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

NEIL J. GILLESPIE,

Plaintiff,

vs.

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

Defendants.

_____/

CASE NO.: 05-CA-7205

DIVISION: H

Disqualify Counsel

PLAINTIFF'S MOTION FOR RECONSIDERATION

Plaintiff moves for reconsideration of Judge Nielsen's ruling of April 25, 2006, denying Plaintiff's Motion to Disqualify Counsel, and the Court's subsequent Order Denying Plaintiff's Motion to Disqualify Counsel signed by Judge Nielsen May 12, 2006.

1. Plaintiff moved to disqualify the Honorable Richard A. Nielsen for specifically described prejudice or bias. Judge Nielsen denied Plaintiff's motion to disqualify as untimely filed, but recused himself two days later sua sponte, citing: "THIS CAUSE came before the court upon its own motion, and the court being fully advised in this matter, that it is in the best interest of all parties that this case be assigned to another division." Judge Nielsen directed the Clerk's office to immediately reassign the case.

2. Judge Nielsen signed his Order of Recusal November 22, 2006. The case was assigned by the Clerk of the Court to the Honorable Claudia R. Isom, Division H, effective November 22, 2006.

3. Given the proximity of the Court's Order of Recusal - just two days after Plaintiff moved to disqualify the Judge, it can be reasonably inferred that Judge Nielsen agreed with the substance of Plaintiff's motion to disqualify, and that Judge Nielsen's Order of Recusal be treated as an Order of Disqualification for the purpose of this motion

4. Defendants cannot claim they are prejudiced by this Motion for Reconsideration because Defendants and their attorney[1] are directly responsible for Judge Nielsen's recusal. Defendants' lawyer, Ryan Christopher Rodems, was shown to have committed perjury before the Court in order to gain favor with Judge Nielsen, who in turn relied upon Mr. Rodems bold-faced lies that created the specifically described prejudice or bias of the Judge against Plaintiff.

5. The matters of law and fact to be relied upon as grounds for the modification or vacation of the order are the following:

(a). Defense counsel has a direct conflict of interest with Plaintiff. Defense counsel is the Defendant in this lawsuit and is being sued by a former client for fraud and breach of contract. The contract is attached to the complaint as exhibit 1. Defendants and Plaintiff entered into a representation contract that Defendants are now trying to disavow. Defendants formerly represented Plaintiff's interest in the contract. On January 13, 2006, the Court found that Plaintiff stated a cause of action against Defendants for breach of that contract and Defendants accompanying fraud.

(i) Rule 4-1.9(a), Rules Regulating the Florida Bar, states that a lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same of a substantially related matter in which that person's interests are materially

adverse to the interest of the former client unless the former client consents after consultation. In the instant case, Defendants represented Plaintiff's interest in the contract beginning November 3, 2000, when it was signed. Now with the commencement of this lawsuit, Defendants are representing their interest in the contract, and taking a position materially adverse to Plaintiff, their former client. This is what *West's Florida Statutes Annotated* states under Comment (Vol. 35, pp. 354-355): "After termination of a client-lawyer relationship, a lawyer may not represent another client except in conformity with this rule. The principles in Rule 4-1.9 determine whether the interests of the present and former client are adverse. Thus, a lawyer could not properly seek to rescind on behalf of a new client a contract drafted on behalf of the former client." (underline added). "When a lawyer has been directly involved a specific transaction, subsequent representation of other clients with materially adverse interests clearly is prohibited." (underline added). The contract between Plaintiff and Defendants is a specific transaction directly involving Defendants who now have materially adverse interests. With regard to an opposing party's raising a question of conflict of interest see comment to rule 4-1.7, which states that a lawyer ordinarily may not act as advocate against a person the lawyer represents in some other matter, even if it is wholly unrelated. (p. 330). As in the instant case, if the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advise. (pp. 330-331). And a suit charging fraud[2] entails conflict to a degree not involved in a suit for a declaratory judgment concerning statutory interpretation. (p. 331). Resolving questions of conflict of

[1] Defendants and their lawyer are one-in-the-same; a law firm representing itself against a suit brought by a former client for fraud and breach of contract.
[2] The Court found a cause of action for fraud against Defendants in the instant case.

interest is primarily the responsibility of the lawyer undertaking the representation, Mr. Rodems in this case. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility. (P. 332). Apparently Judge Nielsen did not understand his duty relative to the facts and the law on this point, and his error must be reversed in the interest of justice. Where the conflict is such as clearly to call into question the fair or efficient administration of justice, opposing counsel may properly raise the question. (p. 332). Thus Plaintiff pro se may properly raise the question of disqualification, because Mr. Rodems' presence in the litigation calls into question the fair and efficient administration of justice, particularly when Mr. Rodems will commit perjury before the court to gain an advantage for his own law firm, a defendant in this case. Finally, Rule 4-1.10, the Imputed disqualification general rule, subsection (a) states that while lawyers are associated in a firm, none of them shall knowingly represent a client when any 1 of them practicing alone would be prohibited from doing so by rule 4-1.7, 4-1.8(c), 4-1.9, or 4-2.2. This rule is especially valid in the instant case because Defendant Barker, Rodems & Cook, P.A., is a small, three lawyer firm, and the rule of imputed disqualification stated in subdivision (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially 1 lawyer for purposes of the rules governing loyalty to the client or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Plaintiff's personal confidential information is also at stake in this motion to disqualify. Preserving confidentiality is a question of access to information. Access to information, in turn, is essentially a question of fact in particular circumstances, aided by inferences,

deductions, or working presumptions that reasonably may be made about the way in which lawyers work together. A lawyer may have general access to files of all clients of a law firm and may regularly participate in discussions of their affairs; it should be inferred that such a lawyer in fact is privy to all information about all the firm's clients. The following paragraph 5(b) illustrates how Plaintiff's personal information is freely discussed among Mr. Barker, Mr. Rodems and Mr. Cook, and probably their support staff too, and this is another basis for disqualification.

(b). An attorney can be disqualified if he is opposing a former client from whom he received confidential information related to the pending action or if the attorney had access to information in the prior representation that would prejudice the former client in the subsequent representation. In the instant case Defendant Barker, Rodems & Cook, P.A. has threatened to use such information to the disadvantage Plaintiff. On March 3, 2006, Ryan Christopher Rodems telephoned Plaintiff at his home and issued the following threat to use information learned from its prior representation of Plaintiff to Plaintiff's disadvantage: This is what Mr. Rodems said, taken from a transcript of the conversation:

> MR. RODEMS: Didn't you at one time purchase a car so that you could get the cash rebate to get some dental work done? We're going to get to the discovery, anyhow, so just tell me, did that really happen?
>
> MR. GILLESPIE: What?
>
> MR. RODEMS: Did you purchase a car so that you could get the cash rebate to get some dental work done?
>
> MR. GILLESPIE: Listen, this is why you need to be disqualified.

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

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

MR. RODEMS: Well. you know, see that's --

MR. GILLESPIE: If it is -- if it's a fact, anyway.

MR. RODEMS: You need to study the rules and regulations of the Florida Bar because when you make --

MR. GILLESPIE: I think, I think I bought a car so I would have something to drive. I don't know why you buy cars, but that's why I bought it.

MR. RODEMS: Well --

MR. GILLESPIE: If it had some other benefits, that's different.

MR. RODEMS: I understand that car was repossessed shortly after you bought it so --

MR. GILLESPIE: No, it wasn't repossessed.

MR. RODMES: Okay. Well, then you can probably drive that down to the hearing then on the 28th.

MR. GILLESPIE: No, it was voluntarily turned in because after 911 attack the job that I was in dried up.

(i) Rule 4-1.9(b), Rules Regulating the Florida Bar, states that a lawyer who has formerly represented a client in a matter shall not thereafter use information relating to the representation to the disadvantage of the former client. (relevant portion). In the instant

case Mr. Rodems has announced that Defendants' intend to use confidential information acquired in the previous representation of Plaintiff to his disadvantage in this lawsuit.

(c). Ryan Christopher Rodems as counsel for Defendants brought a frivolous libel counterclaim against Plaintiff in violation of Rule 4-3.1, Rules Regulating the Florida Bar. Defendants Counterclaim for Libel, Counts I and II, served January 19, 2006, was taken primarily for the purpose of unreasonable delay and retaliation against Plaintiff for suing his former lawyers. Defendants are notorious in the Tampa legal community for engaging in antics which include throwing a cup of coffee in the face of their opponents' counsel during a mediation[3], and claiming that the other side engaged in criminal extortion against them[4]. Defendants' counterclaim states that Plaintiff engaged in criminal extortion against them, paragraph 67. (Also in Paragraph 57, affirmative defenses, contained in the same document, Answers, Affirmative Defenses and Counterclaim). About the time Plaintiff retained the law firm Alpert, Barker, Rodems, Ferrentino & Cook, P.A., the St. Petersburg Times reported that Jonathan Alpert threw a 20 ounce cup of coffee in the face of attorney Arnold Levine during mediation in a season ticket holder dispute. Alpert, Barker, Rodems, Ferrentino & Cook, P.A., represented the Bucs' fans, and Arnold Levine represented the Tampa Bay Buccaneers. According to stories published in the St. Petersburg Times, Alpert was ranting and raving when he threw a 20 ounce cup of coffee in the face of Levine, who then sued Alpert for civil damages and filed a battery complaint with Tampa Police. The St. Petersburg Times also reported that Jonathan Alpert announced in court that he had asked police to investigate "threats and/or extortion" by the Bucs' lawyer Arnold Levine. Tampa police detectives reviewed the extortion complaint,

which named Levine, Bucs general manager Rich McKay and Edward and Bryan Glazer. So this tactic is Defendants' modus operandi, except Mr. Rodems did not report Plaintiff's "extortion" to law enforcement. Furthermore, on March 7, 2006, Plaintiff offered his surrender to Mark Ober, but the State Attorney has not replied. Plaintiff contacted the Florida Bar about Defendants accusation, and it does not agree. The Director of Lawyer Regulation, Kenneth Lawrence Marvin, wrote Plaintiff that "Those questions involve a legal conclusion of criminal law and I am not in a position to answer them." Defendants are not criminal law experts either. Mr. Marvin also provided Plaintiff with a copy of a Florida Supreme Court case Tobkin v. Jarboe, 710 So.2d 975 (1998), which held that an individual who files a complaint against an attorney and makes no public announcement of the complaint is afforded absolute immunity from a defamation action by complained-against attorney. In the instant case, Plaintiff made no public announcement and in fact allowed the grievance procedure to run its natural course. The letter Plaintiff purportedly wrote to Amscot is dated after the conclusion of the grievance procedure, and announces that Mr. Cook prevailed, and thus did not do anything wrong. Also, Defendants' counterclaim for libel will not succeed given the limited distribution and privileged nature of the publication complained of. See e.g. Nodar v. Galbreath, 462 So.2d 803 (Fla. 1984).

(d). Mr. Rodems lack of candor toward the Court is a clear violation of Rule 4-3.3, Rules regulating the Florida Bar. Mr. Rodems knowing made a false statement of material fact to the Court in violation of Rule 4-3.3(a)(1). On March 6, 2006, Mr. Rodems filed Defendants' Verified Request For Bailiff And For Sanctions, where he swore under oath that Plaintiff was going to violently assault him in Judge Nielsen's chambers on April

[3] St. Petersburg Times, June 6, 2000, "Attorney's suit says he received coffee in the face"

25, 2006. But Mr. Rodems stands impeached by a transcript of the conversation during which the purported threat was made. In his motion, Mr. Rodems told the Court that Plaintiff threatened him during a telephone call on March 3, 2006. This is what Mr. Rodems wrote in paragraph 5:

> "At this point in the conversation, Plaintiff stated – and this is an exact quote – "I am going to slam you up against the wall in Judge Nielsen's chambers." Quite alarmed, I paused and said "are you threatening me physically or did you mean that metaphorically?" Plaintiff said "metaphorically," but his voice was full of anger."

Mr. Rodems invoked the name of the of the Honorable Richard A. Nielsen in the threat Plaintiff allegedly made against him. Mr. Rodems did this in a calculated effort to prejudice the Court against Plaintiff. Mr. Rodems used his position as an Officer of the Court to lend credibility to his verified accusation against Plaintiff. Mr. Rodems invoked the name of the Judge Nielsen to make the Court itself fearful of a violent attack from Plaintiff. This is what Mr. Rodems wrote:

> "I am concerned that Plaintiff may become violent if additional hearings do not resolve favorably for him, and I request that the Court have a bailiff available at any future hearings. In over thirteen years of practicing law, I have had only one other occasion wherein I was threatened in a matter that made me fear for my physical safety, and that case also involved a pro se party."

[4] St. Petersburg Times, June 10, 2000, "Bucs accused of extortion"

Mr. Rodems then asked the Court to punish Plaintiff for his alleged threat, and to have a bailiff present in order to prevent Plaintiff from violently attacking Mr. Rodems in Judge Nielsen's chambers, implying that a violent attack in Judge Nielsen's chambers would most certainly injure Judge Nielsen due to the close proximity of Plaintiff to Judge Nielsen. This is what Mr. Rodems wrote:

> "Defendants request that the Court enter an Order sanctioning Plaintiff for the threatening comment, as detailed above, and Order Plaintiff to refrain from threatening acts of violence."

Mr. Rodems then wrote: "WHEREFORE, Defendants request a bailiff at all future hearings and that Plaintiff be sanctioned appropriately." Mr. Rodems then verified the pleadings with the following statement:

> "I swear under penalty of perjury that the statements made in this motion are true and accurate and that the quotes attributed to Neil J. Gillespie are true and accurate. RESPECTFULLY SUBMITTED this 6th day of March, 2006. RYAN CHRISTOPHER RODEMS, ESQUIRE" and the verification contained Mr. Rodems' signature.

Mr. Rodems' verified request for bailiff and sanctions was notarized by Lynne Anne Spina, a notary public employed by Mr. Rodems at his law firm. Defendants' Verified Request For Bailiff And For Sanctions submitted by Mr. Rodems was false and misleading, and Mr. Rodems committed perjury regarding the "exact quote" attributed to Neil J. Gillespie. Plaintiff responded to Mr. Rodems' false, misleading and perjurious statements in Plaintiff's Verified Response To Defendants' Verified Request For Bailiff And For Sanctions, And To Mr. Rodems' Perjury, and Plaintiff's Motion For An Order Of

Protection, submitted to the Court on March 14, 2006. In the preceding document, Plaintiff described to the Court Mr. Rodems' misconduct, including:

Mr. Rodems' failure to communicate with Plaintiff about procedural matters;

Mr. Rodems' baiting, taunts, threats and intimidation directed at Plaintiff;

Mr. Rodems' perjury before the Court; and

Defendants' ongoing effort to criminalize Plaintiff's lawful behavior.

The aforementioned Plaintiff's Verified Response To Defendants' Verified Request For Bailiff And For Sanctions, And To Mr. Rodems' Perjury, and Plaintiff's Motion For An Order Of Protection was scheduled for a hearing on April 25, 2006, but the Court refused to hear either Plaintiff's Verified Response or Plaintiff's Motion for an Order of Protection, even though both contained information relevant to the disqualification of Mr. Rodems as counsel for Defendants. (Transcript, April 25, 2006, beginning on page 12, line 2). In fact, Defendants' Verified Request For Bailiff And For Sanctions, submitted and verified by Mr. Rodems, was false and misleading, and Mr. Rodems committed perjury regarding the "exact quote" attributed to Neil J. Gillespie. Mr. Rodems' defamation aggravated Plaintiff's disability. On March 3, 2006, Mr. Rodems telephoned Plaintiff at his home in Ocala, Florida, and issued several threats. Mr. Rodems knows Plaintiff suffers from a disability from his law firm's prior representation of Plaintiff. On March 3, 2006, Mr. Rodems insulted Plaintiff. (Transcript, page 7, line 21). Then Mr. Rodems threatened Plaintiff and said "I mean, it was kind of bizarre that you would even send that letter, but you did, so now you will have to pay for that." (Transcript, page 9, line 1). Mr. Rodems continued his threats, insults, and taunts until Plaintiff spoke metaphorically and said he would "slam him" on the law. This is Plaintiff's exact quote: "So listen you little,

whatever, you raise anything you want, I will see you on the 25th and I will slam you against the wall like I did before." (Referring to Plaintiff's legal victory over Mr. Rodems motion to dismiss and strike). (Transcript, page 11, line 3). Mr. Rodems then falsely presented this information to the Court in Defendants' Verified Request For Bailiff And For Sanctions, submitted March 6, 2006. Mr. Rodems stated, under oath, that this is the exact quote attributable to Plaintiff: "I am going to slam you up against the wall in Judge Nielsen's chambers." Plaintiff did not say "in Judge Nielsen's chambers" but in fact Plaintiff said "like I did before." These are two very different statements. Ryan Christopher Rodems lied to the Court to again an advantage. The hearing before Judge Nielsen on April 25, 2006 began with Mr. Rodems discussing his request for a bailiff to be present. This is what Mr. Rodems told the Court:

> MR. RODEMS: The fourth motion that we filed had to do with a request for a bailiff to be present. We didn't notice that for hearing, but obviously we have a deputy here. So that I don't know that that necessarily needs to come up. It was not noticed for hearing today, but we can take it up if you want to. (Transcript, April 25, 2006, page 1, lines 15-20).

And the Court responded:

> THE COURT: I agree. And as for the request for bailiff, my procedure is on any case in which there is a pro se party, a bailiff is present. So just for future reference you do not have to submit a request. And since it's not in the form of a motion, I don't think it needs a ruling. All right. (Transcript, April 25, 2006, beginning page 1, line 24).

And during the hearing, Mr. Rodems stated that everything he represented to the court has been accurate. This is what Mr. Rodems said:

> "His final reason for trying to disqualify me is he said that I lack candor, which he cites no case law to that[5]. And I would assert before the Court, as an officer of the court, that everything that I've represented to the court has been accurate." (Transcript, April 25, 2006, page 12, beginning line 2).

Apparently the Court needs case law before it can find that a lying lawyer should be disqualified. This is what the Court found, without taking any evidence:

> THE COURT: As for the grounds based upon lack of candor, I don't find a proper basis for that at this time. The allegations that you have made with respect to allegations Mr. Rodems may have made seems to me to fall within the litigation privilege. And so that is denied as well. (Transcript, April 25, 2006, beginning page 14, line 21).

Plaintiff then asked the Court to consider Plaintiff's Motion for an Order of Protection which discussed Mr. Rodems' lack of candor more thoroughly. Plaintiff said: (Transcript, April 25, 2006, beginning page 15, line 2).

> MR. GILLESPIE: Thank you, Judge. I don't think we discussed whether we were going to hear my motion for an order of protection. I trust you're

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[5] Florida caselaw prohibits lawyers from presenting false testimony or evidence. *Kneale v. Williams, 30 So. 2d 284 (Fla. 1947)*, states that perpetration of a fraud is outside the scope of the professional duty of an attorney and no privilege attaches to communication between an attorney and a client with respect to transactions constituting the making of a false claim or the perpetration of a fraud. *Dodd v. The Florida Bar, 118 So2d 17 (Fla. 1960)*, reminds us that "the courts are ... dependent on members of the bar to ... present the true facts of each cause ... to enable the judge or the jury to [decide the facts] to which the law may be applied. When an attorney ... allows false testimony ... [the attorney] ... makes it impossible for the scales [of justice] to balance." See *The Fla. Bar v. Agar*, 394 So.2d 405 (Fla. 1981), and *The Fla. Bar v. Simons,* 391 So. 2d 684 (Fla. 1980).

in receipt of that.

THE COURT: I don't know about that one. I've read several motions. Yes, I did see that.

MR. GILLESPIE: That goes into the candor issue a little more thoroughly.

MR. RODEMS: Just a second, Your Honor. If I could have a moment to find that particular motion.

MR. GILLESPIE: It's plaintiff's verified response to defendant's verified request for bailiff and for sanctions, and plaintiff's motion for an order of protection. They're both contained in the same document.

MR. RODEMS: Your Honor, if I might suggest. The motion related to the motion to dismiss our counterclaim was -- we noticed these hearings first, and since we only have 45 minutes, I would suggest that it would be appropriate if we could go to the substantive motion.

THE COURT: Well, I agree. Mr. Gillespie, since your motion was quite late in the process, an add-on, if you will, to the response to the motion or the request for the bailiff, I'll defer on that and go back to the order we were discussing. So the disqualification is denied.

The hearing before Judge Nielsen on June 28, 2006 brought more false statements from Mr. Rodems. This is what Mr. Rodems said:

MR. RODEMS: All right. First of all, Judge, this continued allegation by Mr. Gillespie that there's been a threat against him, there's been no threat against him; he is the one that threatened me when we had a telephone conversation and he told me he was going to slam me up against your

> hearing chambers wall. That's never been followed, but he continues to repeat it in every pleading and then, you know, the idea is that, I guess, if you've got judicial immunity from what you say – but the bottom line is, is that's there's been nothing but cordial behavior on our part. (Transcript, June 28, 2006, page 11, lines 11-22).

Mr. Rodems statement to the court that "there's been nothing but cordial behavior on our part" is impeached by the transcript of his phone call to Plaintiff on March 3, 2006. Mr. Rodems repeatedly lied to the Court with impunity, to the determinate of Plaintiff.

(e). Mr. Rodems also violated Rule 4-3.5, Rules Regulating the Florida Bar, Impartiality and Decorum of the Tribunal. Following the April 25, 2006 hearing, Mr. Rodems lay in wait for Plaintiff in the area outside the judges chambers. Mr. Rodems waited until Plaintiff was leaving, and began taunting him about his long ride back home to Ocala, trying to engage Plaintiff in an altercation in the courthouse. At the conclusion of the June 28, 2006 hearing, Plaintiff asked the Court not to permitted Mr. Rodems to wait outside the Court to taunt him again. The Court responded with sarcasm: "Well, you can stay next to my bailiff until he goes home and then you can decide what you want to do, sir." (Transcript, June 28, 2006, page 21, line 25). This told Plaintiff that he may not receive fair treatment from the Court. Actually, the bailiff, L.A. Walker, rose to the occasion and escorted Plaintiff out of the building in a professional manner. The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. Mr. Rodems has abused his position and must be disqualified.

(f). Ryan Christopher Rodems violated Rule 4-3.4, Rules Regulating the Florida Bar, Fairness to Opposing Party and Counsel. Rule 4-3.4 states, A lawyer shall not: (g) present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter. As previously stated in paragraph 5(c), Defendants' counterclaim states that Plaintiff engaged in criminal extortion against them, paragraph 67. (Also in Paragraph 57, affirmative defenses, contained in the same document, Answers, Affirmative Defenses and Counterclaim). Defendants are notorious in the Tampa legal community for engaging in antics which include claiming that the other side engaged in criminal extortion against them. So this tactic is Defendants' modus operandi, and the Court should stop this practice and disqualify Mr. Rodems. Furthermore, on March 7, 2006, Plaintiff offered to surrender to Mark Ober, on the felony crime of extortion, but the State Attorney has not replied. Plaintiff contacted the Florida Bar about Defendants accusation, and it does not agree either. The Director of Lawyer Regulation, Kenneth Lawrence Marvin, wrote Plaintiff that "Those questions involve a legal conclusion of criminal law and I am not in a position to answer them."

(g). Ryan Christopher Rodems has repeatedly failed to comply with the Hillsborough County Standards of Professional Courtesy, as follows. This list is representative, not conclusive, and matters already complained about above are not repeated here or greatly limited for the sake of brevity:

(i) Extensions. Mr. Rodems failed to grant Plaintiff an extension for initial discovery responses, even though Plaintiff's letter of April 29, 2006 was a first request.

(ii) Communications with Adversaries. Mr. Rodems has called Plaintiff at home to threaten and intimidate him, more full fully described above.

(iii) Document Demands. Mr. Rodems has made unreasonable document demands to harass or embarrass Plaintiff, and to impose an inordinate burden or expense in responding. Mr. Rodems has requested documents from Plaintiff that he would not provide when the same request was sent to his client. Mr. Rodems' request for production to Plaintiff contained 23 demands; 28 with subparts. When the same or equivalent document requests were sent to Defendants, Mr. Rodems objected to 16 of the requests, or 21 with subparts, and improperly answered "previously produced" on 2 other demands.

(iv) Interrogatories. Mr. Rodems has sent improper interrogatories to harass or embarrass Plaintiff, and to impose an inordinate burden or expense in responding. For example, Mr. Rodems sent 12 interrogatories to Plaintiff, but when Plaintiff sent the same interrogatories to Defendant Cook, Mr. Rodems objected to five of the interrogatories, answered three incompletely, and answered four in the negative.

(v) Trial, Conduct and Courtroom Decorum. Mr. Rodems refuses to use Plaintiff's surname when addressing him on the telephone or in letters. Plaintiff told Mr. Rodems that they are not on first name basis, but Mr. Rodems refuses to honor Plaintiff's request to be addressed as "Mr. Gillespie" in letters or during phone calls; Mr. Rodems calls Plaintiff by his first name, "Neil" and begins letters to Plaintiff "Dear Neil" even after Plaintiff objected. Following the April 25, 2006 hearing, Mr. Rodems lay in wait for Plaintiff in the area outside the judges chambers. Mr. Rodems waited until Plaintiff was leaving, and began taunting him about his long ride back home to Ocala, trying to engage Plaintiff in an altercation in the courthouse.

(vi) The Second District Court of Appeal, Rule 9, Supplemental Authority states that a lawyer must notify the opposing party of the full citation BEFORE oral argument

and file with the court. This should be done, except in exceptional circumstances, early enough for opposing counsel to be prepared to respond to the supplemental authority at oral argument. While Plaintiff could not find a similar rule in the Hillsborough County Standards of Professional Courtesy, it appears to be the custom, yet Mr. Rodems does not notify Plaintiff of the full citation of case law prior to oral argument of motions.

WHEREFORE, Plaintiff moves for reconsideration, and disqualification of Ryan Christopher Rodems and Barker, Rodems & Cook, P.A. as counsel for Defendants. The undersigned certifies that a copy hereof has been furnished to Ryan Christopher Rodems by hand delivery this 11th day of December, 2006.

RESPECTFULLY SUBMITTED this 11th day of December, 2006.

Neil J. Gillespie, Plaintiff pro se
8092 SW 115th Loop
Ocala, Florida 34481
Telephone: (352) 502-8409

Under penalties of perjury, I declare that I have read the foregoing motion and the facts stated in it are true.

Neil J. Gillespie

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by hand delivery to Ryan Christopher Rodems, attorney, Barker, Rodems & Cook, P.A., Attorneys for Defendants, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602, this 11th day of December, 2006.

Neil J. Gillespie