

ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE, ATLANTA, GA.

CASE NO.: 12-11028-B

Plaintiffs,

CASE NO.: 12-11213

vs.

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants.

**MOTION TO CONSOLIDATE RELATED APPEALS**

1. Appellants, ESTATE OF PENELOPE GILLESPIE and NEIL J. GILLESPIE, hereby move to consolidate the two above-captioned appeals, which arise from the following related District Court cases and involve related issues.

Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, Florida, et al, District Court Docket No: 5:11-cv-00539-WTH-TBS  
Eleventh Circuit Appeal Number 12-11028-B

Case Style: Neil J. Gillespie v. Thirteenth Judicial Circuit, Florida, et al  
District Court Docket No: 5:10-cv-00503-WTH-TBS  
Eleventh Circuit Appeal Number 12-11213

2. The above related District Court cases involve an issue in an earlier case in this Eleventh Circuit Court of Appeals, Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie v. AMSCOT Corporation, Case No. 01-14761-AA.

Attached to this motion is the following from Case No. 01-14761-AA:

a) Joint Stipulation For Dismissal With Prejudice, with Certificate of Interested Persons, filed November 9, 2001 (Exhibit 1). The Joint Stipulation calls for "each party

bearing its own attorneys' fees and costs". The Certificate of Interested Persons lists the following persons related to this appeal:

Barker, Rodems & Cook, P.A.  
Barker, Chris A., Esq.  
Cook, William J., Esq.  
Gillespie, Neil  
Rodems, Ryan Christopher, Esq.

b) Order of December 7, 2011 (Exhibit 2)

c) Copy of the docket for Case No. 01-14761-AA (Exhibit 3)

3. Barker, Rodems & Cook, P.A., and William J. Cook, Esq., represented me, Neil Gillespie, in the Amscot lawsuit. During the settlement of Amscot, Mr. Cook misrepresented that this Eleventh Circuit Appellate Court awarded \$50,000 to Barker, Rodems & Cook, P.A. The misrepresentation to a claim of \$50,000 in "court-awarded fees and costs" is the basis for the state court action at the heart of both District Court cases, and now this Appeal. See Document 2, District Court Docket No: 5.10-cv-00503-WTH-TBS, Exhibit 3, Plaintiff's First Amended Complaint, and Motion, 05-CA-007205, May-05-2010. The Clerk did not enter Exhibits 1-15 (Doc. 2) to the Complaint (Doc. 1) on the Court's Case Management and Electronic Case Filing ("CM/ECF") system, and it appears those documents are only viewable in person at the Ocala Division, or upon request of the physical case file.

4. As set forth in the Complaint in District Court Docket No: 5.10-cv-00503-WTH-TBS (Doc. 1), this lawsuit is about the misuse and denial of judicial process under the color of law in the Florida state court action Gillespie v. Barker, Rodems & Cook, PA, et al, case no. 05-CA-007205, Thirteenth Judicial Circuit, Florida. The Thirteenth Circuit

deprived me of the right to lawfully adjudicate my case due to the conflict of interest of attorney Ryan Christopher Rodems who unlawfully represented his firm, Barker, Rodems & Cook, PA, against me, a former client, on the same matter as the prior representation, the Amscot lawsuit.

The District Court continued the misuse and denial of judicial process under the color of law when it failed to disqualify (Doc. 8) Mr. Rodems in the federal action pursuant to the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. (Doc. 20). McPartland is a mandatory authority on disqualification in the Middle District of FL since entered June 30, 1995 by Judge Kovachevich. I raised this issue again (among others) in Plaintiff's Response to Order to Show Cause. (Doc. 58).

In McPartland v. ISI Investment Services, Inc., 890 F.Supp. 1029, (US District Court, MD of Florida, Tampa Division) the court held that [1] Under Florida law, attorneys must avoid appearance of professional impropriety, and any doubt is to be resolved in favor of disqualification. [2] To prevail on motion to disqualify counsel, movant must show existence of prior attorney-client relationship and that the matters in pending suit are substantially related to the previous matter or cause of action. [3] In determining whether attorney-client relationship existed, for purposes of disqualification of counsel from later representing opposing party, a long-term or complicated relationship is not required, and court must focus on subjective expectation of client that he is seeking legal advice. [5] For matters in prior representation to be "substantially related" to present representation for purposes of motion to disqualify counsel, matters need only be akin to present action in way reasonable persons would understand as important to the issues involved. [7] Substantial relationship between instant case in which law firm represented defendant and issues in which firm had previously represented plaintiffs created irrebuttable presumption under Florida law that confidential information was disclosed to firm, requiring disqualification. [8] Disqualification of even one attorney from law firm on basis of prior representation of opposing party necessitates disqualification of firm as a whole, under Florida law.

Also see Document 2, District Court Docket No: 5.10-cv-00503-WTH-TBS, Exhibit 4, Emergency Motion to Disqualify Defendants' Counsel RCR & BRC, July 12, 2010. The Clerk did not enter Exhibits 1-15 (Doc. 2) to the Complaint (Doc. 1) on the Court's Case Management and Electronic Case Filing ("CM/ECF") system, and it appears those documents are only viewable in person at the Ocala Division, or upon request of the physical case file.

The District Court failed to lawfully manage the lawsuit as set forth in Plaintiff's Response to Order to Show Cause. (Doc. 58). There was a pending a motion to file an addendum. (Doc. 60). A Notice of Objection contested evidence presented by Rodems, who has no right to represent Barker, Rodems & Cook in this case, see McPartland.

5. Mr. Bauer and his law firm represented me against Mr. Rodems and Barker, Rodems & Cook, P.A. in the state court action. At some point the representation turned to collusion with the opposition. Mr. Bauer has had numerous Bar and client complaints, see Document 15, District Court Docket No: 5:11-cv-00539-WTH-TBS, First Amended Complaint, ¶51, page 21.

6. I am disabled, see Document 36, District Court Docket No: 5.10-cv-00503-WTH-TBS, "Plaintiff Neil J. Gillespie's Notice of Filing "Verified Notice Of Filing Disability Information Of Neil J. Gillespie", filed July 7, 2011. I was denied disability accommodation in the state court action, see the complaint (Doc. 1), and Doc. 5, Doc. 23, Doc. 33, Doc. 35, Doc. 36, Doc. 37, and Doc. 39.

In a related case, Supreme Court of Florida Case No. SC11-1622, see Doc. 61 and Doc. 62 on District Court Docket No: 5:10-cv-00503-WTH-TBS. This petition for writ of mandamus was denied March 12, 2012, making this appeal a last hope for justice.

7. No briefing schedule has yet been issued in either appeal, and I respectfully ask that a single briefing and argument schedule govern the matter as consolidated, using the date of the second appeal as controlling, if not a later date.

### CONCLUSION

For the foregoing reasons, the appeals in No. 12-11028-B and No. 12-11213 should be consolidated.

RESPECTFULLY SUBMITTED March 13, 2012.

  
Neil J. Gillespie, pro se

### Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal Service first class mail March 13, 2012 to the following:

Robert E. O'Neill, US Attorney  
US Attorney's Office  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798

Robert W. Bauer, Esquire  
Law Office of Robert W. Bauer, P.A.  
2815 NW 13<sup>th</sup> Street, Suite 200E  
Gainesville, FL 32609-2865

Ryan C. Rodems, Esquire  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

  
Neil J. Gillespie



IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT  
CASE NO. 01-14761A

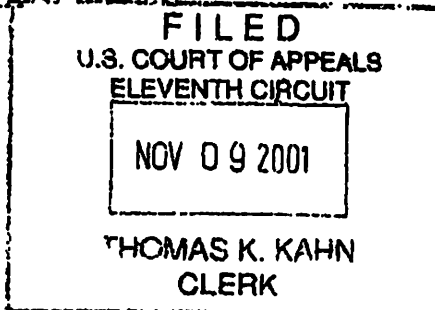
EUGENE R. CLEMENT,  
GAY ANN BLOMEFIELD, and  
NEIL GILLESPIE, individually and  
on behalf of others similarly situated,

Appellants,

v.

AMSCOT CORPORATION,

Appellee.



JOINT STIPULATION FOR DISMISSAL WITH PREJUDICE

The Parties, by and through their undersigned counsel, having amicably resolved this matter, pursuant to Federal Rule of Appellate Procedure 42(b) move for dismissal with prejudice with each party bearing its own attorneys' fees and costs.

RESPECTFULLY SUBMITTED this 6th day of November, 2001.

BARKER, RODEMS & COOK, P.A.

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Shackleford, Farris

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(813) 273-5145 (FAX)  
Attorneys for Appellee



**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, counsel for the Appellants certify that the following persons and entities have an interest in the outcome of this case.

Alpert, Jonathan L., Esq.

Alpert & Ferrentino, P.A.

Amscot Corporation

Anthony, John A., Esq.

Barker, Rodems & Cook, P.A.

Barker, Chris A., Esq.

Blomefield, Gay Ann

Clement, Eugene R.

Cook, William J., Esq.

Gillespie, Neil

Gray, Harris, Robinson, Shackelford, Farrior, P.A.

Lazzara, The Honorable Richard A.

United States District Judge, Middle District of Florida

MacKechnie, Ian

Rodems, Ryan Christopher, Esq.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-14761-AA

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

DEC 07 2001

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

GAY ANN BLOMEFIELD,  
NEIL GILLESPIE,

THOMAS K. KAHN  
CLERK  
Plaintiff-Appellant,

8: 99-CV-2795-T-2C EHS

Plaintiffs-Intervenors-  
Counter-Defendants-Appellants,

versus

AMSCOT CORPORATION,  
A Florida Corporation,

Defendant-Intervenor-Counter  
-Claimant-Appellee.

FILED  
DEC 10 2001  
K. J. ...

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

BEFORE: EDMONDSON and BARKETT, Circuit Judges.

BY THE COURT:

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

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

BY: Joe ...  
DEPUTY CLERK  
ATLANTA, GEORGIA

EXHIBIT  
2

21





(9 of 13)

United States Court of Appeals  
for the Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

**01-14761-AA**  
**Eugene R. Clement v. Amscot Corporation**

**Closed**

**Docket #:** 01-14761-AA

**Short Style:** Eugene R. Clement v. Amscot Corporation

**Docket Date:** 08/23/2001

**Lead Case:**

**Agency:**

**Nature of Suit:** Other: Statutory Actions

**Misc. Type:**

**Clerk:** Brown, Shirley M.

**Clerk Phone:** (404) 335-6170

**District Information**

**Docket #:** 99-02795-CV-T-26 **Judge:** Richard A. Lazzara

**Dkt Date:** 12/08/1999

**District:** Florida-Middle

**NOA Date:** 08/20/2001

**Office:** MFL-Tampa

**Secondary Case Information**

**Docket #:** **Judge:**

**Dkt Date:** //

**Case Relationships**

Docket #	Short Style	Relation	Status
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**Pending Motions**

No Pending Motions





**United States Court of Appeals  
for the Eleventh Circuit**

56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

**01-14761-AA**

**Eugene R. Clement v. Amscot Corporation**

EUGENE R. CLEMENT,

individually and on behalf of others similarly

situated,

Plaintiff-Appellant,

GAY ANN BLOMEFIELD,

NEIL GILLESPIE,

Plaintiffs-Intervenors

Counter-Defendants

Appellants,

versus

(11 of 13)  
**AMSCOT CORPORATION,**

A Florida Corporation,

Defendant-Intervenor

Counter-Claimant

Appellee.



**United States Court OF Appeals  
 FOR the Eleventh Circuit**

56 Forsyth Street, N.W.  
 Atlanta, GA 30303-2289  
 (404) 335-6100

**01-14761-AA**

**Eugene R. Clement v. Amscot Corporation**

Appellant	Appellant Attorney
<p><b>Eugene R. Clement</b>                      Address Not On File  <i>Record Excerpts filed on 10.03.2001</i>  <i>Fees: Paid on 08.20.2001</i></p>	<p><b>William J. Cook</b>                      300 W PLATT ST STE 150                      TAMPA, FL 33606-2299                      (813) 489-1001  <i>No Briefing Information Found.</i></p>
<p><b>Gay Ann Blomefield</b>                      Address Not On File  <i>No Briefing Information Found.</i>  <i>Fees: Paid on 08.20.2001</i></p>	<p><b>William J. Cook</b>                      300 W PLATT ST STE 150                      TAMPA, FL 33606-2299                      (813) 489-1001  <i>No Briefing Information Found.</i></p>
<p><b>Neil Gillespie</b>                      Address Not On File  <i>Appellant Brief Filed filed on 10.03.2001</i>  <i>Fees: Paid on 08.20.2001</i></p>	<p><b>William J. Cook</b>                      300 W PLATT ST STE 150                      TAMPA, FL 33606-2299                      (813) 489-1001  <i>No Briefing Information Found.</i></p>
Appellee	Appellee Attorney
<p><b>Amscot Corporation</b></p>	<p><b>John A. Anthony</b></p>

(12 of 13)

Address Not On File

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 Fax: (813) 273-5145  
*No Briefing Information Found.*

**Initial Service**

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 (813) 273-5000



**United States Court of Appeals  
 for the Eleventh Circuit**

56 Forsyth Street, N.W.  
 Atlanta, GA 30303-2289  
 (404) 335-6100

**01-14761-AA**

**Eugene R. Clement v. Amscot Corporation**

File Date	Entry	Party	Pending
08/20/2001	Fee Status: Paid (08/20/01) for Eugene R. Clement	Eugene R. Clement	No
08/20/2001	Fee Status: Paid (08/20/01) for Gay Ann Blomefield	Gay Ann Blomefield	No
08/20/2001	Fee Status: Paid (08/20/01) for Neil Gillespie	Neil Gillespie	No
08/24/2001	DKT7CIV (Docketing 7) issued. cc: Loesch, Sheryl L. cc: Cook, William J. cc: Anthony, John A.		No
08/24/2001	Briefing Notice Issued		No
09/04/2001	Appearance Form Submitted: William J. Cook	William J. Cook	No
09/04/2001	Transcript Order Form: Appellants- No transcript required		No
09/04/2001	Civil Appeal Statement Form- Appellants		No
09/05/2001	Probable Jurisdiction Noted		No

09/07/2001	Appearance Form Submitted: John A. Anthony	John A. Anthony	No
09/28/2001	Certificate of Readiness		No
10/03/2001	Appellant's Brief Filed: Appellants-Clement, Eugene R., Blomefield, Gay Ann, and Gillespie, Neil (Atty: William J. Cook)	Neil Gillespie	No
10/03/2001	Record Excerpts: Appellant-Clement, Eugene R. (Atty: William J. Cook)	Eugene R. Clement	No
11/09/2001	Joint Stipulation to Dismiss Appeal with Prejudice		No
12/07/2001	The parties joint stipulation for dismissal of this appeal with prejudice, which is construed as a motion to dismiss this appeal with prejudice, with the parties bearing their own costs and attorney fees, is GRANTED(JLE/RB).j		No
12/07/2001	DIS-4 (Dismissal 4 Letter) issued. cc: Cook, William J. cc: Anthony, John A. To: Loesch, Sheryl L.		No
12/07/2001	CASE CLOSED		No

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