

VIOLATION OF BAR RULE 4-3.3 BY RYAN CHRISTOPHER RODEMS

Ryan Christopher Rodems, counsel for Barker, Rodems & Cook, P.A. and William J. Cook, prevented the lawful adjudication of both the state and federal cases primarily through his repeated violation of FL Bar Rule 4-3.3 *Candor Toward The Tribunal*.

Mr. Rodems violated the requirements of FL Bar Rule 4-3.3 in his response to the Court (Doc. 12) to the motion to disqualify (Doc. 8) as follows:

1. Mr. Rodems failed to disclose to the Court the actual interest of himself, his law partners, and his law firm Barker, Rodems & Cook, P.A. in the Amscot litigation, as set forth in the *Certificate of Interested Person* in the U.S. Court of Appeals for the Eleventh Circuit in Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie v. AMSCOT Corporation, Case No. 01-14761-AA. (copy provided)

2. Mr. Rodems failed to disclose to the Court a letter by Amscot's lawyer, Charles Stutts of Holland & Knight, LLP, that described the relationship between the Amscot lawsuit and the state court case Neil J. Gillespie v. Barker, Rodems & Cook, P.A. and William J. Cook, 05-CA-007205, Hillsborough Circuit Court. Mr. Stutts wrote February 13, 2007 that "This former action [Amscot] is, of course, at the heart of your pending action against Barker, Rodems & Cook, P.A.". (copy provided).

3. Mr. Rodems failed to disclose to the Court his letter dated December 13, 2006 to Neil J. Gillespie that set forth his prejudice in this matter, including: (copy provided)

"I recognize that you are a bitter man who apparently has been victimized by your own poor choices in life. You also claim to have mental or psychological problems, of which I have never seen documentation. However, your behavior in this case has been so abnormal that I would not disagree with your assertions of mental problems." (P1, ¶3)

"So, in addition to your case's lack of merit, you are cheap and not willing to pay the required hourly rates for representation." (P3, ¶2).

4. Mr. Rodems failed to disclose to the Court his actual conflict, established by Order of Circuit Court Judge Richard Nielsen dated January 13, 2006, that found a cause of action for Fraud and Breach of Contract against Barker, Rodems & Cook, P.A. and William J. Cook in the state court action 05-CA-007205. (copy provided). 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).

5. Mr. 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, McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995.

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.

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

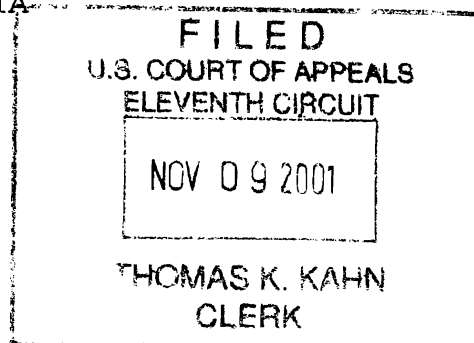
EUGENE R. CLEMENT,
GAY ANN BLOMEFIELD, and
NEIL GILLESPIE, individually and
on behalf of others similarly situated,

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, Farrior

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

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

No. 01-14761-AA

DEC 07 2001

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

THOMAS K. KAHN

CLERK

Plaintiff-Appellant,

GAY ANN BLOMEFIELD,
NEIL GILLESPIE,

8: 99-cv-2795-T-26 EAS

Plaintiffs-Intervenors-
Counter-Defendants-Appellants,

versus

AMSCOT CORPORATION,
A Florida Corporation,

Defendant-Intervenor-Counter
-Claimant-Appellee.

FILED
12/10/01
EAS

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 Cannon
DEPUTY CLERK
ATLANTA, GEORGIA

121



**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: Dixon, Eleanor

Clerk Phone: (404) 335-6172

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
----------	-------------	----------	--------

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

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>Eugene R. Clement Address Not On File <i>Record Excerpts filed on 10/03/2001</i> <i>Fees: Paid on 08/20/2001</i></p>	<p>William John Cook Barker, Rodems & Cook P.A. 400 N ASHLEY DR STE 2100 TAMPA, FL 33602-4350 (813) 489-1001 Fax: (813) 489-1008 wcook@barkerrodemsandcook.com <i>No Briefing Information Found.</i></p>
<p>Gay Ann Blomefield Address Not On File <i>No Briefing Information Found.</i> <i>Fees: Paid on 08/20/2001</i></p>	<p>William John Cook Barker, Rodems & Cook P.A. 400 N ASHLEY DR STE 2100 TAMPA, FL 33602-4350 (813) 489-1001 Fax: (813) 489-1008 wcook@barkerrodemsandcook.com <i>No Briefing Information Found.</i></p>
<p>Neil Gillespie Address Not On File <i>Appellant Brief Filed filed on 10/03/2001</i> <i>Fees: Paid on 08/20/2001</i></p>	<p>William John Cook Barker, Rodems & Cook P.A. 400 N ASHLEY DR STE 2100 TAMPA, FL 33602-4350 (813) 489-1001 Fax: (813) 489-1008 wcook@barkerrodemsandcook.com <i>No Briefing Information Found.</i></p>
Appellee	Appellee Attorney
<p>Amscot Corporation Address Not On File</p>	<p>Person Not Found <i>No Briefing Information Found.</i></p>

	John A. Anthony GrayRobinson, P.A. 201 N FRANKLIN ST STE 2200 TAMPA, FL 33602-5822 (813) 273-5066 Fax: (813) 221-4113 janthony@gray-robinson.com <i>No Briefing Information Found.</i>
--	--

Initial Service	
Lara R. Fernandez 101 E KENNEDY BLVD STE 2700 TAMPA, FL 33602-5150 (813) 227-7404 Fax: (813) 229-6553 lfernandez@trenam.com	



**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 John 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

04/05/2012 14:12:01

PACER Login:	ng0053	Client Code:	njg
Description:	docket sheet	Case Number:	01-14761-AA
Billable Pages:	4	Cost:	0.40

[Send Comment](#)

[Change Client Code](#)

[View Billing History](#)

[Search](#)

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

BARKER, RODEMS & COOK

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

CHRIS A. BARKER
RYAN CHRISTOPHER RODEMS
WILLIAM J. COOK

400 North Ashley Drive, Suite 2100
Tampa, Florida 33602

Telephone 813/489-1001
Facsimile 813/489-1008

December 13, 2006

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

Dear Neil:

As you know, I called you on December 12, 2006 to schedule hearings before Judge Isom on February 7, 2007. You did not answer, so I left you a voice mail. Later that afternoon, you sent a letter to me by facsimile. In it, you claim to be unavailable February 7 and that you "hope to have representation within 30 days." You have made that assertion for several months now, without retaining counsel, and I cannot delay this proceeding any further on your unfulfilled promises of retaining counsel. You also state in your letter that I have "threatened the lawyers that were helping" you, which is completely unfounded. I will address that issue below.

Judge Isom has all day on February 5, 2007 open, and we could resolve all pending motions, except for your motion for summary judgment, on that date. I left you a voice mail on this today.

As has Judge Nielsen, I have endured for several months now disparaging remarks from you, false allegations, attacks on my credibility and otherwise boorish behavior. I have not responded to much of it because I recognize that you are a bitter man who apparently has been victimized by your own poor choices in life. You also claim to have mental or psychological problems, of which I have never seen documentation. However, your behavior in this case has been so abnormal that I would not disagree with your assertions of mental problems. I have maintained courtesy in every meeting with you, including a warm sentiment following a hearing -- only to be accused after that of "taunting" you.

I intend to continue treating you with the same dignity and respect as I would opposing counsel in any other case; however, I have First Amendment rights, too. I am not obligated to accept your false statements, disparaging remarks, attacks on my credibility and the other tactics you have used in this case. I want to ensure that you understand my position, and so I find it necessary now to write to correct the record.

Mr. Neil J. Gillespie
December 13, 2006
Page 2

As for your claims that I “threatened the lawyers” that is simply false. I forwarded by e-mail portions of your October 18, 2006 to Ms. Jenkins, Ms. Buchholz and Mr. Snyder, and stated “Neil Gillespie has filed a letter with Judge Richard Nielsen, and has attributed comments to the three of you. As an officer of the Court, I believe I have a duty to advise you of this. Please review pages 8-10 of the attached letter. Should any of you desire the complete document, with attachments, please advise.” I have received no reply. In fact, the first confirmation that my letter had been received by these three attorneys was your December 12 facsimile letter.

Let me explain why I sent the portions of the letter to them. Your tactic of naming these three lawyers as people you had spoken to, and then attributing statements to them anonymously and en masse is very damaging to them professionally. I sent the portions of the October 18, 2006 letter to them so that they could review it and do whatever they felt necessary.

I also sent it to them because I questioned the veracity of your letter. I considered four possibilities about the statements you attributed to them anonymously: First, you may be lying. Second, you may be taking some or all of the statements out of context. Third, you may be paraphrasing and changing the meaning of the actual statements. Fourth, one or all of these attorneys may have never said anything to you, but were being used by you to endorse statements that you would later use to attempt to recuse Judge Nielsen.

I also disagree that my actions have harmed your ability to hire counsel. The primary problem is that your case is weak. You are essentially claiming in this action that our law firm breached its contract with you by not paying you a portion of the attorneys’ fees earned in the Amscot case. Every attorney knows -- or should know -- that the Rules Regulating the Florida Bar and the caselaw prohibit splitting attorneys’ fees with a nonlawyer.

It is also clear by reviewing the Closing Statement and your letters to us that you knew that Amscot was paying all of your attorneys’ fees and that you would not have to pay any portion of your settlement for attorneys’ fees and costs. In this case, you received 100% of your settlement, not 60%, and Amscot paid all of your attorneys’ fees and costs.

No one has ever rendered an opinion that your case has any merit. You misunderstood the meaning of a denial of a motion to dismiss. It is not a comment on the merits. In fact, the Court is required to accept all of your allegations as true. That requirement disappears after the motion to dismiss is resolved. Now, you are required to prove your specious allegations. Any rational attorney looking at this situation would not take this case on a contingency fee basis and would instead require you to pay them by the hour.

You, apparently, from your comments to me and in court filings, are unwilling to pay an attorney fairly for the work that would need to be done. In fact, you even moved the Court to have an

attorney appointed for you at the government's expense. Of course, there is no provision under the ADA for appointment of counsel, but the fact that you believe the government should foot the bill for you to file baseless lawsuits is entirely consistent with your actions in this case and past cases.

So, in addition to your case's lack of merit, you are cheap and not willing to pay the required hourly rates for representation. Yet, you have had no problem paying filing fees for this baseless lawsuit, the court reporters to transcribe hearings and our telephone calls, and for the frivolous appeal of the discovery order.

Another major problem, I gather, in hiring attorneys is your extortion of your former attorneys by threatening to file a Florida Bar complaint if they do not split portions of their earned fees with you. In fact, you have filed three grievances against Bill Cook in connection with this matter -- all of which were dismissed, meaning your allegations were unfounded. Rhetorically, why would an attorney wish to represent you given your past actions against other attorneys?

Additionally, any reasonable attorney would find your conduct in this case to be reprehensible.

1. You have routinely violated the Florida Rules of Civil Procedure, only to claim that pro se litigants are entitled to special treatment. At every hearing, I recall Judge Nielsen had to advise you to follow the procedural rules and protocol. As I have pointed out with citations of authority, the law in Florida is clear: You are expected to follow the rules of procedure, and you are not entitled to special treatment. When I have cited the law to you, you have told me not to do so.
2. You threatened to "slam me up against the wall." After that, I had to request a bailiff to attend the hearings. You claimed I "taunted" you when, after a hearing, I wished you well.
3. You have recorded a telephone conversation without my permission. I assume your research skills have led you to the statutes and caselaw on recording telephone conversation without permission. In fact, you only filed a portion of the transcript of our very first telephone conversation and we both know why: You never told me you were recording it.
4. You represented to the Court that I "threatened" you, and the comment on which you based it was my comment to you that your libeling of my clients was unnecessary, and that act would cause you to have to pay. Which, it will. You have accused me of perjury.

5. You have filed defenses to the counterclaim that are nonsensical, and yet you claimed to be well-qualified to represent yourself when I moved for sanctions and asked the Court to require you to hire counsel.
6. You took a contradictory position and moved to have an attorney appointed for you because you were not qualified or able to represent yourself, citing your disability, without proof, and a federal law that does not even address the appointment of counsel in a civil action. In one hearing, when Judge Nielsen asked you for authority, you replied with words to the effect that you have no training in the law. You have portrayed yourself as the victim when it suits you and the able advocate when it suits you.
7. You failed to respond to discovery, forcing me to file a motion to compel, which was granted. You refused to comply with that Order, filed a frivolous appeal, which was dismissed, and then petitioned for writ of certiorari, which was also dismissed.
8. When I filed a motion for an Order to Show Cause on the discovery Order, you claimed to be pursuing coverage of the counterclaim by an insurance company. You asked for a continuance of the hearing on that basis. We contacted the insurer's claims adjuster and negotiated a very favorable settlement for you of the counterclaim, and when you found out, you withdrew the claim, thereby preventing the counterclaim from being resolved.
9. Facing an imminent hearing on your contumacious disregard for the Court's July 24, 2006 discovery Order after your appeal of it was denied, you decided to "judge shop" and attacked Judge Nielsen to force him to recuse himself. In doing so, you cited unrelated, irrelevant issues and attempted to bait him with disparaging and caustic remarks, even though he was polite and respectful towards you at all times, allowed you to submit additional argument when you came to the first hearing unprepared, and gave you additional time to find an attorney when we were scheduled to hear on October 4, 2006 your defiance of the July 24, 2006 discovery Order. No good deed goes unpunished, right?

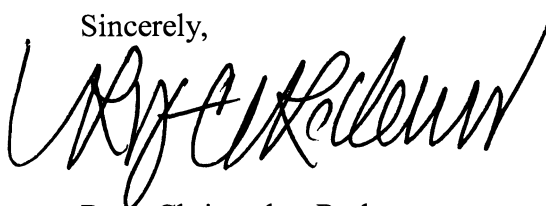
You succeeded in having Judge Nielsen step down. There is no effective process for challenging his recusal or having a Court rule on the motive of your motion to disqualify him, but if you were an attorney, the Rules Regulating the Florida Bar would require me to file a grievance and you would likely have faced severe sanctions.

Mr. Neil J. Gillespie
December 13, 2006
Page 5

Neil, we offered to settle with you without pursuing our right to attorneys' fees and costs, as ordered by Judge Nielsen in the July 24, 2006 Order. You rejected it. We offered to settle the counterclaim with your insurer. You withdrew the insurance claim. You are spending a lot of money on filing fees, court reporter fees, and gasoline to hand-deliver motions and whatnot. It appears you want your day in court, so to speak. Judge Isom has all day on February 5, 2007 open. I urge you to agree to set the hearings on that date. We can then move forward and bring this case to resolution.

I hope this clarifies my position on matters, and I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Christopher Rodems". The signature is written in a cursive, somewhat stylized font with a large initial "R".

Ryan Christopher Rodems

RCR/so

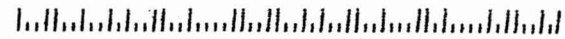
Barker, Rodems & Cook, P.A.
400 North Ashley Drive, Suite 2100
Tampa, Florida 33602

Gillespie - 05.5422



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

3448143557 F046



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

NEIL J. GILLESPIE, PLAINTIFF,

CASE NUMBER ~~05-CA-72105~~

vs.

DIVISION " F "

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

DEFENDANTS.

FILED
CLERK OF CIRCUIT COURT
2006 JAN 13 AM 11:03
HILLSBOROUGH CNTY. FL
CIRCUIT CIVIL
am

ORDER ON DEFENDANTS' MOTION TO DISMISS AND STRIKE

THIS CAUSE came on for hearing on September 26, 2005, upon Defendant's Motion to Dismiss and Strike, and counsel for the parties being present and having made arguments and the court having considered the Plaintiff's Rebuttal to Defendant's Motion to Dismiss and Strike. Defendant's Reply to Plaintiff's Rebuttal to Defendant's Motion to Dismiss and Strike and the Plaintiff's Second Rebuttal to Defendant's Motion to Dismiss and Strike, and the court being advised fully in the premises, it is thereupon,

ADJUDGED as follows:

- 1. Defendant's Motion to Dismiss and Strike is granted in part and denied in part.
2. Those portions of Defendant's Motion to Dismiss and Strike seeking to dismiss the Complaint are denied. Defendant shall have fifteen days from the date of this order within which to file responsive pleadings.



3. Those portions of Defendant's Motion to Dismiss and Strike seeking to strike portions of the Complaint is granted in the following particulars:

- a. Paragraphs 47, 48, 49 and 50 of the Complaint are stricken.
- b. Exhibit 8 to the Complaint is stricken.
- c. All references to or demands for punitive damages are stricken or failure to comply with §768.72 of the Florida Statutes.

ORDERED in Chambers, at Tampa, Hillsborough County, Florida, this

_____ day of JAN 13 2006, 20_____.



RICHARD A. NIELSEN
CIRCUIT JUDGE

Copies furnished to:

Ryan C. Rodems, Esquire
300 West Platt Street, Suite 150
Tampa, Florida 33606

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

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH)
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE
AND CORRECT COPY OF THE DOCUMENT ON FILE IN
MY OFFICE. WITNESS MY HAND AND OFFICIAL SEAL
THIS 31st DAY OF August 2010



PAT FRANK
CLERK OF CIRCUIT COURT
BY Donna Healy D.C.