

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

2011 NOV 23 PM 3: 51
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FL
OCALA FLORIDA

NEIL J. GILLESPIE,

CASE NO.: 5:10-cv-503-Oc-10TBS

Plaintiff,

vs.

THIRTEENTH JUDICIAL CIRCUIT,
FLORIDA, et al.

Defendants.

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO SUBMIT ADDENDUM
TO PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE**

Plaintiff Gillespie moves (unopposed) for leave to submit an addendum to
Plaintiff's Response To Order To Show Cause [DKT 58] and states:

1. The Florida Press Association wrote November 16, 2011 a letter to the Honorable Manuel Menendez, Jr., Chief Judge of the 13th Judicial Circuit of Florida, "[T]o convey our serious concern that foreclosure hearings in Hillsborough County are being conducted in a manner that inappropriately impedes public access to judicial proceedings. It has recently come to our attention that members of the public encounter significant obstacles when attempting to observe foreclosure proceedings, and in some instances are unable to do so at all. We believe this practice violates Florida law's robust guarantee of open courts." The letter was provided "cc" to Florida Supreme Court Chief Justice Charles T. Canady. Signatories to the November 16, 2011 letter include the following:
 - a. Samuel J. Morley, General Counsel, The Florida Press Association

- b. Talbot D'Alemberte, The Florida Press Association
- c. Barbara Peterson, President, First Amendment Foundation
- d. Larry Schwartztol, Staff Attorney, The American Civil Liberties Union
- e. Gil Thelen, Executive Director, Florida Society of News Editors
- f. Randall C. Marshall, Legal Director, The American Civil Liberties Union of Florida

The November 16, 2011 letter to Chief Judge Menendez cited, and included, a November 17, 2010 Memorandum from Supreme Court of Florida Chief Justice Charles T. Canady to all the Chief Judges of the Circuit Courts. Also enclosed was a November 17, 2010 letter from Chief Justice Canady to The Florida Press Association. The foregoing letters and Memorandum are attached hereto as Exhibit 1.

2. The November 16, 2011 letter to Chief Judge Menendez is relevant to the instant case because it shows an ongoing problem in the Thirteenth Circuit regarding access to hearings. The letter to Chief Judge Menendez discussing this issue as it pertains to foreclosure proceedings also pertains to the Plaintiff's case in Hillsborough Circuit Civil Court, a fraud and contract case. In each instance, Hillsborough judges, their staffs, as well as bailiffs and employees of the clerk of court, violated the rights of the Plaintiff and other Floridians by improperly closing or denying access to judicial proceedings and public records. The letter to Chief Judge Menendez sets forth the law on this matter, page 2, paragraph 2:

"Chief Justice Canady's directive embodied clearly established legal principles guaranteeing open access to court proceedings. The Supreme Court of Florida has held that "both civil and criminal court proceedings in Florida are public events and adhere to the well-established common law right of access to court proceedings and records." Barron v. Fla. Freedom Newspapers, Inc., 531 So. 2d

113, 116 (Fla. 1988); see also Fla. R. Jud. Admin. 2.420 (codifying public right of access to records of the judiciary). The protection of public access serves fundamental constitutional values. In particular, the "value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that anyone is free to attend gives assurance that established procedures are being followed and that deviations will become known." *Sarasota Herald-Tribune v. State*, 924 So. 2d 8, 12 (Fla. 2d DCA 2005) (quoting *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 508 (1984))."

3. The November 16, 2011 letter to Chief Judge Menendez was not available to Plaintiff when he submitted Plaintiff's Response To Order To Show Cause [DKT 58] on November 9, 2011. Plaintiff believes this should be included in the record because it shows a widespread, ongoing pattern of civil rights abuses wherein the Thirteenth Circuit violated the rights of the Plaintiff and other Floridians by improperly closing or denying access to judicial proceedings. Attached as Exhibit 2, Plaintiff notes "Ex-parte Hearings Leading To Writ of Bodily Attachment Where Gillespie Was Not Present And Not Represented By Counsel." (Also at DKT 33, Exh. 2). In addition, June 21, 2011 Hillsborough Judge James Arnold conducted a number of closed door hearings when the Plaintiff was in custody of deputies of the Hillsborough County Sheriffs Office on a bogus writ of bodily attachment, obtained by Mr. Rodems who simply lied his way through the ex-parte hearings described in the attached Exhibit 2 to obtain the writ. Gillespie appeared voluntarily at the courthouse to answer the writ and give his deposition in aid of execution of a bogus award of \$11,550 in sanctions by the court to Mr. Rodems. Judge Arnold never allowed Gillespie to answer the writ, but conducted the following closed door hearings June 21, 2011 instead:

a. At 10:30 a.m. a closed-door hearing commenced on the admissibility of a trust document and possibly other matters, presumably held in Judge Arnold's chambers, attended by the Judge, Mr. Rodems and Mr. Castagliuolo. The hearing was not transcribed by Ms. Himes, the court reporter for the deposition who was idly sitting in a nearby room. When Mr. Rodems returned from the hearing, he announced that the deposition was no longer in aid of execution but was a full deposition. This was not transcribed by Ms. Himes either. However Mr. Rodems described an Order by Judge Arnold during the closed-door hearing on page 65, at line 19 of the deposition transcript:

Transcript, Page 65

19 [MR. RODEMS] The trust that we've -- that we've
20 referred to when we said the trust, we're
21 going to mark this as Exhibit 4. The -- and I
22 will represent on the record that pursuant to
23 Judge Arnold's order, the trust document is to
24 be considered confidential and not disseminated
25 outside of this case without the Court's

Transcript, Page 66

1 permission.
2 (Exhibit 4 marked for identification.)

Gillespie was not provided a copy of Judge Arnold's Order, and Mr. Castagliuolo did not inform Gillespie about the contents of the Order or describe anything else discussed during the closed-door hearing. [DKT 47, Exhibit 2, Verified Corrections And Amendments By Witness Neil J. Gillespie To Transcript Of Proceedings June 21, 2011", with exhibits, September 8, 2011, pages 217-218]

b. Mr. Castagliuolo made comments to Gillespie during the deposition that show

Gillespie was struggling with disability. Mr. Castagliuolo told Gillespie “you are thinking too much” in responding to questions. These comments were made in the open while seated at the deposition table, with all parties were present. For some reason these comments are missing from the transcript. [DKT 47, *ibid.*, page 218].

c. Gillespie believes he was hypoglycemic at this point. Page 118 of the transcript:

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.)

DKT 47, *ibid.*, page 218].

d. When Gillespie returned from the restroom, at about 1:47 p.m., Mr. Rodems made a number of threats to Gillespie in response to a question from Mr. Castagliuolo to Rodems about how long the deposition would continue and whether Gillespie would be incarcerated that night. Ms. Himes was present while Mr. Rodems threatened Gillespie, but she did not report this in the transcript. This is Gillespie’s recollection of the threats made by Mr. Rodems, from paragraph 27 of “Plaintiff Neil J. Gillespie’s Motion To Strike Or Set Aside Mr. Rodems’ Notice of Assignment Of Claims And Motion For Dismissal of Action With Prejudice, and Motion To Strike Or Set Aside Settlement Agreement And General Mutual Release” submitted June 30, 2011 in Gillespie v. Thirteenth Judicial Circuit, Florida, et al, Case No. 5:10-cv-00503, US District Court, Middle District of Florida, Ocala Division [Docket 33]:

“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."

[DKT 47, *ibid.*, page 218-219].

e. Mr. Rodems announced back on the record, Page 118, line 24, 2:12 p.m. At this point the proceedings became a "settlement conference" as described by Mr. Rodems in a pleading to the federal court in Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no. 5:10-cv-00503, US District Court, MD Florida, Ocala, at Docket 40, Attachment 1. [DKT 47, *ibid.*, page 219].

"Judges have mud on their shoes" - Mr. Castagliuolo, June 21, 2011

f. Mr. Castagliuolo asked to go off the record, page 131, line 4 to discuss the removal of disability information from the court file. A recess from 2:24 p.m. to 2:57 p.m. was reported by Ms. Himes, page 131, line 6. Another closed-door hearing was held in Judge Arnold's chambers attended only by the Judge, Mr. Rodems and Mr. Castagliuolo. The hearing was not reported by Ms. Himes. When Mr. Castagliuolo returned from the hearing, he told Gillespie the case has gone on too long and "Judges have mud on their shoes". This was not reported by Ms. Himes. Mr. Castagliuolo did not further explain his bizarre comment, but it appeared Castagliuolo was threatened or intimidated during the closed-door hearing, and his demeanor worsened. During this recess Gillespie signed the settlement agreement while hypoglycemic and incompetent.

Judge Arnold later addressed a matter on the record that was apparently discussed during this closed-door hearing, the removal of disability information from the file, page 134, line 8:

8 THE COURT: Relative to one other
9 concern your client had about something that
10 was filed with the clerk, once the case is
11 dismissed with prejudice, it will -- it will
12 go over into storage, and it won't be
13 available.

[DKT 47, *ibid.*, page 219-220].

Hillsborough Circuit Court Summary Judgment Scandal and Judge Martha Cook

4. As set forth in Plaintiff's Response To Order To Show Cause [DKT 58], Matters Imminently Affecting the Public Interest, paragraph 8 and 9, Hillsborough Circuit Court has a Summary Judgment Scandal. A central figure in the scandal is Judge Martha Cook, who routinely violates the Code of Judicial Conduct to achieve her desired outcome in a case. [DKT 58, ¶12]. (NOTE: Plaintiff was advised that Judge Cook has been reassigned to criminal cases). Judge Cook is a central figure in the instant case, for the misuse and denial of judicial process under the color of law by the Thirteenth Circuit. Unfortunately Plaintiff is a Hillsborough County three time victim:

- a. Bogus summary judgment,
- b. by Judge Martha Cook
- c. during an ex parte hearing September 28, 2010

5. Inspired by the November 16, 2011 letter to Chief Judge Menendez and increased scrutiny of wrongdoing in the Thirteenth Circuit, Gillespie made November 20, 2011 a

public records request to Laura Rush, General Counsel for the Office of the State Courts Administrator:

“This is a public records request for records showing which judges are behind the Summary Judgment Scandal in Hillsborough County. Thanks to the fine record-keeping by your office, especially the Foreclosure and Economic Status Report, a number of Florida attorneys were able to analyze the data and uncover the Summary Judgment Scandal.”

The entire chain of email communication with Ms. Rush is attached as Exhibit 3. On November 21, 2011 Ms. Rush responded:

“I have forwarded your revised, clarified request on to our data office. I cannot give you a time frame for a response until I hear back from that office. Due to the holiday, I anticipate it will be early next week before I have an answer to the questions you’ve posed below.”

Based on the response of Ms. Rush, it appears the time frame for a response will be provided during the week of November 28, 2011 through December 2, 2011. Plaintiff believes that the summary judgment case data for Judge Martha Cook, and how it compares to other judges in the Thirteenth Judicial Circuit, and the entire state, is important to this case.

Other Matters For Clarification

6. Upon review of Plaintiff’s Response To Order To Show Cause [DKT 58], Gillespie found several items inadvertently omitted and moves to include those, including:

a. Paragraph 20, beginning on page 34, Statement Of The Facts - Historical Facts of the Dispute Between the Parties, Gillespie failed to include the fact that on April 25, 2006, Gillespie filed in the state court action Plaintiff’s Motion For Summary Judgment. This predated Mr. Rodems’ pleadings for summary judgment and judgment on the

pleadings by about nine months. Plaintiffs Motion For Summary Judgment was set for a hearing before Judge Neilsen August 1, 2006, at 3:45 p.m. (Exhibit 4). Mr. Rodems objected by email the same day. (Exhibit 5). Mr. Rodems wrote the following, which appears to contradict the summary judgment entered September 28, 2010.

“The following caselaw holds that a court cannot rule on summary judgment until discovery has been completed: *Lubarsky v. Sweden House Properties of Boca Raton, Inc.*, 673 So.2d 975, 977 (Fla. 4th DCA 1996)(citing *Sica v. Sam Caliendo Design, Inc.*, 623 So.2d 859 (Fla. 4th DCA 1993); *UFF DM, Inc. v. Towne Realty, Inc.*, 666 So.2d 199 (Fla. 5th DCA 1995). I have not received your discovery responses, nor have I had an opportunity to depose you or Mr. Anthony or several other witnesses. plan to take your deposition after your motion to dismiss is denied and after the sanctions motion is resolved. If you still wish to prematurely notice your motion for summary judgment, that is your decision; however, please be advised that we will object to it being heard until we have had an opportunity to complete the discovery we need to complete.”

The summary judgment hearing set for August 1, 2006, at 3:45 p.m. was later canceled and not reset. Nor was Plaintiff’s summary judgment raised by his counsel Mr. Bauer. Mr. Rodems’ email stating that a court cannot rule on summary judgment until discovery has been completed would have precluded the summary judgment entered September 28, 2010 by Judge Cook. The Gillespie deposition was outstanding, as was most of Mr. Rodems’ discovery owed to Gillespie.

b. In addition Gillespie moved May 5, 2010 for leave to submit Plaintiff’s First Amended Complaint. (Exhibit 6). This was improperly denied by Judge Cook without a hearing, see the Complaint [DKT 1, page 30, ¶70-71, and exhibit 14].

“Judge Cook’s denial of Motion for Leave to Submit Plaintiff’s First Amended Complaint filed May 5, 2010 is wrong:

“Moreover, excepting Count 1, Plaintiff’s breach of contract claim against Defendant law firm, all of the Plaintiff’s pleadings and answers have been

disposed and amendment is thereby impossible.”

Clearly this is not true. Pursuant to Rule 1.190(a), Fla.R.Civ.P. A party may amend a pleading once as a matter of course. Leave of court shall be given freely when justice so requires. Plaintiff’s First Amended Complaint is a “new complaint that is largely rewritten, which will re-set all case deadlines and permit more discovery, new motions to dismiss, motions for summary judgment, and a new answer with affirmative defenses and counter-claims, all of which will have to be dealt with just as they were the first time around.” - Attorney Sheldon J. Childers, September 17, 2009.

A court should not dismiss a complaint without leave to amend unless the privilege of amendment has been abused or it is clear that the complaint cannot be amended to state a cause of action. Trotter v. Ford Motor Credit Corp. 868 So.2d 593. Procedural rule allowing amended pleadings to relate back to the date of the original pleading is to be construed liberally. Rule 1.190(c). Stirman v. Michael Graves 983 So.2d 626

71. For more discussion of Judge Cook’s “Res Judicata Motions” see Exhibit 14.”

c. After the Complaint [DKT 1] was filed, Gillespie learned of significant disability discrimination in Hillsborough County. Hillsborough Sheriff Deputy Charlette Marshall-Jones dump quadriplegic Brian Sterner out of a wheelchair and onto a jail floor. Mistreatment of the disabled man attracted the national spotlight, as shown in this YouTube video <http://youtu.be/huRYZAJ8wzA>

Also after the Complaint [DKT1] was filed, Gillespie’s Americans with Disabilities Act (ADA) advocate, Dr. Karin Huffer, wrote the following about Gillespie’s ongoing lack of ADA accommodation under Title II by the Thirteenth Judicial Circuit. In a letter dated October 28, 2010 (Exhibit 7) Dr. Huffer wrote: (relevant portion)

(i). Dr. Huffer wrote it was against her medical advice for Neil Gillespie to appear unrepresented in this matter:

“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.” (p.2, ¶1)

II: (ii). Dr. Huffer wrote Gillespie is denied access to the court in violation of Title

“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.” (p. 1, ¶2).

(iii). Dr. Huffer noted the abuse power differential in this case:

“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 ADA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant’s ability to maintain health while pursuing justice in our courts.” (p.1, ¶4)

(iv). Dr. Huffer wrote Gillespie’s life and health is at risk:

“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.” (p.2, ¶1)

(v). Dr. Huffer determined that Gillespie has sustained permanent injury:

“At this juncture the harm to Neil Gillespie’s health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell cannot be unrung. He is left with permanent secondary wounds.” (p.1-2).

Throughout the litigation, Mr. Rodems has ridiculed Gillespie's disability, mocked the ADA advocacy of Dr. Huffer, and lied to the state trial court about Gillespie's disability. In an effort to correct the record, Gillespie May 27, 2011 filed **VERIFIED NOTICE OF FILING DISABILITY INFORMATION OF NEIL J. GILLESPIE** in the state court, and later in this Court [DKT 36]. Since March 3, 2006 Mr. Rodems has threatened to reveal Gillespie's client confidences, learned during the prior representation by Rodems' law firm and law partner, including details about Gillespie's payment for dental treatment:

Page 7

24 MR. RODEMS: Didn't you at one time purchase a
25 car so that you could get the cash rebate to get

Page 8

1 some dental work done? We're going to get to the
2 discovery, anyhow, so just tell me, did that really
3 happen?

4 MR. GILLESPIE: What?

5 MR. RODEMS: Did you purchase a car so that
6 you could get the cash rebate to get some dental
7 work done?

8 MR. GILLESPIE: Listen, this is why you need
9 to be disqualified.

10 MR. RODEMS: No, I mean, that's -- because I
11 know that? Because I know that to be a fact?

12 MR. GILLESPIE: You know it to be a fact from
13 your previous representation of me.

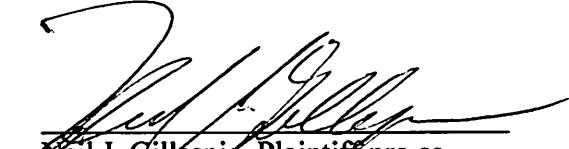
In fact Gillespie purchased the vehicle to use as transportation. The rebate was fungible money good for any lawful use, including payment for dental treatment. The prior representation of Gillespie on matters of disability by Mr. Rodems and his firm is evidenced in a letter from William Cook, Barker, Rodems & Cook, PA, March 27, 2001, to Gillespie: "...We have reviewed them [Gillespie's disability claims] and, unfortunately, we are not in a position to represent you for any claims. you may have. Please

understated that our decision does not mean that your claims lack merit, and another attorney might wish to represent you....” [DKT 36; DKT 47, Exhibit 12].

Because of the foregoing disability-based harassment by Mr. Rodems of Gillespie, learned during Rodems’ prior representation of Gillespie, this has seriously reduced Gillespie’s ability to respond in a timely way in this lawsuit, including case management obligations under Local Rule 3.05, necessitating designation as a Track Three Case.

WHEREFORE, Plaintiff submits this unopposed motion for leave to submit an addendum to Plaintiff’s Response To Order To Show Cause [DKT 58].


RESPECTFULLY SUBMITTED November 23, 2011.



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

Certification of Compliance with Local Rule 3.01(g)

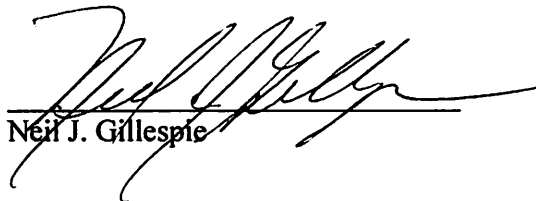
Gillespie informed defense counsel Catherine Chapman that he intended to file this motion. Ms. Chapman acknowledged the email attempt to confer but did not object or further respond. Gillespie did not contact Mr. Rodems for the reasons set forth in DKT 59



Neil J. Gillespie

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was emailed November 23, 2011 to Catherine Chapman, counsel for The Law Office of Robert W. Bauer, P.A. and Robert W. Bauer. A copy was mailed by US Postal Service to Ryan C. Rodems, 501 E Kennedy Blvd, suite 790, Tampa, Florida 33602. No other party was served.


Neil J. Gillespie



Florida Press Association
336 E. College Avenue, Suite 203
Tallahassee, FL 32301
(850) 521-1169
Fax (850) 577-3629

November 16, 2011

The Honorable Manuel Menendez, Jr.
Chief Judge of the 13th Judicial Circuit of Florida
800 E. Twiggs Street, Room 602
Tampa, Florida 33602

Dear Chief Judge Menendez:

We write to convey our serious concern that foreclosure hearings in Hillsborough County are being conducted in a manner that inappropriately impedes public access to judicial proceedings. It has recently come to our attention that members of the public encounter significant obstacles when attempting to observe foreclosure proceedings, and in some instances are unable to do so at all. We believe this practice violates Florida law's robust guarantee of open courts.

It is our understanding that it is routine for foreclosure proceedings in Hillsborough County to take place in "hearing rooms" rather than court rooms. We understand that these "hearing rooms" are situated behind a locked door, which is guarded by a bailiff, and that individuals must receive specific permission from the bailiff to attend proceedings in any particular foreclosure case. One defendant in a foreclosure case informed us that, on two occasions, he was accompanied to court by his wife (a co-defendant in his case) as well as three to four individuals interested in observing his hearing. In both instances, the bailiff refused to allow him entrance to the "hearing room" with more than one other person accompanying him. The second time this occurred, this individual presented to the bailiff a copy of Chief Justice Canady's November 2010 supervisory memorandum directing all chief judges to ensure open access to foreclosure proceedings, but access to his hearing remained restricted. On both occasions, this individual brought his concern, as well as Chief Justice Canady's supervisory memorandum, to the attention of the presiding judge. In addition, we have spoken with a local citizen who has made several attempts in recent weeks to observe foreclosure proceedings, but has been told every time that foreclosure cases are being heard in "hearing rooms," rather than open court rooms, and that she could not observe those proceedings.

As you are aware, Chief Justice Canady's supervisory memorandum directed all chief judges "to examine the current practices within their respective circuits to ensure that those practices are entirely consistent with the constitutional, statutory, procedural rule, and case law requirements of this state regarding the presumption that state court proceedings are open to the public." That directive was issued after the undersigned brought to the Chief Justice's attention several

EXHIBIT

1

Chief Judge Menendez
November 16, 2011
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examples of improper barriers to public access to foreclosure proceedings around the state. In his response to us, the Chief Justice forcefully articulated the imperative of guaranteeing open access to the state's judicial proceedings: "The courts of Florida belong to the people of Florida. The people of Florida are entitled to know what takes place in the courts of this state. No crisis justifies the administrative suspension of the strong legal presumption that state court proceedings are open to the public." A copy of the Chief Justice's supervisory memorandum, and his accompanying letter to us, are enclosed herewith.

Chief Justice Canady's directive embodied clearly established legal principles guaranteeing open access to court proceedings. The Supreme Court of Florida has held that "both civil and criminal court proceedings in Florida are public events and adhere to the well-established common law right of access to court proceedings and records." *Barron v. Fla. Freedom Newspapers, Inc.*, 531 So. 2d 113, 116 (Fla. 1988); *see also* Fla. R. Jud. Admin. 2.420 (codifying public right of access to records of the judiciary). The protection of public access serves fundamental constitutional values. In particular, the "value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that *anyone* is free to attend gives assurance that established procedures are being followed and that deviations will become known." *Sarasota Herald-Tribune v. State*, 924 So. 2d 8, 12 (Fla. 2d DCA 2005) (quoting *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 508 (1984)).


Limiting public access to court proceedings in the context of foreclosure cases raises especially urgent concerns. As you are aware, the judicial process surrounding foreclosure cases has drawn intense public scrutiny in recent years. This reflects the unusually deep impact of the foreclosure crisis on communities around the state; it also reflects widespread concern over procedural irregularities in foreclosure cases. Against that background, it is absolutely critical that foreclosure proceedings occur in the open. As the Supreme Court of Florida has noted, judicial transparency plays an indispensable role in maintaining "the judicial system's credibility in a free society." *Barron*, 531 So. 2d at 116. That credibility cannot be maintained when access to court proceedings is contingent on the permission of individual judges or bailiffs.

We have no objection, of course, to ordinary courthouse security measures. But conducting foreclosure proceedings in a manner that makes them categorically inaccessible to members of the general public cannot be justified on those grounds. We urge you to confer with your court's personnel and take action to ensure that foreclosure proceedings in Hillsborough County are conducted consistently with Florida's strong guarantee of judicial transparency.


Chief Judge Menendez
November 16, 2011
Page Three

We would be happy to meet with you to discuss this further.

Respectfully,



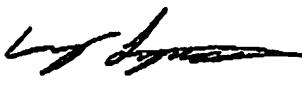
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Barbara Petersen
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Larry Schwartz
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Gil Thelen
Executive Director
Florida Society of News Editors



Randall C. Marshall
Legal Director
The American Civil Liberties Union of Florida

cc: Florida Supreme Court Chief Justice Charles T. Canady



Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CHARLES T. CANADY
CHIEF JUSTICE
BARBARA J. PARIENTE
R. FRED LEWIS
FRANK A. QUINCE
RICKY POLSTON
JORGE LABARGA
JAMES E. C. PERRY
JUSTICES

THOMAS D. HALL
CLERK OF COURT

KEVIN WHITE
ACTING MARSHAL

November 17, 2010

Mr. Sam Morley
General Counsel
The Florida Press Association
336 East College Avenue, Suite 203
Tallahassee, Florida 32301

Mr. Talbot D' Alemberte
Mr. Larry Schwartztol
Mr. Randall Marshall
Mr. James Parker Rhea
Mr. C. Patrick Roberts
Mr. Gil Thelen
Mr. James Denton

Gentlemen:

Thank you for your letter of November 12, 2010, regarding public access to Florida foreclosure proceedings. As you know, judicial ethics rules prohibit me from intervening in actual legal disputes pending or likely to be filed in lower courts, including the possible future litigation you mentioned with regard to an incident in Duval County.

But Canon 3C(3) of the Florida Code of Judicial Conduct expressly says that "[a] judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure . . . the proper performance of their other judicial responsibilities." Under the Florida Constitution, article V, section 2(b), I

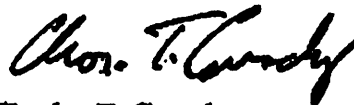
Mr. Sam Morley, et al.
November 17, 2010
Page Two

am the chief administrative officer of the state courts system. I write you solely in that capacity.

The courts of Florida belong to the people of Florida. The people of Florida are entitled to know what takes place in the courts of this state. No crisis justifies the administrative suspension of the strong legal presumption that state court proceedings are open to the public.

Today I have sent to the chief judges of Florida's twenty judicial circuits a supervisory memorandum—a copy of which is enclosed—setting forth my administrative directive on this matter. Under that directive, the chief judges shall ensure that the judges they supervise and the staff who report to those judges, as well as bailiffs and employees of the clerks of court, are not violating the rights of Floridians by improperly closing judicial proceedings to the public. The chief judges shall promptly exercise their administrative and supervisory authority to countermand closures or impediments to access that are inconsistent with Florida law.

Sincerely,



Charles T. Canady

CTC/ps

Enclosure



Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CHARLES T. CANADY
CHIEF JUSTICE
BARBARA J. PARIENTE
R. FRED LEWIS
PEGGY A. QUINCE
RICKY L. POLSTON
JORGE LABARGA
JAMES E.C. PERRY
JUSTICES

THOMAS D. HALL
CLERK OF COURT

KEVIN WHITE
ACTING MARSHAL

MEMORANDUM

TO: Chief Judges of the Circuit Courts

FROM: Chief Justice Charles T. Canady *CTC*

DATE: November 17, 2010

SUBJECT: Mortgage Foreclosure Proceedings

Enclosed for your review and action is a letter dated November 12, 2010, that I received from the Florida Press Association and other organizations. The letter alleges that in some instances, members of the public and/or press either have been advised that they cannot attend mortgage foreclosure proceedings or have been prevented from attending such proceedings.

As the chief administrative officer of the Florida judicial branch, I am directing all chief judges to examine the current practices within their respective circuits to ensure that those practices are entirely consistent with the constitutional, statutory, procedural rule, and case law requirements of this state regarding the presumption that state court proceedings are open to the public.

I also ask that you communicate with all judges and court staff in your circuit to remind them of the relevant provisions relating to open court proceedings. It is important for you to communicate with the clerks of court and bailiffs within your circuit as well to ensure that those offices provide any visitors

**Chief Judges of the Circuit Courts
November 17, 2010
Page Two**

or callers with the correct information about attendance at mortgage foreclosure or other court proceedings.

I would also like to take this opportunity to clarify the Supreme Court's understanding of the goals of the Foreclosure and Economic Recovery Funding Initiative, which was partially funded by the Legislature during the 2010 Legislative Session. I have reviewed Judge John Laurent's memorandum of October 28, 2010, a copy of which is attached and incorporated herein by reference. I agree with his description of the 62-percent goal established by the Trial Court Budget Commission as a means to help measure the court system's progress in the initiative and to document how the appropriation for the foreclosure initiative is being spent. There is no reason why the 62-percent goal should interfere with a judge's ability to adjudicate each case fairly on its merits. Each case must be adjudicated in accordance with the law.

Thank you for your ongoing efforts to appropriately administer and resolve the avalanche of mortgage foreclosure cases that have been overwhelming the court system during the past few years. I recognize that the challenge you face in assuring that these cases are resolved properly is unprecedented. I am confident that with the cooperation of all judges and court staff—along with the tools of the revised rules of court procedure, implementation of the managed mediation program, and the influx of court resources through the Foreclosure and Economic Recovery Funding Initiative—the Florida courts will be able to meet this challenge in a manner that protects and preserves the rights of all parties as well as interested observers.

CTC/LG/dgh

Enclosures

cc: Trial Court Administrators

Exhibit 2

**Ex-parte Hearings Leading To Writ of Bodily Attachment Where Gillespie Was
Not Present And Not Represented By Counsel**

1. Hearing September 28, 2010 on *Order Adjudging Plaintiff Neil J. Gillespie In Contempt* by Judge Martha Cook issued September 30, 2010. Judge Cook¹ claimed in the order that Gillespie left the hearing voluntarily, a claim denied by Gillespie, and by Major James Livingston, Commander of Court Operations Division. Maj. Livingston wrote² Gillespie January 12, 2011 that he was removed from the hearing by Judge Cook for causing a “disturbance”. The “disturbance” was Gillespie providing the Court copy of an ADA/Civil Rights lawsuit filed against Judge Cook that morning, see Gillespie v Thirteenth Judicial Circuit, Florida, et al., case no. 5:10-cv-00503, US District Court, MD Florida, Ocala Division.
2. Evidentiary hearing May 3, 2011 on *Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued*. Gillespie moved April 23, 2011 for a stay of the of the *Order Adjudging Plaintiff Neil J. Gillespie In Contempt*, and writ of bodily attachment, pursuant to Rule 9.310 of the Florida Rules of Appellate Procedure. Mr. Rodems filed *Defendants' Motion To Strike Pro Se Filings By Plaintiff*. Rodems' motion relied on Judge Cook's *Order Prohibiting Plaintiff From Appearing Pro Se* that prohibits Gillespie from filing anything with the Clerk that is not

¹ At the time Judge Cook was a defendant in a federal civil rights and ADA lawsuit brought by Gillespie, Neil Gillespie v Thirteenth Judicial Circuit, Florida, et al., case no. 5:10-cv-00503, US District Court, MD Florida, Ocala Division. The lawsuit is currently pending. Judge Cook refused to be disqualified, but later recused herself upon Gillespie's Verified Emergency Petition for Writ of Prohibition, Motion for Order of Protection, case 2D10-5529 in the 2dDCA.

² See Affidavit of Neil J. Gillespie, April 25, 2011.



signed by a member of The Florida Bar in good standing. On its face the order is a sham; Judge Cook signed the order without a hearing, and nine days prior to the time expired for Gillespie to respond. Judge James D. Arnold denied Gillespie's motion to stay.

3. Because of the foregoing Gillespie sought relief in the 2dDCA April 25, 2011 in 2D10-5197 with a *Appellant's Verified Emergency Motion To Stay Pending Appeal, Motion For Order of Protection, and Motion For Extension of Time*. The Court denied the motion to stay, and denied an order of protection, May 2, 2011.

4. Because of the forgoing Gillespie sought relief in the 2dDCA May 2, 2011 with a *Verified Emergency Petition For Writ of Prohibition, and a Motion For Change Of Venue*, to remove Judge Arnold as trial judge, and to change venue to another circuit. The petition was docketed as 2D11-2127. The Court denied the petition May 6, 2011.

5. Because of the forgoing Gillespie sought relief in the Florida Supreme Court May 3, 2011, with *Emergency Petition For Writ Of Habeas Corpus, and Emergency Petition For Writ Of Prohibition*, case number SC11-858. The Supreme Court denied the petitions May 18, 2011.

Judge Arnold Conducted Ex-Parte Evidentiary Hearing May 3, 2011

6. Judge Arnold conducted an ex parte evidentiary hearing May 3, 2011 on *Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued*. Gillespie did not appear because he feared incarceration and was no longer able to represent himself due to disability. Gillespie scheduled a court reporter and a transcript³ was made. Gillespie notified the Court's Counsel David Rowland that he would not be attending the hearing and served notice of the petitions described in paragraphs 4 and 5. Also pending in the trial court was Gillespie's motion to

³ All the hearings in this case have been transcribed.

disqualify Judge Arnold, who denied the motion as legally insufficient. Mr. Rodems appeared at the hearing, made misrepresentation to the Court, which in turn accepted Rodems' falsehoods as fact. The record also shows Judge Arnold was uninformed about Gillespie's disability. See Plaintiff's Motion For Appointment of Counsel, ADA Accommodation Request, and Memorandum of Law filed May 24, 2011.

7. Judge Arnold ruled as follows May 3, 2011:

Transcript, May 3, 2011, page 10:

15 THE COURT: Okay. The Court is going to issue
16 order to show cause under court order for him to
17 appear to show cause why he should not be held in
18 contempt of court for his failure to abide by Judge
19 Cook's order.
20 My judicial assistant will give you a date for
21 that hearing. We will set the date. He will not
22 set it. Mr. Gillespie will not set it. The Court
23 will set it. We will set the date and we will
24 personally serve him with this order to show cause,
25 and then we will have the hearing.

8. Judge Arnold issued an Order To Show Cause May 4, 2011 to appear before the Honorable James D. Arnold, in chambers on Wednesday, June 1, 2011 at 11:00 a.m. in Room 514 of the Hillsborough County Courthouse, located at 800 E.. Twiggs Street, Tampa, FL. 33602 to show cause why he should not be held in contempt of court for failure to appear for deposition as ordered by this court.

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Laura Rush" <RushL@ficcourts.org>
Cc: "Paul F Hill" <phill@flabar.org>; "Mark P. Stopa" <info@stayinmyhome.com>; "Matt Weidner" <weidner@mattweidnerlaw.com>; "Karin Huffer" <legalabuse@gmail.com>; "Alex Newman" <alexnewman_85@hotmail.com>; "Susan DeMichelle" <susan@demichelle.com>; "David Arthur Walters" <davidarthurwalters@gmail.com>; "Angela V. Woodhull" <angelavwoodhull@yahoo.com>; "Catherine Barbara Chapman" <catherine@guildaylaw.com>
Sent: Monday, November 21, 2011 3:28 PM
Subject: Re: Public Records Request, Hillsborough Court Summary Judgment Scandal
Ms. Rush,

Thank you. I'll look for your reply on a time frame for a response early next week. Enjoy the Thanksgiving holiday.

Sincerely,

Neil J. Gillespie

----- Original Message -----

From: Laura Rush
To: 'Neil Gillespie'
Sent: Monday, November 21, 2011 3:19 PM
Subject: RE: Public Records Request, Hillsborough Court Summary Judgment Scandal

Mr. Gillespie,

I have forwarded your revised, clarified request on to our data office. I cannot give you a time frame for a response until I hear back from that office. Due to the holiday, I anticipate it will be early next week before I have an answer to the questions you've posed below.

Laura Rush

From: Neil Gillespie [mailto:neilgillespie@mfi.net]
Sent: Monday, November 21, 2011 2:14 PM
To: Laura Rush
Cc: Paul F Hill; Mark P. Stopa; Matt Weidner; Karin Huffer; Alex Newman; Susan DeMichelle; David Arthur Walters; Angela V. Woodhull; Catherine Barbara Chapman
Subject: Re: Public Records Request, Hillsborough Court Summary Judgment Scandal

Ms. Rush,

Good afternoon. I don't know what categories of data are kept by the OSCA data office. Perhaps that is a good place to start. The Summary Judgment Scandal pertains to residential mortgage foreclosure cases in the Thirteenth Judicial Circuit, but my interest is larger. My case was dismissed on summary judgment, not in a mortgage foreclosure case, but a civil litigation fraud and contract case.



Does the OSCA have summary judgment data by total cases, or subtotals by specific types of cases, for either the entire circuit, or individual judges in the Thirteenth Judicial Circuit? I am primarily interested in any summary judgment case data for Judge Martha Cook, and how it compares to other judges in the Thirteenth Judicial Circuit, and the entire state. Records identifying judges who preside over residential mortgage foreclosure cases in the Thirteenth Judicial Circuit would be of interest also.

It sounds like gathering this information could take some time, which is understandable. Can you advise me on the time frame involved? Thank you.

Sincerely,

Neil J. Gillespie

----- Original Message -----

From: [Laura Rush](#)

To: 'Neil Gillespie'

Sent: Monday, November 21, 2011 12:58 PM

Subject: RE: Public Records Request, Hillsborough Court Summary Judgment Scandal

Mr. Gillespie,

This e-mail acknowledges receipt of your November 20 public records request. Your request appears to ask for records identifying judges who preside over residential mortgage foreclosure cases in the Thirteenth Judicial Circuit. If that is not an accurate interpretation of your request, please clarify your request. I am checking with OSCA's data office to determine whether any data reports we receive identify individual judges. I will respond to your request after I have heard from that office.

Sincerely,

Laura Rush

General Counsel

Office of the State Courts Administrator

500 South Duval Street

Tallahassee, FL 32399-1900

(850) 488-1824

From: Neil Gillespie [mailto:neilgillespie@mfi.net]

Sent: Sunday, November 20, 2011 6:06 PM

To: Laura Rush

Cc: Paul F Hill; Mark P. Stopa; Matt Weidner; Karin Huffer; Alex Newman; Susan DeMichelle; David Arthur Walters; Angela V. Woodhull; Valerie Tweedie

Subject: Public Records Request, Hillsborough Court Summary Judgment Scandal

Laura Rush, General Counsel

Office of the State Courts Administrator

500 South Duval Street

11/23/2011

Tallahassee, FL 32399-1900

RE: Public Records Request, Hillsborough Court Summary Judgment Scandal

Dear Ms. Rush:

This is a public records request for records showing which judges are behind the Summary Judgment Scandal in Hillsborough County. Thanks to the fine record-keeping by your office, especially the Foreclosure and Economic Status Report, a number of Florida attorneys were able to analyze the data and uncover the Summary Judgment Scandal.

Attorney Mark Stopa wrote October 29, 2011 about the "astronomically higher ratio of summary judgments to dismissals" in his post "Comparing Hillsborough's Dismissal rate to other Florida counties" found here <http://www.stayinmyhome.com/blog/?p=1861> On a related matter, Mark Stopa wrote Judge Martha Cook about her role presiding over foreclosure cases. The July 20, 2011 letter to Judge Cook is attached in PDF. Henry P. Trawick Jr. was quoted as saying "I think she shouldn't hear foreclosure cases," Trawick said "That's what I would do if I had that close of a connection, but perhaps my ethical standards are higher." in a Tampa Tribune story July 21, 2011 by Shannon Behnken, "Critics: Judge with interest in bank shouldn't hear foreclosures" (the 11 comments to this story are interesting too) <http://www2.tbo.com/news/real-estate-news/2011/jul/21/2/critics-judge-with-interest-in-bank-shouldnt-hear--ar-245497/>

Attorney Matt Weidner also noted October 29, 2011 the summary judgment problem, see HILLSBOROUGH FORECLOSURE COURT- Very Disturbing Numbers, a system gone awry. <http://mattweidnerlaw.com/blog/2011/10/hillsborough-county-appealing-every-single-foreclosure-case-thatll-make-the-point/>

Matt Weidner noted "The numbers detailed above are very, very disturbing. They reflect a court system that is out of whack, and I don't like the way the numbers are tilted. These numbers come from the Office of State Court Administrator and they are so far out of line from every other judicial circuit that they warrant high level review from the United States Justice Department or from someone, anyone who has any ability or willingness to stand up and speak for justice, the Rule of Law and basic rights..."

Another serious problem in Hillsborough County are closed hearings, as reported by 4closureFraud, see "Breaking The Law... Again | ACLU, Florida Press Association, First Amendment Foundation Letter to Hillsborough County Chief Judge Menendez "Stop Blocking Citizens from Attending Foreclosure Court" <http://4closurefraud.org/2011/11/18/breaking-the-law-again-aclu-florida-press-association-first-amendment-foundation-letter-to-hillsborough-county-chief-judge-menendez-stop-blocking-citizens-from-attending-foreclosure-court/>

Attached you will find a November 16th letter to Hillsborough Chief Judge Menendez from the Florida Press Association on the problem of closed hearings in Hillsborough County.

So I would like to know which Hillsborough Judges are behind the numbers in the summary judgment scandal. Time is of the essence, I need the information for my Civil Rights and ADA lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no. 5:10-cv-00503, US District Court, Middle District of Florida, Ocala Division. Here is a link to my Response to Order to Show Cause. <http://www.scribd.com/doc/73289127> I may augment the summary judgment issue raised in my response if Judge Cook is shown behind a significant number of the summary judgments. The matter is also pending in the Supreme Court of Florida, case no SC11-1622.

11/23/2011

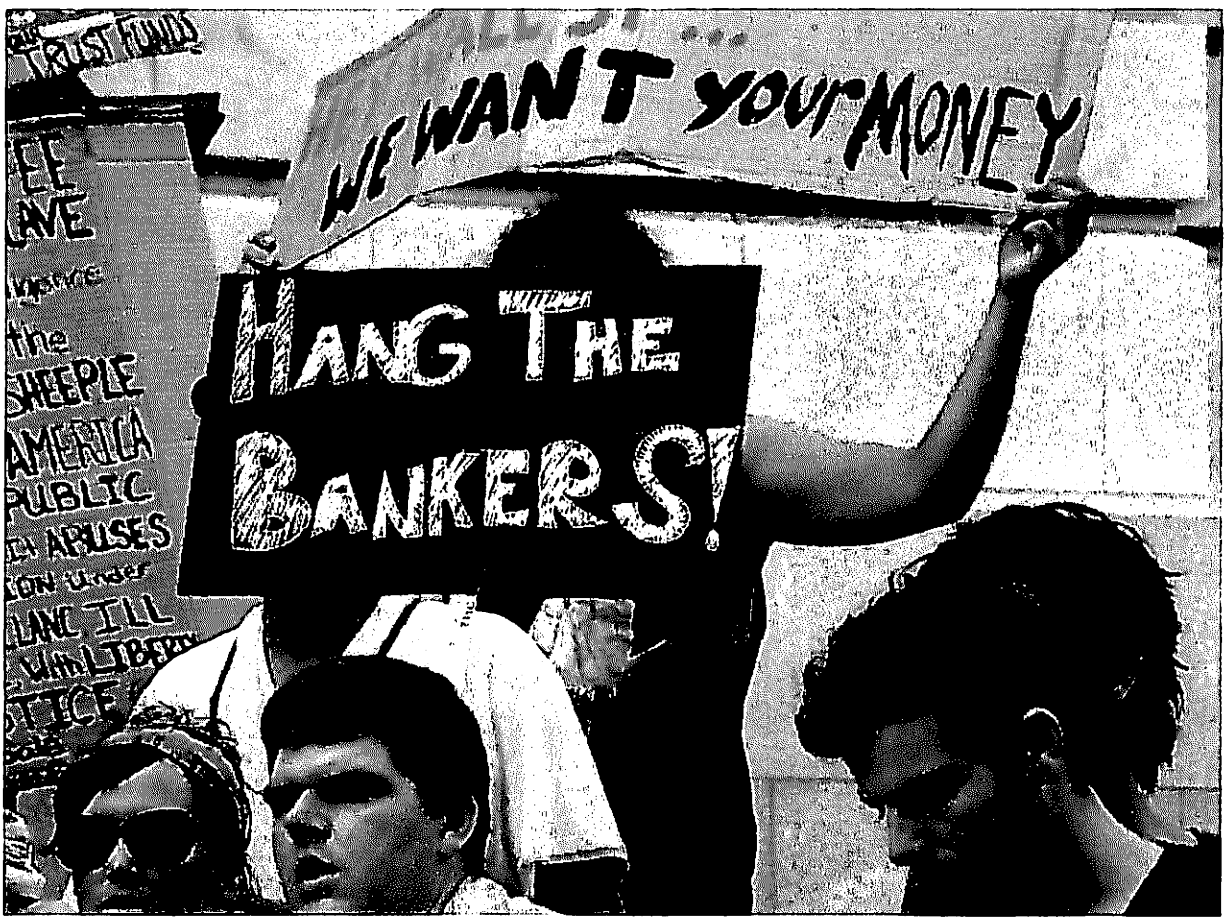
Unfortunately I'm a Hillsborough County three time loser: Bogus summary judgment, by Judge Cook, during an ex parte hearing September 28, 2010. This case has devastated my family, here is a link to the Wrongful Death complaint, Estate of Penelope Gillespie v. Thirteenth Judicial Circuit, Florida, et al. case no 5:11-cv-00539, US District Court, Middle District of Florida, Ocala Division. <http://www.scribd.com/doc/73288821>

In conclusion, I hope Hillsborough County can fix its broken court soon. Below are photos of Occupy Tampa protesters taken October 6, 2011. They look pretty unhappy. Here is a link to my website about the problems in the Hillsborough County Court. <http://yousue.org/13th-judicial-circuit-hillsborough-co-florida/> Thank you.

Sincerely,

Neil J. Gillespie <http://yousue.org/>
8092 SW 115th Loop
Ocala, Florida 34481
Telephone: (352) 854-7807
<http://yousue.org/new-american-revolution/>





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

NEIL J. GILLESPIE,

Plaintiff,

CASE NO.: 05-CA-7205

vs.

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

DIVISION: F

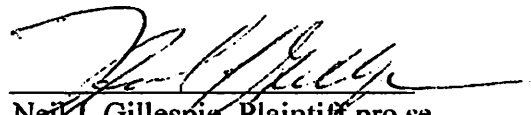
Defendants.

_____ /

PLAINTIFF'S NOTICE OF HEARING

PLEASE TAKE NOTICE that the Plaintiff's Motion For Summary Judgment will be called for a hearing before the Honorable Richard A. Neilsen, Circuit Court Judge, Thirteenth Judicial Circuit, Room 524, 800 East Twiggs Street, Tampa, Florida 33602, on Tuesday, August 1, 2006, at 3:45 p.m. Time Reserved: 30 minutes.

RESPECTFULLY SUBMITTED this 5th day of May, 2006.



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a correct copy of the foregoing has been provided by US Mail to Ryan Christopher Rodems, Attorney at Law, Barker, Rodems & Cook, P.A., Attorneys for Defendants, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602, this 5th day of May, 2006.



Neil J. Gillespie

Neil Gillespie

From: "Chris Rodems" <rodems@barkerrodemsandcook.com>
To: "'Neil Gillespie'" <ngillespie@mfi.net>
Cc: <gomezms@fjud13.org>
Sent: Friday, May 05, 2006 11:34 AM
Subject: RE: hearing date, August 1, 2006

Neil:

The following caselaw holds that a court cannot rule on summary judgment until discovery has been completed: Lubarsky v. Sweden House Properties of Boca Raton, Inc., 673 So.2d 975, 977 (Fla. 4th DCA 1996)(citing Sica v. Sam Caliendo Design, Inc., 623 So.2d 859 (Fla. 4th DCA 1993); UFF DAA, Inc. v. Towne Realty, Inc., 666 So.2d 199 (Fla. 5th DCA 1995). I have not received your discovery responses, nor have I had an opportunity to depose you or Mr. Anthony or several other witnesses. I plan to take your deposition after your motion to dismiss is denied and after the sanctions motion is resolved. If you still wish to prematurely notice your motion for summary judgment, that is your decision; however, please be advised that we will object to it being heard until we have had an opportunity to complete the discovery we need to complete.

Sincerely,

Ryan Christopher Rodems
Barker, Rodems & Cook, P.A.
400 North Ashley Drive, Suite 2100
Tampa, Florida 33602
813/489-1001
E-mail: rodems@barkerrodemsandcook.com

NOTICE: This message (including attachments) is covered by the Electronic Communication Privacy Act, 18 U.S.C. §§ 2510-2521, is intended to be confidential, and is also protected by the attorney-client privilege or other privilege. It is not intended for review or use by third parties or unintended recipients. If you are not the intended recipient, you are requested to delete the data and destroy any physical copies. Any retention, dissemination, distribution, or copying of this communication is strictly prohibited.

From: Neil Gillespie [mailto:ngillespie@mfi.net]
Sent: Friday, May 05, 2006 10:55 AM
To: rodems@barkerrodemsandcook.com
Cc: gomezms@fjud13.org
Subject: hearing date, August 1, 2006

RE: Gillespie v. Barker, Rodems & Cook, 05-CA-7205

May 5, 2006



5/5/2006

Dear Mr. Rodems,

Today I scheduled Plaintiff's Motion for Summary Judgment for August 1, 2006 following your motions set for 2:45pm. I reserved a half hour, to begin at 3:45pm.

Plaintiff's Motion for Rehearing or Amendment of Judgment will be considered by Judge Niesen at his discretion.

The following has already been provided to you in response to Defendants' Motion for Sanctions Pursuant to Section 57.105(1), Florida Statutes, which you have scheduled for August 1, 2006, at 2:45pm:

**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 professional service corporation,

WILLIAM J. COOK,

Defendants.

CASE NO.: 05-CA-7205

RECEIVED

DIVISION: C

MAY 05 2010

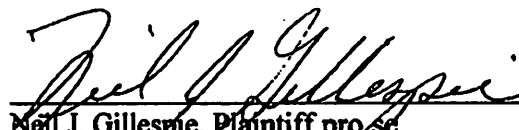
CLERK OF CIRCUIT COURT
HILLSBOROUGH COUNTY, FL

DEMAND FOR TRIAL BY JURY

**MOTION FOR LEAVE TO SUBMIT
PLAINTIFF'S FIRST AMENDED COMPLAINT**

Plaintiff pro se Neil J. Gillespie moves for leave to submit Plaintiff's First Amended Complaint pursuant to Rule 1.190(a), Fla.R.Civ.P. A party may amend a pleading once as a matter of course. Leave of court shall be given freely when justice so requires. A copy of the amended pleading is attached to this motion.

RESPECTFULLY SUBMITTED this 5th day of May, 2010.


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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand to Ryan Christopher Rodems, attorney, Barker, Rodems & Cook, P.A., Attorneys for Defendants, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602, this 5th day of May, 2010.


Neil J. Gillespie

EXHIBIT

6

Gillespie p1 of 2

DR. KARIN HUFFER

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

October 28, 2010

To Whom It May Concern:

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

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

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

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

Gillespie p2 of 2

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

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

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

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

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