I was in contact with James Birkhold, Clerk of the 2d DCA about a motion to extend the time for my amended initial brief. After Mr. Birkhold explained the procedure, I drafted another motion to extend the time for 14 days, with the brief due July 6th, see attached.

Mr. Rodems’ walk-away agreement mentions the federal lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., 5:10-cv-00503-WTH-DAB, pending in the United States District Court, Middle District of Florida, Ocala Division. While I voluntarily dismissed him from the case due to some unbelievable antics, the rest of the case is active, and on June 1, 2011 in response to another matter in the case, I noted that Mr. Rodems previously mislead this Court in violation of Rule 11 (b) in pleadings he submitted, and in turn the Court relied upon Mr. Rodems' pleadings as correct and incorporated false or untrue statements in the Court's orders. I sought leave to move for sanctions against Mr. Rodems under Rule 11(C)(2) for making false or untrue statements to this Court in his pleadings. I’m waiting on a response.

> Thirdly, Mr. Rodems may have some concern with action by the Florida Bar, where he assisted Mr. Bauer regarding my bar complaint against Bauer. The grievance committee found no probable cause on a 5-0 vote. That decision was so inappropriate that Jim Watson, Chief Branch Discipline Counsel of the Tallahassee Branch, forwarded my concerns to Carl Schwait, the Designated Reviewer. Attached is the email about that, and I'm still waiting for a reply.
>
> So Mr. Rodems may be feeling some heat. If you are a good negotiator and see my point, you might offer a settlement where Rodems pays me. On a contingent basis you would be entitled to whatever the going percentage is; it may be 45% since this is on appeal.
>
> I'm as cool as can be under the circumstances. Nothing Rodems has said today is a surprise to me.
>
> Thanks again.
>
> Neil Gillespie.

I Voluntarily Appeared June 21, 2011 For A Deposition - It Was A Trap

38. I voluntarily appeared June 21, 2011 for a deposition at the Edgecomb Courthouse in Tampa to purge the civil contempt and rescind the arrest warrant. Mr. Castagliuolo arrived separately. I was taken into custody and involuntarily confined by two Hillsborough County Sheriff's Deputies, Deputy Randy Olding and Deputy Larry Berg, for the duration of the deposition. I was not given anything to eat during the time I was involuntarily confined. The deposition went from about 10:30 a.m. through approximately 3:00 p.m. and did not break for lunch. My last meal was at McDonald's, about 20 minutes before arriving at the Twiggs Street

Garage across from the courthouse at 6:47 a.m. (A.7.page 6) (A.3.Part4.4.1-3)

39. On June 21, 2011 I was talking the following medication: (A.7.pages 6-7).

a. Lisinopril 20mg, one a day for high blood pressure.
b. Hydrochlorothiazide 25mg, one a day for high blood pressure.
c. Metformin 1000 MG, one twice a day for type 2 diabetes. (Note: Metformin was insufficient to control my diabetes, and on September 29, 2011 my doctor prescribed Glipizide, 5 mg, one twice a day, in addition to Metformin).

40. The June 21, 2011 deposition transcript shows at page 118: (A.4.1.118)

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21 [GILLESPIE] I need to use the restroom again.
22 MR. CASTAGLIUOLO: Let's take a break.
23 (Recess from 1:41 p.m. to 2:12 p.m.)
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41. At 1:41 p.m. I felt the urge to urinate and went to the restroom flanked by Deputies Olding and Berg. I was unable to urinate. One of the deputies knocked on the door and asked if I was all right. I felt cold and confused and left the restroom without urinating and returned to the deposition room. (A.7.page 7). When I returned from the restroom, Mr. Rodems made a number of threats to me in response to a question from Mr. Castagliuolo to Rodems about how long the deposition would continue and whether I would be incarcerated that night. Ms. Himes, the court reporter, was present while Mr. Rodems threatened me, but she did not report this in the transcript. My recollection of Mr. Rodems' threats is memorialized as follows: (A.7.pages 7-8) (A.5.2.8)

> "Mr. Rodems also launched a new round of threats against Gillespie. Mr. Rodems stated that he had accumulated 130 hours of attorneys fees

> responding to Gillespie's pleadings that Rodems considered inappropriate. Rodems said he would seek sanctions against Gillespie for 130 hours of attorneys fees. In the past the Court awarded Mr. Rodems $11,550 in sanctions at $350 per hour in attorney's fees for Gillespie's discovery errors and a misplaced defense of economic loss to Rodems' libel counterclaim (at footnote 26, The libel counterclaim was an abuse of process, which Rodems later dismissed.) Based upon Rodems' threat, 130 hours of sanctions would amount to $45,500. Mr. Rodems also threatened something about bringing the Marion County Sheriff to Gillespie's home in his effort to collect a judgment for attorney's fees. And Rodems made reference to Gillespie wearing "orange pajamas" issued by the HCSO. The details of the threats were not clear to Gillespie because he was disoriented and Rodems was yelling at a fast pace."

42. On the day of the deposition I was taking the medication Metformin at the maximum daily dose, a 1000 MG tablet by mouth twice a day to control diabetes. It was not working well enough, and on September 29, 2011 my doctor prescribed Glipizide, 5 mg, one twice a day, in addition to Metformin. (A.7.pages 6-7). I likely suffered Hypoglycemia or low blood sugar. (A.3Part4.4.2-3). Near the end of my confinement I had to ask Deputy Olding to repeat himself 4-5 times before I understood what he was saying; Deputy Olding spoke clearly, I just could not understand due to confusion. (A.3.Part4.4.2).

43. In those treated for diabetes a diagnosis of hypoglycemia can be made based on the presence of a low blood sugar alone. However the Court and my jailers failed to monitor my blood sugar. However resolution of the symptoms occurred once I had a meal. In addition to hypoglycemia, I may have been dehydrated, which also causes confusion. I was taking hydrochlorothiazide, a diuretic, 25mg,

one a day for high blood pressure. Going a long time without food would cause dehydration, along with a loss of sodium, loss of magnesium, and a loss of potassium. There is evidence that I was dehydrated, I was unable to produce urine during the recess from 1:41 p.m. to 2:12 p.m. In addition, I was taking lisinopril, an ACE inhibitor, 20mg, one a day for high blood pressure. The lack of food may have increased the concentration of lisinopril in my body and further lowered my blood pressure to the point of confusion or diminished state. Again, the Court and my jailers failed to monitor my blood pressure.

Mr. Rodems Mislead The 2dDCA In “APPLELLEES' RESPONSE”

44. Mr. Rodems mislead the 2dDCA July 15, 2011 in “APPLELLEES' RESPONSE TO APPELLANT'S MOTION TO REINSTATE DISMISSED APPEAL” as follows: (A.1.12.1)

> “On June 21, 2011, Appellant Neil J. Gillespie voluntarily appeared, with his attorney, for a deposition in aid of execution relating to Appellees' Final Judgment entered March 28, 2011.”

Once again Mr. Rodems lied to the Court in referencing a “deposition in aid of execution.” This was an improper, full deposition (line 18) insisted upon by Judge Arnold at the hearing June 16, 2011: (A.3.Part 4.exhibit 5.page 15, line 18)

> 13 THE COURT: And, I -- at this point in time,
> 14 his coming here is on a voluntary basis. If he
> 15 comes in on a voluntary basis on Tuesday, he brings
> 16 the documents, including the trust documents, which
> 17 I'll review in camera -- okay -- and willing to sit

18 for a deposition under oath, a full deposition
19 under oath, then I'll take that all into
20 consideration; and, and as far as I'm concerned, if
21 he does produce the documents, he does sit for
22 deposition, at that point in time, I'd be inclined
23 to withdraw any pick-up order.

Mr. Rodems' Lied to Judge Arnold - "Mr. Gillespie receives income from a trust"

45. Throughout the litigation Mr. Rodems has lied repeatedly that I receive income from a trust. This is what Rodems told Judge Arnold June 16, 2011:

6 MR. RODEMS: The various types of things that
7 one would expect in a collection case.
8 Mr. Gillespie receives income from a trust.
9 We wanted to see the trust documents.

(A.3.Part4.exhibit 5.page 7, line 8)

21 MR. RODEMS: There is one matter, Judge. And
22 I'm just trying to head off a problem in the past.
23 Mr. Gillespie is trying very hard not to show
24 to me the trust documents, where he gets income.

(A.3.Part4.exhibit 5.page 13, lines 23-24)

Mr. Castagliuolo tried to set the record straight:

7 MR. CASTAGLIUOLO: I've been told that the
8 only thing in the trust document is the house,
9 which is underwater, and if there were any rumors
10 of income --

(A.3.Part4.exhibit 5.page 14, lines 7-10)

The Revocable Inter Vivos Trust Agreement made February 10, 1997, known as *The Gillespie Family Living Trust Agreement*, is provided with this petition, the

exact same document to which Mr. Rodems affixed “Exhibit 4” June 21, 2011. (A.6.4). The trust shows NO IMCOME TO ME OR ANYONE ELSE. The only trust asset, a family homestead where I live at 8092 SW 115th Loop, Ocala, Florida, has recently dropped in market value from $91,057 to $85,564. The balance on the reverse mortgage has increased to $106,313 as of November 30, 2011. The negative equity of the only trust asset was negative -$20,749 as of November 30, 2011. See (A.6.4) for the trust and related documents. My only reason in objecting to producing the trust was to protect the privacy of my sister who is shown in the trust as not repaying a mortgage on the home. Otherwise disclosure of this trust is unlawful for purposes of my debts:

> 13 Fla. Jur 2d, Creditors' Rights § 91, Property held in trust
>
> 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.

As shown on the accompanying notes (A.6.4) the trust was made by my parents and not discussed. The trust favors my brother and sister, not me. I was not originally named a successor trustee, and I was not listed as a vested beneficiary.

My parents were high school graduates and not sophisticated in matters of trust law. It appears this trust was made either on the advice of a neighbor, or as the result of attending a financial lecture with a free diner. This is speculation; neither me nor my siblings are certain since it was not discussed.

Deposition Transcript Shows Gillespie Too Confused To Decide

47. The deposition transcript shows I was unable to make a decision to sign a settlement agreement, yet Mr. Rodems argued otherwise in “APPLELLEES' RESPONSE TO APPELLANT'S MOTION TO REINSTATE DISMISSED APPEAL submitted July 15, 2011. (A.1.12.2):

> “In fact, in deciding whether to sign it, Appellant stated to his attorney, "I'll defer to your judgment on this." Gillespie's attorney stated, "I've already given you judgment in private, and I'll give it to you on the record. I think this is -- this is an agreement you want to enter into, and I think it is in your best interest.""

In fact, Mr. Castagliuolo said this to me June 14, 2011 at 7:46 p.m.:

> “Based on what I know right now about your case, your debt to this asshole Rodems would be discharged in your Chapter 7 bankruptcy, and he would get NOTHING from you.” (A.7.page 5)

48. APPELLANT'S MOTION FOR LEAVE TO SUBMIT REPLY (A.1.14) shows clear evidence that I lacked capacity to decide for myself, when I told Castagliuolo "I'll defer to your judgment on this." I already told Castagliuolo not to accept a walk-away settlement agreement. I rejected the offer Monday, June 20, 2011 2:53 PM. (A.2.14-15). I told Mr. Castagliuolo I’m not interested in his walk-

away offer. Castagliuolo failed to obey my written instructions. The 2dDCA denied my motion for leave to submit a reply.

I Promptly Disaffirmed The Walk-Away Settlement Agreement

49. I was confused and signed a “walk-away” settlement agreement while in a diminished state June 21, 2011. Once I was released from custody, left the courthouse, and had a meal, my senses returned and I realized that signing the settlement agreement was a mistake. I promptly gave written notice that I disaffirmed the settlement agreement to Mr. Rodems, Mr. Castagliuolo and HCSO Major Livingston. (A.2.1.page 2;exhibit 2). I notified Castagliuolo the same day and Rodems and Livingston the next day.

Walk-Away Settlement Agreement Too Confusing For Castagliuolo

50. It appears Mr. Castagliuolo himself does not understand the terms of the so-called "walk away" settlement agreement that he recommend I sign June 21, 2011 while confused and in a diminished state. Mr. Castagliuolo refused to discuss the deposition or settlement agreement after June 21, 2011. Instead Castagliuolo demanded that I pay him $1,000 on July 1, 2011. (A.7.page 8). Mr. Castagliuolo threatened me in a letter dated July 1, 2011 with criminal prosecution under section 812.012(6)(b), Florida Statutes, and section 772.11 Florida Statutes (2011). (A.7.page 8;exhibit 17). Castagliuolo wrote:

> "YOU ARE HEREBY NOTIFIED that you have obtained professional services from me by false pretenses, fraud, and/or deception, in violation of Florida Statute 812.012(6)(b), for which you owe me $1,000.00, as you promised and agreed to pay me. Section 772.11 Florida Statutes (2011) permits me to make claim against you for triple the amount of damages sustained by me by my deprivation by you of the sum total of $1,000.00. TRIPLE THE SUM OF $1,000.00 IS $3,000.00.
>
> This is my demand that you pay me the sum of $1,000.00 within 30 days after your receipt of this notice."

Castagliuolo never discussed with me what the agreement actually meant, and reading it now I still do not understand the agreement, but it seems to dismiss with prejudice all claims pending or which could have been brought, based on the allegations any party against any person or entity, without limitation. That would include the so-called claims by Mr. Castagliuolo, even though he never performed bankruptcy services for me, and disobeyed my instructions not to settle. Pro bono counsel Danialle Riggins of Ocala, referred to me unofficially by NAMI, the National Alliance on Mental Illness, advised that Castagliuolo's threat of criminal prosecution was not legitimate and that I did not violate any criminal statutes. In turn I notified Mr. Castagliuolo by certified letter. (A.7.page 9;exhibit 18). This in turn launched a new wave of threats and insults by Mr. Castagliuolo against me. (A.7.pages 9-11;exhibits 19-20). This behavior calls into question Castagliuolo's fitness to practice law.

LOWER TRIBUNAL, 05-CA-7205 - STATEMENT OF FACTS

51. This six and a half year-long lawsuit is to recover $7,143 stolen by my former lawyers, Respondents BRC and Mr. Cook, from the settlement in earlier litigation, the Amscot lawsuit. I commenced this lawsuit, pro se, August 11, 2005 by filing a Complaint for fraud and breach of contract. (A.11.1). This case boils down to the veracity of a single sentence on the closing statement prepared and signed by Respondents BRC and Mr. Cook as of October 31, 2001, attached to the Complaint as Exhibit 2. (A.11.1.exhibit 2). The sentence states the following:

> "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."

This sentence was later determined false. The closing statement is a fraud. There were no court-awarded fees of $50,000. As a matter of law it was impossible to have court-awarded fees as claimed by Respondents BRC and Mr. Cook because a federal court dismissed those claims with prejudice, as did at least two other federal courts. This is Respondents' fraud against me, their client. U.S. District Judge Richard A. Lazzara dismissed the TILA claims with prejudice August 1, 2001 in the underlying case, Clement et al. v AMSCOT, case no. 8:99-cv-2795-T-26-EAJ. Judge Lazzara held:

> After considering the arguments made and all the authorities now before it, the Court finds that count I fails to allege a claim for relief under the TILA. Moreover, any attempt at stating a claim under the TILA would be futile.

A copy of Judge Lazzara's Order is Exhibit 8 to Plaintiff's First Amended Complaint filed May 5, 2010. (A.8.exhibit 2).

52. During the course of litigation Mr. Rodems argued that the "claim" for "court-awarded fees and costs" actually refers to a fee-shifting provision of the federal Truth In Lending Act (TILA). In fact, the $50,000 "claim against AMSCOT for court-awarded fees and costs" is a fraud, a deliberate misrepresentation by Mr. Rodems against me. There were no attorneys fees awarded under TILA in this case. There was no possibility of attorneys fees awarded under TILA in this case because of prior court decision, and in other cases known to Mr. Rodems. Therefore, there were no claims to attorneys fees awarded under TILA in this case. Three (3) different federal courts ruled that the transactions complained about predated the TILA rule. (A.8.pages 17-19; exhibits 7-8). This happened in all three (3) separate TILA lawsuits brought by Rodems' predecessor firm and acquired by Barker, Rodems & Cook.

53. Robert W Bauer, one of my former lawyers, outlined Mr. Rodems' fraud to Judge Barton October 30, 2007 during a hearing for judgment on the pleadings:

> 22 [MR. BAUER] Another issue to point out the fact this is for
> 23 their claim of court-awarded attorney's fees, there
> 24 was no claim. The claim had already been determined
> 25 by the court, denied. It didn't exist any more.
>
> (Transcript, October 30, 2007, page 39) (A.10.4)

1 [MR. BAUER] Yes, there was an appeal outstanding, but that
2 doesn't resurrect any claim. The only thing that's
3 going to resurrect a claim is an overruling by the
4 appellate court. A claim no longer exist once it's
5 been denied, even if it's on appeal. So in
6 asserting there existed a claim for attorney's fees
7 is false. It - it's not there.

(Transcript, October 30, 2007, page 39) (A.10.4)

TILA Claims Not Valid in Payday Express Lawsuit

54. Clement v. Payday Express, Inc. case no.: 8:99-cv-2768-T-23EAJ. On April 6, 2001, United States District Judge Steven D. Merryday issued an Order in the Payday Express lawsuit that dismissed with prejudice the TILA and RICO claims, and dismissed without prejudice the remaining state law claims of usury and FDUTPA. Judge Merryday held that "Because TILA's mandatory disclosures were not required of the defendants before October 1, 2000, TILA cannot form a basis for relief of the plaintiff's claims." (A.8.page 18)

TILA Claims Not Valid in ACE Cash Express Lawsuit

55. Clement & Gillespie v ACE Cash Express, case no.: 8:00-cv-593-T-26C. On December 21, 2000 United States District Court Judge James S. Moody, Jr. issued an Order in the ACE lawsuit that dismissed with prejudice Count I, Plaintiff's TILA claims, and remanded the case to the Circuit Court of the Thirteenth Judicial Circuit for Count II, the alleged violation of state usury laws pursuant to sections 687.02, 687.03, and 687.04 Florida Statutes, and Count III alleged violation of the

Florida Deceptive and Unfair Trade Practices Act, sections 501.201 to 501.23 Florida Statutes. Judge Moody explained his decision to dismiss with prejudice the TILA claims on page 3, paragraph 3 of the Order. “On March 31, 2000, the Federal Reserve Board ("FRB") promulgated revisions to a regulation that interprets TILA as applying to check-cashing transactions. See 65 Fed. Reg. 17129, 30 (2000), to be codified at 12 C.F.R. pt. 226. The revision to the regulation states, however, that the effective date of the new rule is March 24, 2000, but that compliance is "optional" until October 1, 2000. Id. The Court agrees with Defendant that the plain language of the regulation means that compliance was not mandated until October 1, 2000. The transactions at issue in this case occurred prior to the FRB's regulation. Since Plaintiffs' transactions occurred prior to October 1, 2000, TILA is not applicable and cannot form a basis for relief against Defendant. Accordingly, Plaintiffs' claims under TILA are dismissed.” (A.8.page 17; exhibit 7).

56. I prevailed on Mr. Rodems motion to dismiss (A.11.2) filed August 29, 2005 where Rodems argued entitlement to $50,000 “claim against AMSCOT for court-awarded fees and costs”. Judge Neilsen rejected that argument by Order January 13, 2006 (A.11.9), as did three federal judges before. The doctrine of res judicata bars future action on matters that have been "definitively settled by judicial decision.” The TILA claims were gone forever.

57. Specifically, this was how I prevailed: Respondents moved to Dismiss and Strike August 29, 2005. (A.11.2). I responded September 6, 2005. (A.11.3). A hearing on Respondents Motion to Dismiss and Strike was held before Judge Nielson September 26, 2005. (A.11.4). I was granted verbal permission to appear telephonically as I live about 100 miles from the court and Mr. Rodems did not coordinate the time and date of hearing with me. The Court granted me leave to respond in writing after receipt by mail of case law presented by Mr. Rodems. My Rebuttal to Respondents' Motion to Dismiss and Strike was served October 7, 2005 (A.11.5) along with case law (A.11.6). Respondents replied to my rebuttal October 10, 2005. (A.11.7). I served a second rebuttal October 31, 2005. (A.11.8). The Court ruled February 13, 2006 for me and held "Those portions of Defendant's Motion to Dismiss and Strike seeking to dismiss the Complaint are denied. Defendant shall have fifteen days from the date of this order within which to file responsive pleadings." (A.11.9). Mr. Rodems responded with a counterclaim for libel January 19, 2006. (A.11.14). It was an Abuse of Process (A.8.page 48) that Rodems voluntarily withdrew September 28, 2010.

58. I filed Plaintiff's Motion for Summary Judgment April 25, 2006 (A.11.10) with an affidavit in support. (A.11.11). On May 4, 2005 I served notice of hearing. (A.11.12). The same day Mr. Rodems objected by email. (A.11.13).

59. Because of Mr. Bauer's incompetence, or to generate additional fees, he allowed Mr. Rodems to re-litigate entitlement to $50,000 "claim against AMSCOT for court-awarded fees and costs" in a motion for judgment on the pleadings, and a motion for summary judgment was also pending. That has been Mr. Rodems strategy throughout, to keep repeating the lie about entitlement to $50,000 "claim against AMSCOT for court-awarded fees and costs".

Mr. Rodems Lied In Open Court About A Signed Representation Contract

Mr. Rodems lied in open court October 30, 2007 on a hearing for judgment on the pleadings before Judge Barton, with Robert Bauer represented me.

> 2 MR. RODEMS: Wait just a second. I have a
> 3 written signed copy of that contract. I'm not the
> 4 one that filed this lawsuit. Gillespie did. And
> 5 Gillespie filed an unsigned version of that
> 6 contract.
>
> 24 MR. RODEMS: That is completely incorrect.
> 25 There is a signed contract. It exists.
>
> (Transcript, October 30, 2007, page 20, beginning line 2) (A.10.4)
>
> 1 Mr. Gillespie has a copy of it.
> 2 THE COURT: But not in the pleading and not
> 3 attached to a pleading.
> 4 MR. RODEMS: No. But that was Mr. Gillespie's
> 5 decision not to do that. I don't know why he
> 6 didn't.
> 7 THE COURT: Okay. Well, then that was his
> 8 decision. And maybe he should have, but I can't
> 9 make a ruling on the pleadings as they should have
> 10 been filed.

11 MR. RODEMS: Exactly.
12 THE COURT: So the pleadings as they exist
13 allege a contract between Cook and the law firm on
14 the one hand and Gillespie on the other hand, and we
15 have an unsigned copy of a written contract between
16 a law firm and Gillespie.

(Transcript, October 30, 2007, page 21, beginning line 1) (A.10.4)

8 THE COURT: Right. Is there anything in the
9 complaint that says the plaintiff had a contract
10 with Cook individually?
11 MR. BAUER: Your Honor, no, there is nothing in
12 the complaint. And it was my understanding, and the
13 reason that I felt that it was still appropriate to
14 include Cook is that there was no actual written
15 contract between Barker, Rodems & Cook that was
16 signed. So there was an issue whether or not in the
17 failure to execute a new contract after the
18 termination of the predecessor firm may have opened
19 up Mr. Cook to the liability.
20 I will concede that if there exists a written
21 contract that clearly shows that the issue is only
22 between Barker, Rodems & Cook and Mr. Gillespie that
23 we have only a contract claim for breach of contract
24 against Barker, Rodems & Cook.

(Transcript, October 30, 2007, page 22, beginning line 8) (A.10.4)

23 [RODEMS] We are being shaken down by Mr. Gillespie.
24 That's what's happening here.

(Transcript, October 30, 2007, page 31, beginning line 23) (A.10.4)

1 MR. BAUER: Your Honor, first of all
2 THE COURT: Let me ask this: And we are still
3 on this original complaint?
4 MR. BAUER: Yes, Your Honor.

(Transcript, October 30, 2007, page 33, beginning line 1) (A.10.4)

20 [BAUER] exactly what those findings were. But this really
21 appears to be an attempt to do nothing more than
22 appellate review within the circuit court just
23 simply because counsel has gotten a different judge
24 to be able to argue the same in front of .

(Transcript, October 30, 2007, page 34, beginning line 20) (A.10.4)

3 MR. BAUER: Once the negotiations were settled,
4 there was a fraud committed to procure the
5 modification of the agreement. The modification of
6 the agreement would be the settlement.
7 There's actually two different contracts.
8 There was the original contract that was breached,
9 then there was a fraud committed to procure the
10 second agreement, the settlement agreement, in
11 saying this is what is fair and going to be
12 distributed.
13 As far as whether or not he agreed by saying
14 these are the claims, if you read it -it took me
15 several times reading it. I was constantly
16 confused. I can't find awards of attorney's fees.
17 I can't find awards of attorney's fees. And I
18 finally caught their argument that they are saying
19 it was a claim of attorney's fees that -and it
20 says claim of court-awarded -past tense, awarded,
21 not claim for attorney's fees that would be award.
22 There's no future. There's court-awarded. That's a
23 past tense. It's very easy to understand how a
24 layperson would confuse that situation and think
25 that there had been awarded attorney's fees.

(Transcript, October 30, 2007, page 38, beginning line 3) (A.10.4)

1 [BAUER] It's paramount within the attorney-client
2 relationship that the attorney is supposed to make
3 sure that the client understands. I believe,

4 that -or my client believes that this was an
5 intentional misleading. It was -the facts are
6 sufficient in this to, are alleged, to see that
7 there was a false statement that was made. There
8 were no court-awarded attorney's fees -or we
9 allege that it was a false statement. And that's
10 all we have to do. We've alleged that there's a
11 false statement. And it will be up to a jury to
12 decide whether there was a false statement.

(Transcript, October 30, 2007, page 39, beginning line 1) (A.10.4)

20 [RODEMS] But, you know, we believe that if you will
21 carefully consider this matter, you will see that,
22 you know, Mr. Gillespie is basically trying to shake
23 us down.

(Transcript, October 30, 2007, page 45, beginning line 20) (A.10.4)

Prior Judges

60. Circuit Judge James M. Barton, II ("Judge Barton") presided February 13, 2007 to May 24, 2010, and was disqualified for cause, a business relationship involving thousands of dollars paid by Respondent BRC to Regency Reporting Service, Inc. owned by Chere Barton, wife of Judge Barton. Ms. Barton also transcribed my deposition May 14, 2001 in the underlying litigation, Gillespie v. Amscot Corporation, case no: 8:00-CV2795-T-26EAJ. The transcript was stored in a home office of Judge Barton and contained substantial information about my disabilities. The transcript is part of my disability filing. (A.3.Part1.2.page6;exhibit4). Judge Barton failed to provide me accommodation

under the ADA, and sanctioned me $11,550 for discovery errors, for "discovery" already in Respondents possession from their earlier representation of me. Part of the sanction was for and a misplaced defense to Respondents' counterclaim, an Abuse of Process without merit that Rodems dismissed September 28, 2010.

61. Respondent Circuit Judge Claudia Rickert Isom ("Judge Isom") presided November 22, 2006 to February 13, 2007, recused sua sponte after denying motion to disqualify. Judge Isom failed to honestly respond during a conflict hearing February 1, 2007. Judge Isom failed to disclose the fact that her husband, attorney Woody Isom, practiced law with the attorney in the underlying case, Jonathan Alpert. Judge Isom also failed to follow her own law review on the subject of discovery sanctions set forth in Professionalism and Litigation Ethics, 28 STETSON L. REV. 323, 324 (1998). The law review shows Judge Isom avoids discovery sanctions against lawyers, who elect judges. The record shows that Judge Isom favored discovery sanctions against Gillespie, a disabled, nonlawyer pro se litigant in litigation against his former attorneys who had a conflict.

62. Respondent Circuit Judge Richard A. Nielsen ("Judge Nielsen") presided from August 11, 2005 when the case commenced, to November 22, 2006, recused sua sponte after denying a motion to disqualify. Judge Nielsen found by Order February 13, 2006 that I stated a cause of action against Respondents BRC and Mr. Cook for fraud and breach of contract. While a motion to disqualify Mr. Rodems as

counsel was pending, Rodems filed with malice aforethought a false affidavit swearing under oath that I planned an attack in Judge Nielsen's chambers, a strategic maneuver to intentionally disrupted the tribunal and gain an unfair advantage in the litigation. Thereafter Judge Nielsen believed Mr. Rodems and acted with bias toward me. In 2010 the Tampa Police Department investigated and determined that Rodems' affidavit was not right and not correct. I can provide additional documentation about this matter.

IV. RELATED LITIGATION IN U.S. FEDERAL COURT

63. Neil J. Gillespie v. The Thirteenth Judicial Circuit, Florida, et al., case no. 5:10-cv-00503-oc, U.S. District Court, Middle District of Florida, Ocala Division, September 28, 2010. Alleges misuse and denial of process under the color of law, and failure to provide disability accommodation. For more about Mr. Rodems' efforts to subvert the JNC process, see PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE, Docket 58. Upon leave, I will provide more information.

64. The Estate of Penelope M. Gillespie v. The Thirteenth Judicial Circuit, Florida, et al., case no. 5:11-cv-539-oc, U.S. District Court, Middle District of Florida, Ocala Division, September 16, 2011. Wrongful death complaint.

VI. THE NATURE OF THE RELIEF SOUGHT

65. The Court should rescind the walk-away settlement agreement so that the litigation may be considered on its merits. Mr. Rodems and Barker, Rodems &

Cook, P.A. must be disqualified from representing themselves. This case must be transferred to another jurisdiction, it simply cannot be fairly heard in Hillsborough County. I also include a general request that the Court grant such other and further relief as it deems just and equitable.

VII. ARGUMENT

66. This petition is about the basic requirements of justice, fairness and equality that we should all expect from our courts. In this case the most basic protections are either missing from of the Florida Constitution or have been violated.

> Article 1. SECTION 2. Basic rights
> No person shall be deprived of any right because of race, religion, national origin, or physical disability.

Why do Florida Courts allow depravation of rights because of mental disability? I was denied accommodation under the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq., and the Federal Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801 et seq. After being held in custody during the deposition for over four (4) hours without a lunch break, or the usual mid-day meal provided to a prisoner, I became confused and disoriented and signed a document to get out of custody. In addition to mental illness I have diabetes, high blood pressure, and communication disorders.

67. Mr. Rodems' representation of his firm and partner against me has denied me access to courts, resulted in excessive fines in the form of § 57.105 sanctions,

and denied my right to due process, a politically-motivated warrant for my arrest without due process.

> Article 1. SECTION 21. Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.
>
> Article 1. SECTION 17. Excessive punishments Excessive fines
>
> Article 1. SECTION 9. Due process.—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

68. The walk-away settlement agreement must be canceled. Mr. Rodems did not have the right to settle my claims against the Thirtieth Judicial Circuit, Mr. Bauer, or anyone other than himself and his clients. The agreement is confusing, so confusing that even now I still do not understand the agreement, but it seems to dismiss with prejudice all claims pending or which could have been brought, based on the allegations any party against any person or entity, without limitation. That would include the so-called claims by Mr. Castagliuolo. So my so-called lawyer at the deposition does not understand the agreement either. In 2008 I assigned and transferred to Penelope M. Gillespie, my Mother, for her use and benefit a security interest in all my rights to receive any proceeds in the case. Since the death in 2009 of Ms. Gillespie the security interest was an asset of the estate. Mark Gillespie was the personal representative of the estate June 21, 2011 and he did not agree to the

disposition of the estate asset. Relief by way of cancellation may be sought after the death of a party to the instrument by those succeeding to the decedent's rights. Peacock v. Du Bois, 90 Fla. 162, 105 So. 321 (1925).

69. To rescind a contract is not merely to terminate it but to abrogate and undo it from the beginning. Borok v. Holewinshi, 459 So. 2d 405 (Fla. Dist. Ct. App. 4th Dist. 1984). The prime object of rescission is to undo the original transaction and restore the former status of the parties. Walker v. Eris, 886 So. 2d ,414 (Fla. Dist. Ct. App. 1st Dist. 2004). The power of a court of equity to grant relief by way of cancellation or rescission of contracts or other instruments is well recognized, Hartsfield v. Williams, 145 Fla. 709, 200 So. 220 (1941)

70. Equity may order the rescission or cancellation of an instrument that was procured by duress. Sheldon v. Wilfore, 136 Fla. 312, 186 So. 508 (1939); Burton v. McMillan, 52 Fla. 469, 42 So. 849 (1907). "Duress" is a condition of mind produced by improper external pressure that destroys the free agency of a party compelled to act in a manner not of his or her own volition. Smith v. Paul Revere Life Ins. Co., 998 F. Supp. 1412 (S.D. Fla. 1997). Duress may include moral compulsion and certain threats, as well as actual violence; when a claim of rescission is based on duress from threats, the question is whether the person was so threatened as to be bereft of the quality of mind essential to making the contract. 3Am. Jur. 2d, Cancellation of Instruments § 23. The age, sex, state of health, and

knowledge of the complainant may be taken into consideration in determining whether the complainant was actually acting against his or her free will in entering into the contract. Motor Credit Corp. v. Woolverton, 99 So. 2d 286, 72 A.L.R.2d 334 (Fla. 1957); Burton v. McMillan, 52 Fla. 469, 42 So. 849 (1907). The complainant's power of resistance, under all the surrounding circumstances of the transaction, is relevant in ascertaining whether there was duress of sufficient magnitude to authorize the intervention of the equity court by way of rescission. Burton v. McMillan, 52 Fla. 469, 42 So. 849 (1907). In the context of rescission and cancellation, the ground of undue influence is not susceptible of precise definition; Pratt v. Carns, 80 Fla. 243, 85 So. 681 (1920). The character of the transaction, the mental condition of the person whose act is in question, and the relationship of the parties concerned to each other are all elements that may be taken into consideration in applying the rule. Peacock v. Du Bois, 90 Fla. 162, 105 So. 321 (1925); Pratt v. Carns, 80 Fla. 243, 85 So. 681 (1920).

Conclusion

71. This inadequate, flawed petition is the best I can do today under the burden of mental illness and disability. If I had another couple weeks this petition could be improved. It took a long time for me to figure out a strategy. In a whale of a case like this I spent considerable time thinking about how to take the first bite. Just

making the appendixes was a significant task. Use of the existing Index and Record would have enhanced this petition significantly.

Georgia Judge Dennis Blackmon, in Phillips v. U.S. Bank, Superior Court of Carroll County, Case No. 11-CV-00504, wrote "Sometimes, only the courts of law stand to protect the taxpayer. Somewhere, someone has to stand up. Well, sometimes is now, and the place is the Great State of Georgia. The defendant's motion to dismiss is hereby denied."

This Court has an opportunity to stand up and protect the citizens of Florida in that black hole of injustice known as the Thirteenth Judicial Circuit. I will do everything in my power to assist in that effort.

WHEREFORE, I move the Supreme Court of Florida to GRANT my petition for writ of mandamus. I also include a general request that the Court grant such other and further relief as it deems just and equitable.

RESPECTFULLY SUBMITTED January 9, 2012.

Neil J. Gillespie, Petitioner pro se
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List of Appendixes

Appendix 1	Record in the Second District Court of Appeal
Appendix 2	Record in the Second District Court of Appeal
Appendix 3	Record in the Second District Court of Appeal
Appendix 4	Deposition Transcript, June 21, 2011
Appendix 5	Verified Corrections and Amendments, Depo Transcript
Appendix 6	Gillespie Family Trust, Exhibit 4, Deposition Transcript
Appendix 7	Affidavit of Neil J. Gillespie, re Eugene P. Castagliuolo
Appendix 8	Plaintiff's First Amended Complaint, May 5, 2010, LT
Appendix 9	Emergency Motion to Disqualify Mr. Rodems, BRC, LT
Appendix 10	Clerk's Certificate, Missing Affidavits; Transcript, LT
Appendix 11	Record, Plaintiff Established Cause of Action, LT
Appendix 12	Offer/Decline Representation, Foley & Lardner, LLP
Appendix 13	Plaintiff's Motion Punitive Damages, § 768.72, LT
Appendix 14	Respondents' Representation of Petitioner, DVR
Appendix 15	Gillespie v. Robert W. Bauer, TFB No. 2011-073(8B)
Appendix 16	Rule 22 Applications, Justice Thomas, U.S. Supreme Court

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a paper copy of the Petition and an electronic PDF copy of the Petition and Appendixes on CD was mailed by US Postal Service, First Class Mail, January 9, 2012 to:

1. MR. RYAN CHRISTOPHER RODEMS, Barker, Rodems & Cook, P.A., 501 E. Kennedy Blvd, suite 790, Tampa, Florida 33602.

If service is required on any other party, I ask the Court to advise me and I will serve those parties immediately.

Neil J. Gillespie, Petitioner pro se
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CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Petition has been prepared in accordance with Rule 9.100(l) and is submitted in Times New Roman, 14-point font.

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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 litigantís ability to maintain health while pursuing justice in our courts. Neil Gillespieís case is one of those. At this juncture the harm to Neil Gillespieís health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

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

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

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While ìpublic entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons.î (*Townsend v. Quasim* (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely ìregardedî 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.î (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) ß II-3.3000.) A successful ADA claim does not require ìexcruciating details as to how the plaintiff's capabilities have been affected by the impairment,î even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it ñ 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.