

March 22, 2012

The Honorable Anne C. Conway
Chief United States District Judge
U.S. Courthouse
401 West Central Boulevard
Suite 6750
Orlando, Florida 32801-0120

RE: 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

Dear Chief Judge Conway:

Pursuant to 28 U.S.C. § 455, this is a request for the biography of Magistrate Judge David A. Baker who was assigned to the above captioned case from September 28, 2010 until the case was reassigned to Magistrate Judge Thomas B. Smith July 29, 2011.

Magistrate Judge Baker failed to follow mandatory case law on the disqualification of counsel in his Order (Doc. 20) that denied my pro se motion to disqualify (Doc. 8) Ryan Christopher Rodems and Barker, Rodems & Cook, P.A.. Therefore I am concerned that the Judge may have a conflict, bias, or prejudice as set forth in 28 U.S.C. § 455.

The Court also failed to properly manage this 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 Mr. Rodems, who has no right to represent Barker, Rodems & Cook P.A. in this case, see McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995.

Magistrate Judge Baker does not provide a biography on the Court's website. As such I contacted by voice mail November 8, 2011 the chambers of Magistrate Judge Baker as provided on the Court's website for a conflict check. As of today Magistrate Judge Baker has not responded. (Doc. 58, ¶22g, p. 43-44).

In addition, Magistrate Judge Baker is assigned to the Orlando Division. It is unclear how Magistrate Judge Baker could view documents in this case that have not been put on the Court's Case Management and Electronic Case Filing ("CM/ECF") system, such as Doc. 2, which are Exhibits 1-15 to the Complaint (Doc. 1) and my ADA Assessment and Report. It appears these documents are only viewable in person at the Ocala Division. (Ibid.). One such document is my Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Baker, Rodems & Cook, PA submitted July 9, 2010 in the state court action; in this Court the motion is Exhibit 4 (Doc. 2) to the Complaint (Doc. 1), but not viewable on PACER as stated.

You may consider this a request under the federal Freedom of Information Act, or other applicable law, for the biography and/or personnel file of Magistrate Judge Baker.

The failure of the Court to disqualify Mr. Rodems all but ended any chance for a lawful resolution of this matter. At the heart of this lawsuit is Mr. Rodems' conflict and misconduct in a state court action, see the Complaint (Doc. 1) and many other documents filed in this lawsuit, including my ADA Assessment and Report. (Doc. 36).

This case is on appeal to the U.S. Eleventh Circuit Court of Appeals, Case No. 12-11213. Enclosed you will find a courtesy copy of my Motion To Consolidate Related Appeals.

Also enclosed is ruling in a related case, Supreme Court of Florida, Case No. SC11-1622. For my Petition For Writ of Mandamus, see Doc. 62. Also see Doc. 61, my affidavit concerning the representation of attorney Eugene P. Castagliuolo.

The Supreme Court of Florida denied/dismissed my petition in SC11-1622, and I have moved for reconsideration of a single issue, to rescind a "Settlement Agreement And General Mutual Release" dated June 21, 2011 and entered as evidence by Mr. Rodems in the instant case, see Doc. 32 for his notice of assignment of claims/motion for dismissal.

Enclosed you will find courtesy copies of a my motion and addendum in SC11-1622.

Enclosed is list of references provided by Mr. Rodems to the Thirteenth Judicial Circuit JNC in his application for judge. Mr. Rodems was nominated by the JNC March 6, 2012 for consideration by Gov. Scott for a county court vacancy. See enclosed a copy of my letter in opposition to Mr. Rodems for judge, to Mr. Sevi of the General Counsel's office.

Topping the list of references is the Hon. Richard A. Lazzara of this Court's Tampa Division. Next on the list is the Hon. Martha J. Cook, a defendant in this action. Judge Cook was the trial judge in the instant case when the complaint was filed. Mr. Rodems and his law partner William J. Cook both contributed campaign cash to Judge Cook's run for Circuit Court Judge. Mr. Rodems and Judge Cook have a close relationship, as evidenced by her disregard for the rule of law in the state court action to benefit Rodems. See Doc. 22 and Doc. 23 in the instant case that show how Judge Cook knowingly and willfully denied my civil and ADA rights with malice aforethought to benefit Mr. Rodems and his firm.

Apart from this case, Judge Cook is notorious for disregarding the rights of other litigants, see Doc. 58, ¶12 (pp 16-17) for criticism of Judge Cook by a number of legal authorities, including Henry P. Trawick Jr., a Sarasota lawyer and author of Florida's Practice and Procedure.

The Hon. Pat Frank, Hillsborough Clerk of Court, initially refused to obey an Order by Judge Cook preventing me from appearing pro se in state court, see Doc. 38 and Doc 45.

Also see Doc. 45, ¶2 for criticism by attorney Mark Stopa of Judge Cook, and his letter to Judge Cook, attached to Doc. 45 as exhibit 2.

McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995, has been a mandatory authority on disqualification in the Middle District of Florida since entered June 30, 1995 by Judge Kovachevich. Other mandatory authorities on disqualification in the Middle District of Florida include:

U.S. v. Culp, M.D.Fla.1996, 934 F.Supp. 394

In re Skyway Communications Holding Corp. 415 B.R. 859

In re Weinhold, 380 B.R. 848

For more see Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Baker, Rodems & Cook, PA submitted July 9, 2010 in the state court action; in this Court the motion is Exhibit 4 (Doc. 2) to the Complaint (Doc. 1).

Judge Cook unlawfully prevented a hearing on this emergency motion in state court. (Doc. 22 generally, and Doc. 23 specifically ¶2 and Exhibit 2, Affidavit of Neil J. Gillespie, October 28, 2010, *Judge Martha J. Cook falsified an official court record, and unlawfully denied Gillespie due process on the disqualification of Ryan Christopher Rodems as counsel.*

In Armor Screen Corp v. Storm Catcher, Inc., 709 F.Supp.2d 1309, S.D. Florida, the District Court, Kenneth L. Ryskamp, J., adopted report and recommendation of Ann E. Vitunac, United States Magistrate Judge, and disqualified counsel.

Why did Magistrate Judge Baker rule directly on the disqualification of Mr. Rodems, instead of preparing a report and recommendation for U.S. Judge Wm. Terrell Hodges to consider?

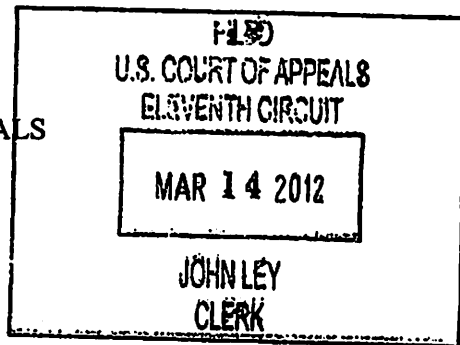
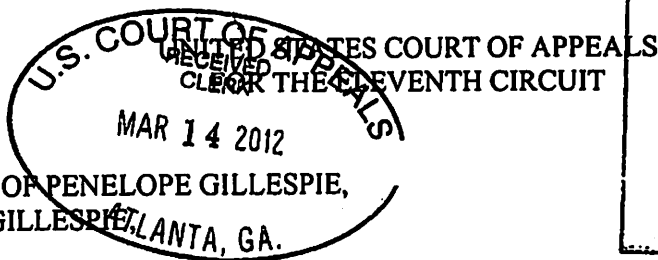
Did Mr. Rodems have a duty under Bar Rule 4-3.3(c) to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel? Thank you.

Sincerely,

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

Telephone: (352) 854-7807
Email: neilgillespie@mfi.net
Website: <http://yousue.org/>
Documents in this matter: <http://yousue.org/litigation/>

cc. Hon. Wm. Terrell Hodges, with enclosures



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 13th 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

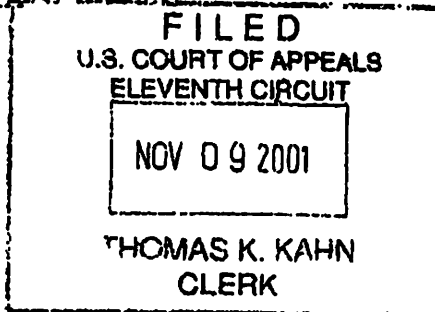
EUGENE R. CLEMENT,
GAY ANN BLOMEFIELD, and
NEIL GILLESPIE, individually and
on behalf of others similarly situated,

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.

WILLIAM J. COOK, ESQUIRE
Florida Bar No. 986194
300 West Platt Street
Suite 150
Tampa, Florida 33606
(813) 489-1001 (TEL)
(813) 489-1008 (FAX)
Attorneys for Appellants

Gray, Harris, Robinson,
Shackleford, Farris

LARA R. FERNANDEZ, ESQUIRE
Florida Bar No. 0088500
501 E. Kennedy Blvd
Suite 1400
Tampa, Florida 33602
(813) 273-5000 (TEL)
(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
Eugene R. Clement Address Not On File <i>Record Excerpts filed on 10.03.2001</i> <i>Fees: Paid on 08.20.2001</i>	William J. Cook 300 W PLATT ST STE 150 TAMPA, FL 33606-2299 (813) 489-1001 <i>No Briefing Information Found.</i>
Gay Ann Blomefield Address Not On File <i>No Briefing Information Found.</i> <i>Fees: Paid on 08.20.2001</i>	William J. Cook 300 W PLATT ST STE 150 TAMPA, FL 33606-2299 (813) 489-1001 <i>No Briefing Information Found.</i>
Neil Gillespie Address Not On File <i>Appellant Brief Filed filed on 10.03.2001</i> <i>Fees: Paid on 08.20.2001</i>	William J. Cook 300 W PLATT ST STE 150 TAMPA, FL 33606-2299 (813) 489-1001 <i>No Briefing Information Found.</i>
Appellee	Appellee Attorney
Amscot Corporation	John A. Anthony

(12 of 13)

Address Not On File

Gray, Harris, Robinson, Shackelford, et al
 501 E. Kennedy Blvd., Suite 1400
 Tampa, FL 33602
 (813) 273-5066
 Fax: (813) 273-5145
No Briefing Information Found.

Initial Service

Lara R. Fernandez
 501 E. Kennedy Blvd., Suite 1400
 P.O. Box 3324
 Tampa, FL 33601-
 (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

PACER Service Center			
Transaction Receipt			
03/28/2006 00:34:15			
PACER Login:	ng0053	Client Code:	
Description:	docket sheet	Case Number:	01-14761-AA
Billable Pages:	4	Cost:	0.32

[Send Comment](#)

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[Search](#)

Supreme Court of Florida

MONDAY, MARCH 12, 2012

CASE NO.: SC11-1622

Lower Tribunal No(s): 2D10-5197,
05-CA-7205

NEIL J. GILLESPIE

vs. BARKER, RODEMS &
COOK, ET AL.

Petitioner(s)

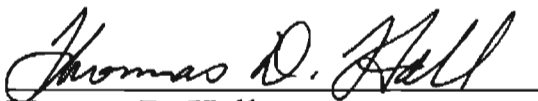
Respondent(s)

The petitioner has filed a petition for writ of mandamus with the Court. To the extent the petitioner seeks a writ of mandamus directed towards the district court, the petition is denied because a writ of mandamus cannot be issued to direct the manner in which a court shall act in the lawful exercise of its jurisdiction. State ex rel. North St. Lucie River Drainage Dist. v. Kanner, 11 So. 2d 889, 890 (Fla. 1943); see also Migliore v. City of Lauderhill, 415 So. 2d 62, 63 (Fla. 4th DCA 1982) (stating that mandamus "is not an appropriate vehicle for review of a merely erroneous decision nor is it proper to mandate the doing (or undoing) of a discretionary act"), approved, 431 So. 2d 986 (Fla. 1983). To the extent the petitioner seeks any additional relief, the petition is dismissed as facially insufficient.

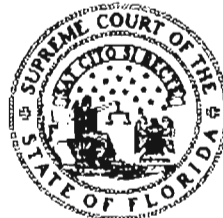
PARIENTE, LEWIS, QUINCE, LABARGA, and PERRY, JJ., concur.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



kb

Served:

NEIL J. GILLESPIE ✓
RYAN CHRISTOPHER RODEMS
HON. PAT FRANK, CLERK
HON. JAMES BIRK HOLD, CLERK

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, ET AL.

Respondents.

**PETITIONER'S MOTION FOR LEAVE TO FILE A PROPER
MOTION FOR RECONSIDERATION ON SINGLE ISSUE**

1. Petitioner Gillespie moves for leave to file a proper motion for reconsideration of this Court's Order of March 12, 2012 on a single issue, to rescind the walk-away settlement agreement attached hereto, further described as "Settlement Agreement And General Mutual Release" dated June 21, 2011. (Exhibit 1). In support Petitioner states:
2. Defense counsel Ryan Christopher Rodems has unlawfully represented his firm and law partner in this action, and should have been disqualified as counsel April 25, 2006 during a motion to disqualify counsel before Judge Richard Nielsen, pursuant to the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. McPartland has been a mandatory authority on disqualification in Tampa since entered June 30, 1995 by Judge Kovachevich. I raised this issue (among others) in Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, P.A., provided to this Court in the Appendix. (A.9)
3. McPartland v. ISI Investment Services, Inc., 890 F.Supp. 1029, (US District Court, MD of Florida, Tampa Division) held as follows:

[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.

4. McPartland relied on a Supreme Court of Florida case, State Farm Mut. Auto. Co. v. K.A.W., 75 So.2d 630, 633 (Fla.1991). Petitioner cited to McPartland seven times in his Emergency Motion To Disqualify Defendants’ Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, P.A. (A.9) as follows:

McPartland, paragraph 22, page 13
McPartland, paragraph 23, page 14
McPartland, paragraph 28, page 17
McPartland, paragraph 50, page 29-30
McPartland, paragraph 53, page 31
McPartland, paragraph 56, page 32
McPartland, paragraph 61, page 34

5. Petitioner established, by Order dated January 13, 2006 (A.11.9), a cause of action for Fraud and Breach of Contract against Barker, Rodems & Cook, P.A. and William J. Cook. (Petition, beginning at paragraph 51). Partners engaged in the practice of law are each responsible for the fraud or negligence of another partner when the later acts within the scope of the ordinary business of an attorney. Smyrna Developers, Inc. v. Bornstein,

177 So.2d 16 (Fla. Dist. Ct. App. 2d Dist. 1965). There is an actual conflict of interest in Mr. Rodems and Barker, Rodems & Cook, PA representing themselves in this case.

6. The lawsuit Gillespie v. Barker, Rodems & Cook, PA, et al, 05-CA-007205 Hillsborough County, FL is “substantially related” to the earlier representation, the Amscot lawsuit, as held in McPartland:

“[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.”

Counsel for Amscot, Charles L. Stutts of Holland & Knight, provided Petitioner a letter to this effect February 13, 2007. Mr. Stutts wrote: (Exhibit 2)

“The U.S. District Court for the Middle District of Florida in 2001 dismissed all claims brought by you, Eugene R. Clement and Gay Ann Blomefield, individually and on behalf of others, against Amscot in connection with its deferred deposit transactions. This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.”

7. The following is from Petitioner’s Emergency Motion To Disqualify Defendants’ Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, P.A. (A.9).

“60. A hearing on Plaintiff’s Motion to Disqualify Counsel was held April 25, 2006. Mr. Rodems presented the following case law in support of his position. The cases are largely irrelevant to this matter and set of facts. Rodems failed to disclose to the court legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel. The hearing was transcribed by Denise L. Bradley, RPR and Notary Public, of Berryhill & Associates, Inc., Court Reporters. The transcript of the hearing was filed with the clerk of the court. Mr. Rodems presented the following case law April 25, 2006:

- a. Frank, Weinberg & Black vs. Effman, 916 So.2d 971
- b. Bochese vs. Town of Ponce Inlet, 267 F. Supp. 2nd 1240
- c. In Re: Jet One Center 310-BR, Bankruptcy Reporter, 649
- d. Transmark USA v State Department of Insurance, 631 So.2d, 1112-1116
- e. Cerillo vs. Highley, 797 So.2d 1288
- f. Singer Island Limited vs. Budget Construction Company, 714 So.2d 651”

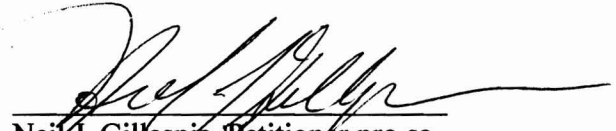
“61. Mr. Rodems violated FL Bar Rule 4-3.3(c) when he failed to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel, in this instance Gillespie pro se. Rodems failed to disclose McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, or U.S. v. Culp, 934 F.Supp. 394, legal authority directly adverse to the position of his client. McPartland and Culp are just two of a number of cases Rodems failed to disclose, see this motion, and the Table of Cases that accompanies this motion. Counsel has a responsibility to fully inform the court on applicable law whether favorable or adverse to position of client so that the court is better able to make a fair and accurate determination of the matter before it. Newberger v. Newberger, 311 So.2d 176. As evidenced by this motion, legal authority directly adverse to the position of Mr. Rodems and BRC was not disclosed to the court by Rodems.”

8. Because of the foregoing, Mr. Rodems and Barker, Rodems & Cook, PA should have been disqualified April 25, 2006. Petitioner had a clear legal right to have his case lawfully adjudicated. In turn the circuit court had an indisputable legal duty to lawfully adjudicate the case. Had the circuit court disqualified Mr. Rodems as required by McPartland this case would have been resolved years ago. But the circuit court did not disqualify Mr. Rodems as required by McPartland. Instead Mr. Rodems prevented the lawful adjudication of this case, made numerous false statements of material fact to the court, failed to cooperate with opposing counsel, and disrupted the tribunal for strategic advantage. As set forth in the Petition, Mr. Rodems made false representations to the court to have an arrest warrant issued for the Petitioner for the purpose of forcing a walk-away settlement agreement in the case, and to force a walk-away settlement agreement in Petitioner’s federal civil rights and ADA disability lawsuit.

WHEREFORE, Petitioner moves for leave to file a proper motion for reconsideration of this Court’s Order of March 12, 2012 on a single issue, to rescind the walk-away settlement agreement attached hereto, further described as “Settlement Agreement And General Mutual Release” dated June 21, 2011. (Exhibit 1). In the

alternative Petitioner moves the Court to rescind the "Settlement Agreement And General Mutual Release" sua sponte as set forth in the Petition, paragraphs 68, 69 and 70, and grant such other and further relief as it deems just and equitable.

RESPECTFULLY SUBMITTED March 19, 2012.


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

Certificate of Service

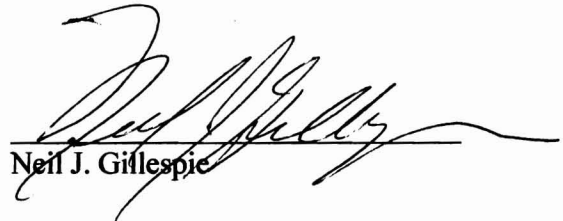
I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal

Service first class mail March 19, 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 13th Street, Suite 200E
Gainesville, FL 32609-2865

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


Neil J. Gillespie

SETTLEMENT AGREEMENT AND GENERAL MUTUAL RELEASE

This settlement agreement and general mutual release, executed on June 21, 2011, by and between Neil J. Gillespie, hereinafter "Party A" and Barker, Rodems & Cook, P.A., its agents and employees, and Chris A. Barker, and William J. Cook, and Ryan Christopher Rodems, hereinafter "Party B".

WHEREAS disputes and differences have arisen between the parties, as detailed in the pleadings and records filed in the case styled Neil J. Gillespie v. Barker, Rodems & Cook, P.A., and William J. Cook, Esquire, Case No. 05CA7205, pending in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida and 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; WHEREAS, the parties wish to fully and finally resolve all differences between them from the beginning of time through June 21, 2011; WHEREAS, the parties represent that none of the claims released herein have been assigned to a third-party;

NOW THEREFORE, in consideration of the assignment to Party "B" of all claims pending or which could have been brought, based on the allegations of Party "A", against any person or entity, without limitation, in Gillespie v. Thirteenth Judicial Circuit, Florida, et al., 5:10-cv-00503-WTH-DAB and dismissal with prejudice of their claims in the case styled Neil J. Gillespie v. Barker, Rodems & Cook, P.A., and William J. Cook, Esquire, Case No. 05CA7205, and dismissal of the appeal, Case No. 2D10-5197, pending in the Second District Court of Appeal, with the parties to bear their own attorneys' fees and costs, and the agreement of Party "B" to record a Satisfaction of Judgment regarding the Final Judgment entered on March 27, 2008, in Neil J. Gillespie v. Barker, Rodems & Cook, P.A., and William J. Cook, Esquire, Case No. 05CA7205:

Each party (the releasing party) hereby releases, without limitation, the other party (the released party) from any and all actions, suits, claims, debts, accounts, bills, bonds, attorneys' fees or costs, judgments, or any claims, without limitation, whether in law or equity, and whether known or unknown, which the releasing party now has or ever had resulting from any actions or omissions by the released party from the beginning of time through June 21, 2011.

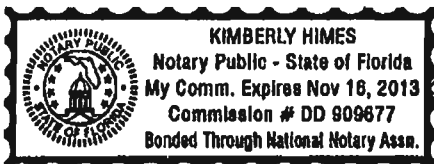
This mutual release shall be acknowledged before a notary public and may be signed in counterpart.

PARTY A

Neil J. Gillespie
NEIL J. GILLESPIE

Neil J. Gillespie
Provided Florida Drivers License
Class E # G 421.630.56.099.0

Signed this 21st day of June, 2011
in Hillsborough County, Florida



Kimberly Himes

PARTY B

Chris A. Barker
CHRIS A. BARKER, individually
and as an officer of and on behalf of
Barker, Rodems & Cook, P.A.

Ryan Christopher Rodems
RYAN CHRISTOPHER RODEMS
individually and as an officer
of and on behalf of Barker, Rodems
& Cook, P.A.

William J. Cook
WILLIAM J. COOK
individually and as an
officer and on behalf
of Barker, Rodems & Cook, P.A.

EXHIBIT
1

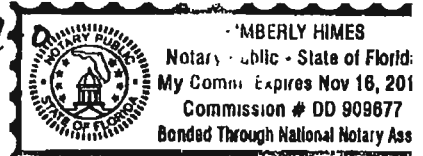
STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21st day of June, 2011, by
NEIL J. GILLESPIE.

Kimberly Himes
Notary Public - State of Florida

Personally Known _____ OR Produced Identification
Type of Identification Produced Florida Driver's License

#: G 421-630-56-099

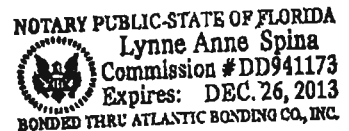


STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21st day of June, 2011, by
WILLIAM J. COOK.

Lynne Anne Spina
Notary Public - State of Florida

Personally Known OR Produced Identification _____
Type of Identification Produced _____



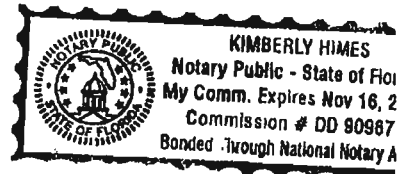
STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21st day of June, 2011, by
RYAN CHRISTOPHER RODEMS.

Kimberly Himes
Notary Public - State of Florida

Personally Known _____ OR Produced Identification
Type of Identification Produced Florida Driver's License

#: R 352-723-66-444-D

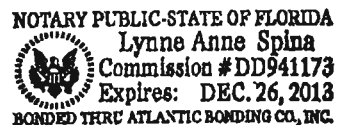


STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21st day of June, 2011,
by CHRIS A. BARKER, individually and as officer for BARKER, RODEMS & COOK, P.A.

Lynne Anne Spina
Notary Public - State of Florida

Personally Known OR Produced Identification _____
Type of Identification Produced _____



Charles L. Stutts
813 227 6466
charles.stutts@hklaw.com

February 13, 2007

VIA FEDEX

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

Re: Gillespie v. Barker, Rodems & Cook, P.A., et al.; Case No. 05-CA-7205

Dear Mr. Gillespie:

Amscot Corporation has asked me to respond to your letter of February 10, 2007 in which you request that Mr. Ian MacKechnie, President of Amscot, agree to his deposition in the above-referenced matter.

The U.S. District Court for the Middle District of Florida in 2001 dismissed all claims brought by you, Eugene R. Clement and Gay Ann Blomefield, individually and on behalf of others, against Amscot in connection with its deferred deposit transactions. This former action is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.

Mr. MacKechnie views the prior litigation as closed, and neither he nor others at Amscot have any interest in voluntarily submitting to deposition or otherwise participating in the pending matter. Accordingly, Mr. MacKechnie must decline your request.

Please contact me if you have questions or care to discuss the matter.

Sincerely yours,

HOLLAND & KNIGHT LLP



Charles L. Stutts

cc: Ian MacKechnie

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, ET AL.

Respondents.

_____ /

ADDENDUM, REQUEST TO TOLL TIME, AMENDED CERTIFICATE OF SERVICE

RE: PETITIONER'S MOTION FOR LEAVE TO FILE A PROPER
MOTION FOR RECONSIDERATION ON SINGLE ISSUE

1. Petitioner Gillespie hereby makes an addendum to his motion served March 19, 2012, for leave to file a proper motion for reconsideration on a single issue, and states:

2. Paragraph 8 of the motion states:

“Because of the foregoing, Mr. Rodems and Barker, Rodems & Cook, PA should have been disqualified April 25, 2006. Petitioner had a clear legal right to have his case lawfully adjudicated. In turn the circuit court had an indisputable legal duty to lawfully adjudicate the case. Had the circuit court disqualified Mr. Rodems as required by McPartland this case would have been resolved years ago. But the circuit court did not disqualify Mr. Rodems as required by McPartland. Instead Mr. Rodems prevented the lawful adjudication of this case, made numerous false statements of material fact to the court, failed to cooperate with opposing counsel, and disrupted the tribunal for strategic advantage. As set forth in the Petition, Mr. Rodems made false representations to the court to have an arrest warrant issued for the Petitioner for the purpose of forcing a walk-away settlement agreement in the case, and to force a walk-away settlement agreement in Petitioner's federal civil rights and ADA disability lawsuit.”

3. Petitioner makes this addendum to the above paragraph 8:

a. Mr. Rodems pursued vexatious litigation against Gillespie in the form of a libel counterclaim in the Circuit Court, case 05-CA-007205, Hillsborough County, as further

described in Plaintiff's First Amended Complaint, Volume 8 of the Appendix. (A.8). Petitioner alleged "Abuse of Process" at Count 11 for a libel counterclaim commenced by Mr. Rodems against the Petitioner, and pursued vexatiously by Mr. Rodems from January 19, 2006 through September 28, 2010, whereupon Rodems voluntarily dismissed the counterclaim without prejudice. Petitioner retained counsel to defend the vexatious litigation brought by Mr. Rodems on behalf of Mr. Cook and Barker, Rodems & Cook, P.A. and incurred over \$30,000 in legal fees by attorney Robert W. Bauer, a referral from the Florida Bar Lawyer Referral Service for libel. Mr. Bauer then encourage Petitioner to reinstate dismissed claims in the litigation.

SEPARATE REQUEST TO TOLL TIME

4. Pursuant to Rule 9.300(d)(10), Petitioner belatedly requests the Court to toll time.

AMENDED CERTIFICATE OF SERVICE

5. Petitioner belatedly served his motion of March 19, 2012, for leave to file a proper motion for reconsideration on a single issue, March 21, 2012 as follows:


HON. JAMES BIRK HOLD, Clerk of the Second District Court of Appeal, 1005 E. Memorial Blvd., P.O. Box 327, Lakeland, FL 33801.

HON. PAT FRANK, Clerk of the Circuit Court, Hillsborough County, Thirteenth Judicial Circuit, P.O. Box 989, Tampa, FL 33601-0989.

HON. JAMES D. ARNOLD, Circuit Court Judge, Hillsborough County, Thirteenth Judicial Circuit, 800 E. Twiggs Street, Room 514, Tampa, Florida 33602.

HON. MARTHA J. COOK, Circuit Court Judge, Hillsborough County, Thirteenth Judicial Circuit, 401 N. Jefferson Street, Room 615- Annex, Tampa, Florida 33602.

RESPECTFULLY SUBMITTED March 22, 2012.


Neil J. Gillespie, Petitioner pro se
8092 SW 15th Loop
Ocala, Florida 34481
Telephone: (352) 854-7807

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal Service first class mail March 22, 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 13th Street, Suite 200E
Gainesville, FL 32609-2865

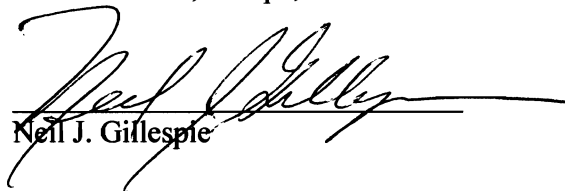
Ryan C. Rodems, Esquire
400 North Ashley Drive, Suite 2100
Tampa, Florida 33602

HON. JAMES BIRK HOLD, Clerk of the Second District Court of Appeal, 1005 E. Memorial Blvd., P.O. Box 327, Lakeland, FL 33801.

HON. PAT FRANK, Clerk of the Circuit Court, Hillsborough County, Thirteenth Judicial Circuit, P.O. Box 989, Tampa, FL 33601-0989.

HON. JAMES D. ARNOLD, Circuit Court Judge, Hillsborough County, Thirteenth Judicial Circuit, 800 E. Twiggs Street, Room 514, Tampa, Florida 33602.

HON. MARTHA J. COOK, Circuit Court Judge, Hillsborough County, Thirteenth Judicial Circuit, 401 N. Jefferson Street, Room 615- Annex, Tampa, Florida 33602.


Neil J. Gillespie

March 21, 2012

Mr. Michael M. Sevi
Office of the General Counsel
Executive Office of the Governor
The Capitol
400 South Monroe Street
Room 209
Tallahassee, Florida 32399

RE: Thirteenth Circuit JNC nominations the Governor for County Judge

Dear Mr. Sevi:

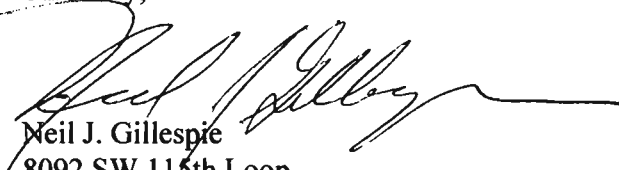
Thank you for your phone call of March 8th in response to my query about making a comment to the Governor on a nomination by the Thirteenth Circuit JNC for the county judge vacancy created by the appointment of Judge Nick Nazaretian to the Circuit Court.

My comment concerns nominee Ryan Christopher Rodems. In my view Mr. Rodems should not be appointed to any judicial position. I am a former client of Barker, Rodems & Cook, P.A., the firm where Mr. Rodems is a partner. I have also been involved in litigation with Mr. Rodems and his firm since 2005. In my view Mr. Rodems is dishonest and otherwise unfit for public service.

Mr. Rodems failed to disclose on his application for judge two cases where he or his firm is a party with an interest, one in the Supreme Court of Florida, Case No. SC11-1622, and one in the United States Eleventh Circuit Court of Appeals, Case No. 12-11213-C.

Enclosed you will find copies of the latest pleadings in each case. I have additional information about Mr. Rodems, which I will provide to your office soon. Thank you.

Sincerely,



Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807
email: neilgillespie@mfi.net

Enclosures

Fax

From: Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Telephone: (352) 854-7807

To: Mr. Michael M. Sevi, Office of General Counsel

Fax: (850) 488-9810

Date: March 21, 2012

Pages: two (2) including this cover page

Dear Mr. Sevi,

Accompanying this fax is my cover letter to you regarding the Thirteenth Circuit JNC nominations to the Governor. Today I mailed the original letter and enclosures to you by USPS Priority Mail, delivery confirmation number 0312 0090 0001 5983 7064.

This communication is addressed to you because I read Mr. Trippe resigned as General Counsel and I do not know if his replacement has been named.

You may also contact me at neilgillespie@mfi.net Thank you.

Sincerely,

Neil J. Gillespie

NOTE: This fax and the accompanying information is privileged and confidential and is intended only for use by the above addressee. If you are not the intended recipient, you are hereby notified that any use, dissemination or copying of this fax and the accompanying communications is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone, collect if necessary, and return the original message to me at the above address via U.S. mail. Thank you for your cooperation.

All calls on home office business telephone extension (352) 854-7807 are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991).

REFERENCES:

54. List the names, addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for judicial position and of whom inquiry may be made by the Commission.

Hon. Richard A. Lazzara, United States District Court, 801 North Florida Avenue, Suite 15-B, Tampa, Florida 33602; 813/301-5350

Hon. Martha J. Cook, Thirteenth Judicial Circuit, 800 East Twiggs Street, Room 511, Tampa, Florida 33602; 813/272-6995

Hon. Steven Scott Stephens, Thirteenth Judicial Circuit, 800 East Twiggs Street, Room 420, Tampa, Florida 33602; 813/272-6992

Hon. Ken Hagan, Hillsborough County Board of County Commissioners, 601 East Kennedy Boulevard, Tampa, Florida 33602; 813/272-5452

Pedro F. Bajo, Jr., Esquire, Bajo Cuva Cohen & Turkel P.A., 100 N Tampa St Ste 1900 Tampa, Florida 33602; 813/443-2199

Shauna Burkes, Esquire, Home Shopping Network, 1 HSN Drive, St. Petersburg, Florida 33729; 727/872-4641

Peter J. Grilli, Esquire, Peter J. Grilli, P.A., 3001 West Azeele Street, Tampa, Florida 33609; 813/874-1002

James O. Simmons, Jr., President Emeritus, Pinellas County Urban League, 208 Excalibur Court, Brandon, Florida 33511; 813/661-7690

Lewis F. Collins, Jr., Esquire, Butler Pappas Weihmuller Katz Craig LLP, 777 South Harbour Island Boulevard, Tampa, Florida 33602-5729; 813/281-1900

Mark A. Alessandroni, P.E., Lakeland Laboratories, LLC, 1910 Harden Blvd, Lakeland Florida 33803; 863/686-4271

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

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.