



SUPREME COURT
OF THE UNITED STATES

No. 12-7747

Title: Neil J. Gillespie, Petitioner
v.
Thirteenth Judicial Circuit of Florida, et al.

Docketed: December 14, 2012

Linked with 12A215

Lower Ct: United States Court of Appeals for the Eleventh Circuit

Case Nos.: (12-11028-B)

Decision Date: July 13, 2012
Rule 12.4

~~~Date~~~ ~~~~~Proceedings and Orders~~~~~

Aug 13 2012 Application (12A215) to extend the time to file a petition for a writ of certiorari from October 11, 2012 to December 10, 2012, submitted to Justice Thomas.

Sep 13 2012 Application (12A215) granted by Justice Thomas extending the time to file until December 10, 2012.

Dec 10 2012 Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due January 14, 2013)

Dec 20 2012 Waiver of right of respondents Rayan Christopher Rodems; and Barker, Rodems & Cook, P.A. to respond filed.

Jan 24 2013 DISTRIBUTED for Conference of February 15, 2013.

Feb 13 2013 Supplemental brief of petitioner Neil J. Gillespie filed. (Distributed)

Feb 19 2013 Petition DENIED.

~~Name~~~~~Address~~~~~Phone~~~

**Attorneys for Petitioner:**

|                   |                                                                |                |
|-------------------|----------------------------------------------------------------|----------------|
| Neil J. Gillespie | 8092 SW 115th Loop<br>Ocala, FL 34481<br>neilgillespie@mfi.net | (352) 854-7807 |
|-------------------|----------------------------------------------------------------|----------------|

Party name: Neil J. Gillespie

**Attorneys for Respondents:**

|                                              |                                                                                     |                |
|----------------------------------------------|-------------------------------------------------------------------------------------|----------------|
| Ryan Christopher Rodems<br>Counsel of Record | Barker, Rodems & Cook, P.A.<br>501 East Kennedy Blvd., Suite 790<br>Tampa, FL 33602 | (813)-489-1001 |
|----------------------------------------------|-------------------------------------------------------------------------------------|----------------|

Party name: Ryan Christopher Rodems; and Barker, Rodems & Cook, P.A.

**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

**William K. Suter**  
Clerk of the Court  
(202) 479-3011

February 19, 2013

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

Re: Neil J. Gillespie  
v. Thirteenth Judicial Circuit of Florida, et al.  
No. 12-7747

Dear Mr. Gillespie:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



**William K. Suter, Clerk**



**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

**William K. Suter**  
Clerk of the Court  
(202) 479-3011

September 13, 2012

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

Re: Neil J. Gillespie  
v. Thirteenth Judicial Circuit, et al.  
Application No. 12A215

Dear Mr. Gillespie:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Thomas, who on September 13, 2012 extended the time to and including December 10, 2012.

This letter has been sent to those designated on the attached notification list.

Sincerely,

**William K. Suter, Clerk**

by   
Clayton Higgins  
Case Analyst

**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

**William K. Suter**  
Clerk of the Court  
(202) 479-3011

NOTIFICATION LIST

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

Clerk  
United States Court of Appeals for the Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, GA 30303

No: \_\_\_\_\_

\_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_

NEIL J. GILLESPIE, ET AL, - PETITIONERS

vs.

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, ET AL, - RESPONDENTS

\_\_\_\_\_

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals For The Eleventh Circuit, Case No. 12-11213

U.S. Court of Appeals For The Eleventh Circuit, Case No. 12-11028

\_\_\_\_\_

PETITION FOR A WRIT OF CERTIORARI

Submitted December 10, 2012

by

Neil J. Gillespie,

the petitioner appearing pro se, a nonlawyer,

adult man disabled with physical and mental impairments.

8092 SW 115th Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807  
Email: neilgillespie@mfi.net

## QUESTIONS PRESENTED

1. Can a Florida lawyer in private practice usurp the authority of an Article III federal judge in a federal civil rights and disability lawsuit, by improperly representing the State of Florida during a coercive custody of the disabled and mentally impaired petitioner to force a settlement, and assign the petitioner's claims against the State of Florida to himself and his law partners, then move to dismiss the federal lawsuit with prejudice on behalf of the State of Florida?
2. Does the state of Florida adequately protect consumers of legal and court services, and properly regulate lawyers, law firms, the practice of law, and state judicial officers affecting interstate commerce? Is the Florida Supreme Court's monopoly over the practice of law an illegal restraint of trade? Does racketeering affect bar complaints, litigation and the judiciary?
3. Can a second federal lawsuit brought by the disabled and mentally impaired petitioner under federal anti-trust and racketeering law be amended to state a cause of action? Is the petitioner entitled to assistance of counsel when he has been injured by the State of Florida, and made claims under the Federal Protection and Advocacy for Mentally Ill Individuals Act?
4. Does the Supreme Court of the United States have pendent jurisdiction on this petition for writ of certiorari over the petitioner's Florida Bar complaint, or a Florida Judicial complaint, each denied within the past 90 days, which involve the same respondents to this petition, and concern the same issues and facts to this petition?

5. Does a consumer of court services have a right to counsel when facing arrest and two weeks incarceration on civil contempt? Can a judge relieve the public defender appointed to represent the consumer, and order his arrest, without time to find replacement counsel?
6. Do consumers of legal and court services have a right to mental integrity in civil litigation as a Fourteenth Amendment liberty interest? What disability accommodation is reasonable to prevent criminal harassment by opposing counsel of a disabled man in civil litigation?
7. Does a judge lose immunity for negligence per se, for violation of a rule or law designed to protect a particular class of persons from their inability to protect themselves, or establishes a duty to take precautions to guard a certain class of persons from a specific type of injury?
8. Does Florida's "wiretapping statute" chapter 934, Security of Communications, which requires two party consent to record a telephone conversation, violate Fourteenth Amendment equal protection with federal law in 18 USC § 2511, or one party consent legal in most states?
9. Can an attorney and law firm take \$50,000 from a client's total recovery in a contingent fee case as a "claim" for "court-awarded fees and costs" under the Truth in Lending Act when the court made no award, and the case settled for business or other reasons?
10. Does a scheme by opposing counsel to amass \$57,000 in attorney-fee sanctions in civil litigation against a pro se litigant to force a "walk-away" settlement violate First Amendment right to a governmental redress of grievances? Is this racketeering under civil RICO?

11. Are nonlawyers entitled to intensive case management like lawyers to avoid discovery sanctions as described in Professionalism and Litigation Ethics, 28 STETSON L. REV. 323?
12. Can a pro se motion to e-file made in accordance with the court's standing CM/ECF Order, be denied because he is a nonlawyer? Does this violate constitutionally-guaranteed rights, when paper filing cost the pro se litigant not less than \$1,094.94, and 178.5 hours labor? Should pro se have access to JAWS, the Judicial Automated Workflow System, to schedule hearings?
13. Did a Florida state court have a duty to change venue and move a civil lawsuit to another jurisdiction when extreme problems developed and the court was not able to conclude the litigation within the time standards set by Rule 2.250, Fla.R.Jud.Admin, and was sued?
14. Do lawyers owe their client a fiduciary duty, and if so, how is that defined?
15. Should civil litigation be prohibited where there is no chance of lawful adjudication?

## LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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U.S. Court of Appeals for the Eleventh Circuit, no. 12-11213  
District Court no: 5:10-cv-00503-WTH-TBS

Civil rights and disability law.  
Misuse and denial of justice under the color of law.

Plaintiff: (1)  
Neil J. Gillespie

Defendants: (10 + 5 individually)  
Thirteenth Judicial Circuit, Florida  
Claudia Rickert Isom, Circuit Judge, and individually  
James M. Barton, II, Circuit Judge, and individually  
Martha J. Cook, Circuit Judge, and individually  
David A. Rowland, Court Counsel, and individually  
Gonzalo B. Casares, ADA Coordinator, and individually  
Barker, Rodems & Cook, P.A.  
Ryan Christopher Rodems, Attorney at Law (Fla. Bar ID: 947652)  
The Law Office of Robert W. Bauer, P.A.  
Robert W. Bauer, Attorney at Law (Fla. Bar ID: 11058)

---

U.S. Court of Appeals for the Eleventh Circuit, no. 12-11028  
District Court no: 5:11-cv-00539-WTH-TBS

Civil rights and disability law, civil RICO, antitrust, commerce, estate claims.  
Misuse and denial of justice under the color of law.

Plaintiffs: (2)  
Neil J. Gillespie  
Estate of Penelope Gillespie (deceased)

Defendants: (4 + 1 individually)  
Thirteenth Judicial Circuit, Florida  
James M. Barton, II, Circuit Court Judge, and individually  
The Law Office of Robert W. Bauer, P.A.  
Robert W. Bauer, Attorney at Law (Fla. Bar ID: 11058)

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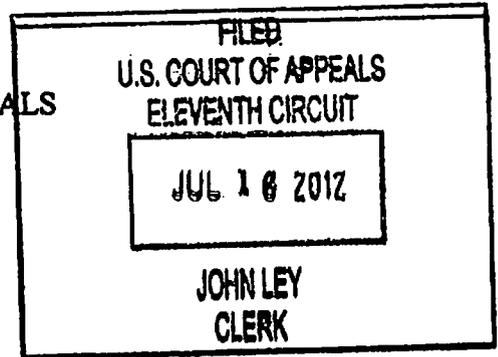
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IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 12-11213-C  
\_\_\_\_\_



NEIL J. GILLESPIE,

Plaintiff-Appellant,

versus

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
GONZALO B. CASARES,  
ADA Coordinator, and individually,  
DAVID A. ROWLAND,  
Court Counsel, and individually,  
JUDGE CLAUDIA RICKERT ISOM,  
Circuit Court Judge, and individually,  
JUDGE JAMES M. BARTON, II,  
Circuit Court Judge, and individually, et al.,

Defendants-Appellees,

BARKER, RODEMS & COOK, P.A. et al.,

Defendants.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Middle District of Florida  
\_\_\_\_\_

ORDER:

Neil J. Gillespie's motion for leave to proceed on appeal *in forma pauperis* is DENIED because the appeal is frivolous. *See Pace v. Evans*, 709 F.2d 1428 (11th Cir. 1983).

/s/ Charles R. Wilson  
UNITED STATES CIRCUIT JUDGE



IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 12-11213-C

---

NEIL J. GILLESPIE,

Plaintiff - Appellant

versus

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
GONZALO B. CASARES,  
ADA Coordinator, and Individually,  
DAVID A. ROWLAND,  
Court Counsel, and individually,  
JUDGE CLAUDIA RICKERT ISOM,  
Circuit Court Judge, and individually,  
JUDGE JAMES M. BARTON, II,  
Circuit Court Judge, and individually, et al.,

Defendants - Appellees,

BARKER, RODEMS & COOK, P.A. et al.,

Defendants.

---

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

---

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Neil J. Gillespie has failed to pay the filing and docketing fees to the district court within the time fixed by the rules, effective August 07, 2012.

JOHN LEY  
Clerk of Court of the United States Court  
of Appeals for the Eleventh Circuit

by: Walter Pollard, C, Deputy Clerk

FOR THE COURT - BY DIRECTION



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

NEIL J. GILLESPIE,

Plaintiff,

-vs-

Case No. 5:10-cv-503-Oc-10TBS

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.,

Defendants.

---

**ORDER OF DISMISSAL**

The Plaintiff, proceeding *pro se*, has filed a Complaint against eleven (11) Defendants which, by its title, purports to state a claim under the Americans With Disabilities Act, 42 U.S.C. §§ 12131, *et seq.*, as well as various violations of his constitutional rights.<sup>1</sup> (Doc. 1). The Complaint is due to be dismissed for several reasons.

First, the Plaintiff has never effected service of summons on any of the Defendants, or complied with any of the requirements of Fed. R. Civ. P. 4. Second, the Complaint consists of 39 pages of rambling, largely incomprehensible allegations and fails to set forth “a short and plain statement of the claim showing that the pleader is entitled to relief,” as required by Fed. R. Civ. P. 8(a)(2). Third, the Complaint fails to allege the basis for the Court’s subject-matter jurisdiction as required by Fed. R. Civ. P. 8(a)(1) – the parties are clearly all citizens of Florida and therefore not diverse, and the Plaintiff has not alleged any

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<sup>1</sup>The Plaintiff voluntarily dismissed all claims against two (2) of the Defendants, Barker Rodems & Cook, P.A., and Ryan Christopher Rodems, on October 29, 2010 (Docs. 22, 25-26).



intelligible facts that would support a finding of the existence of federal question jurisdiction. See 28 U.S.C. §§ 1331-1332. And fourth, it appears that the Plaintiff has assigned all of his claims in this case to Defendants Ryan Christopher Rodems, Chris A. Barker, and William J. Cook, who have moved for voluntary dismissal with prejudice under Fed. R. Civ. P. 41(a)(2). (See Doc. 32).<sup>2</sup>

Accordingly, upon due consideration, it is hereby ORDERED that the Plaintiff's Complaint (Doc. 1) is DISMISSED. The Clerk is directed to enter judgment accordingly, terminate all pending motions, and close the file.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this 27th day of February, 2012.



UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record  
Neil J. Gillespie, *pro se*

---

<sup>2</sup>The Court is aware that the Plaintiff has challenged the validity of the settlement agreement and assignment of claims on the grounds that it was procured by fraud, executed under duress, and without informed consent (Docs. 33, 39, 61, 63). However, the core of the settlement agreement containing the assignment involved the resolution of various matters pending in state court, and the settlement agreement itself appears to have been executed as part of a state court proceeding. (Doc. 32, 40). As such, the state court is the appropriate judicial body with the jurisdiction to resolve any disputes over the validity and/or enforceability of the settlement agreement and assignment. This Court will not (absent subject-matter jurisdiction) entertain any disputes within the purview of the settlement agreement unless and until the state court enters a judgment declaring the settlement agreement and assignment invalid. Cf. Heck v. Humphrey, 512 U.S. 477, 114 S.Ct. 2364 (1994).

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

MAY - 7 2012

JOHN LEY  
CLERK

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 12-11028-B  
\_\_\_\_\_

ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,  
Personal Representative of the Estate, Survivor,

Plaintiffs-Appellants,

versus

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
HON. JAMES M. BARTON, II,  
Circuit Court Judge, and individually,  
THE LAW OFFICE OF ROBERT W. BAUER, P.A.,  
ROBERT W. BAUER,

Defendants-Appellees.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Middle District of Florida  
\_\_\_\_\_

ORDER:

The motion by the appellants for leave to proceed on appeal *in forma pauperis* is DENIED because the appeal is frivolous. *See Pace v. Evans*, 709 F.2d 1428, 1429 (11th Cir. 1983). The motion to consolidate with appeal no. 12-11213 is DENIED. The motion for appointment of counsel is DENIED. The motion to toll time is DENIED. All other motions will be addressed by later order of the Court.

/s/ Charles R. Wilson  
UNITED STATES CIRCUIT JUDGE

EXHIBIT  
APPENDIX D

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

JUN 19 2012

JOHN LEY  
CLERK

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 12-11028-B

ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,  
Personal Representative of the Estate, Survivor,

Plaintiffs-Appellants,

versus

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
HON. JAMES M. BARTON, II,  
Circuit Court Judge, and individually,  
THE LAW OFFICE OF ROBERT W. BAUER, P.A.,  
ROBERT W. BAUER,

Defendants-Appellees.

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

Before WILSON and MARTIN, Circuit Judges.

BY THE COURT:

The appellants have filed a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of this Court's May 7, 2012, order denying his motions for leave to proceed on appeal *in forma pauperis*, consolidation with case no. 12-11213, tolling of time, and appointment of counsel. Upon review, the motion for reconsideration is DENIED because the appellants have offered no new evidence or arguments of merit to warrant relief. The appellants' motion to toll time is DENIED. The appellants' motion for leave to amend their request for disability accommodations is GRANTED.

EXHIBIT

APPENDIX E

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 12-11028-B

---

ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,  
Personal Representative of the Estate, Survivor,

Plaintiffs - Appellants,

versus

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
HON. JAMES M. BARTON, II,  
Circuit Court Judge, and individually,  
THE LAW OFFICE OF ROBERT W. BAUER, P.A.,  
ROBERT W. BAUER,

Defendants - Appellees.

---

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

---

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Estate of Penelope Gillespie and Neil J. Gillespie has failed to pay the filing and docketing fees to the district court within the time fixed by the rules, effective July 13, 2012.

JOHN LEY  
Clerk of Court of the United States Court  
of Appeals for the Eleventh Circuit

by: Melanie Gaddis, B, Deputy Clerk

FOR THE COURT - BY DIRECTION



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

ESTATE OF PENELOPE GILLESPIE, et  
al.,

Plaintiffs,

-vs-

Case No. 5:11-cv-539-Oc-10TBS

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.,

Defendants.

---

**ORDER DISMISSING CASE**

Federal Rule of Civil Procedure 12(h)(3) says that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

The essence of this *pro se* Plaintiff’s claim is that the stress he endured in prosecuting previous claims in state court against and/or involving the Defendants in this action prevented him from rendering adequate care to his mother, who ultimately died due, at least in part, to the deficiency in her care. The claim is legally frivolous in the extreme and it is patently apparent that the Defendant judicial officers and court, as state actors, would ultimately be entitled to absolute immunity. Conversely, the remaining Defendants would not be state actors at all. Nevertheless, the Plaintiff has now paid the filing fee, and the Court recognizes that it would be premature to dismiss the case on any of these grounds at this time.



The question of the Court's jurisdiction, however, is another matter under Fed. R. Civ. P. 12(h)(3). Thus, on December 19, 2011, the Court issued to the Plaintiff an Order to Show Cause (Doc. 11) requiring the Plaintiff within fourteen (14) days to file a response demonstrating the Court's subject-matter jurisdiction.<sup>1</sup> In his response, the Plaintiff stated that he intended to file an Amended Complaint and to effect service on all Defendants (Doc. 14). The Plaintiff cites in the first paragraph of his Amended Complaint (Doc. 15) to 42 U.S.C. §§ 1981, 1983, 1985, 1986, and 1988, the Fifth, Eighth, and Fourteenth Amendments, the Americans With Disabilities Act, the Federal Protection and Advocacy for Mentally Ill Individuals Act, 18 U.S.C. §§ 1346, and 1951, and all of Title 15 of the United States Code (Doc. 15, ¶ 1). However, his factual allegations (which are nearly identical to the allegations of his original complaint that was limited to purported claims under Florida's Wrongful Death Act, see Doc. 1) fall far short of stating a claim – or describing facts – that would establish all of the elements of a constitutional tort or a violation of any federal statute. See *Ashcroft v. Iqbal*, \_\_\_ U.S. \_\_\_, 129 S.Ct. 1937 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). Furthermore, it is apparent that no useful purpose would be served by affording the Plaintiff any additional opportunities to amend his pleadings.

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<sup>1</sup>The Order to Show Cause was issued in response to the United States Magistrate Judges' Report and Recommendation (Doc. 8), recommending, after review under 28 U.S.C. § 1915(e)(2), that the original Complaint be dismissed for lack of subject-matter jurisdiction. The Plaintiff objected to the Report and Recommendation, withdrew his prior motion seeking leave to proceed *in forma pauperis*, and paid the filing fee (Docs. 9-10).

Accordingly, upon due consideration, this case is hereby DISMISSED for lack of subject-matter jurisdiction. The Clerk is directed to enter judgment accordingly, terminate all pending motions, and close the file.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this 24th day of January, 2012.



---

UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record  
Maurya McSheehy  
Hon. Thomas B. Smith  
Neil J. Gillespie, *pro se*

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

NEIL J. GILLESPIE,

Plaintiff,

Case No.:5:10-cv-00503-WTH-DAB

vs.

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants.

---

**NOTICE OF ASSIGNMENT OF CLAIMS AND  
MOTION FOR DISMISSAL OF ACTION WITH PREJUDICE**

On June 21, 2011, Plaintiff Neil J. Gillespie assigned all claims in this action to Ryan Christopher Rodems, Chris A. Barker, and William J. Cook. See Exhibit "1".

Assignees hereby move the Court for an Order dismissing this action with prejudice, pursuant to Fed. R. Civ. P. 41(a)(2).

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2011.

**/s/ Ryan Christopher Rodems**

RYAN CHRISTOPHER RODEMS, ESQUIRE

Florida Bar No. 947652

Attorney for Assignees

BARKER, RODEMS & COOK, P.A.

400 North Ashley Drive, Suite 2100

Tampa, Florida 33602

Telephone: (813) 489-1001

Fax: (813) 489-1008

E-mail: [rodems@barkerrodemsandcook.com](mailto:rodems@barkerrodemsandcook.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served this 21<sup>st</sup> day of June, 2011 by electronic transmission to Catherine Barbara Chapman, Esquire, [catherine@guildaylaw.com](mailto:catherine@guildaylaw.com), counsel for Defendants The Law Office of Robert W. Bauer, P.A., and Robert W. Bauer. No other defendant has been served.

**/s/ Ryan Christopher Rodems**  
RYAN CHRISTOPHER RODEMS, ESQUIRE

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.

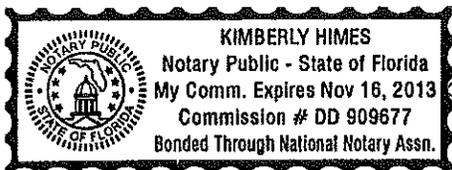
This mutual release shall be acknowledged before a notary public and may be signed in counterpart.

PARTY A

*Neil J. Gillespie*  
NEIL J. GILLESPIE

Neil J. Gillespie  
Provided Florida Driver's License  
Class E # G 421.630.56.099.0

Signed this 21<sup>st</sup> 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.

*(RCR)*

*(RCR)*  
Rodems & Cook, P.A.

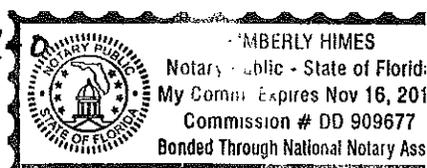
EXHIBIT 1

STATE OF FLORIDA  
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21<sup>st</sup> 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 421-630-56-0990

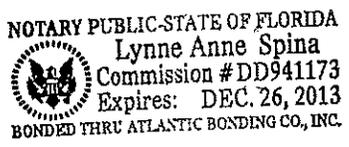


STATE OF FLORIDA  
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21<sup>st</sup> 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 \_\_\_\_\_

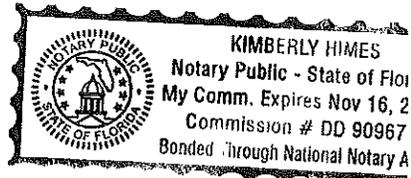


STATE OF FLORIDA  
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21<sup>st</sup> 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  
#: R352-723-66-444-D

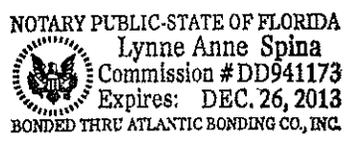


STATE OF FLORIDA  
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 21<sup>st</sup> 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 \_\_\_\_\_



FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

2012 JAN 12 PM 2: 12  
CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FL  
OCALA FLORIDA

NEIL J. GILLESPIE,

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

Plaintiff,

vs.

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants.

NOTICE OF OBJECTION

Plaintiff Gillespie gives Notice of Objection to *Notice of Assignment of Claims And Motion for Dismissal of Action With Prejudice* (Doc. 32) and states:

1. Gillespie moved to strike (Doc. 33) *Notice of Assignment of Claims And Motion for Dismissal of Action With Prejudice* (Doc. 32), which the Court denied (Doc. 51), holding that because the Notice and Settlement Agreement are not pleadings they are not subject to a motion to strike. (Doc. 51, p2, ¶3). The Court cited, among others, Morgan v. Sears, Roebuck & Co., 700 F.Supp. 1574, 1576 (N.D. Ga. 1988)(noting that the proper method of challenging evidence is by filing a notice of objection). (Doc. 51, p3, ¶1).
2. Gillespie moved to enlarge time to file a Notice of Objection. (Doc. 54). The Court responded by Order. (Doc. 57). Gillespie responded to the Order (Doc. 59) noting that the Court's Order of November 7, 2011 (Doc. 57) is directed to Plaintiff's Motion To Enlarge Time to file a Notice of Objection (Doc. 54) which the Court

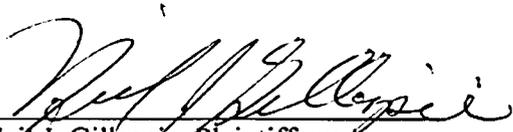
EXHIBIT  
APPENDIX I

misidentified as the Order To Show Cause, which Order conflicted with the Court's prior Order at Doc. 56. The Court has not further responded, therefore Gillespie gives notice today of his Notice of Objection to *Notice of Assignment of Claims And Motion for Dismissal of Action With Prejudice* (Doc. 32).

3. Pursuant to Morgan v. Sears, Roebuck & Co., 700 F.Supp. 1574, 1576 (N.D. Ga. 1988)(noting that the proper method of challenging evidence is by filing a notice of objection), Gillespie files this Notice of Objection to *Notice of Assignment of Claims And Motion for Dismissal of Action With Prejudice* (Doc. 32), and in support thereof argues as set forth in his Petition for Writ of Mandamus, Supreme Court of Florida, SC11-1622 (Doc. 62) and Affidavit of Neil J. Gillespie. (Doc. 61).

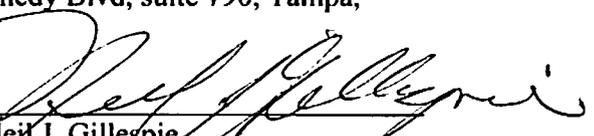
4. Because this is a notice, and not a motion, Gillespie did not include the certification per Local Rule 3.01(g).

RESPECTFULLY SUBMITTED January 12, 2012.

  
Neil J. Gillespie, Plaintiff pro se  
8992 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed January 12, 2012 to Catherine Chapman, counsel for The Law Office of Robert W. Bauer, P.A. and Robert W. Bauer, and mailed to Ryan C. Rodems, 501 E Kennedy Blvd, suite 790, Tampa, Florida 33602. No other party was served.

  
Neil J. Gillespie

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

NEIL J. GILLESPIE,

Plaintiff,

v.

Case No. 5:10-cv-503-Oc-10DAB

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
et al.,

Defendants.

---

ORDER

Pending before the Court is pro se Plaintiff, Neil J. Gillespie's Motion to Strike or Set Aside Mr. Rodems' Notice of Assignment of Claims and Motion for Dismissal of Action with Prejudice and Motion to Strike or Set Aside Settlement Agreement and General Mutual Release (Doc. 33).

When Mr. Gillespie instituted this lawsuit he included as defendants the law firm of Barker, Rodems & Cook, P.A. (the "Firm") and attorney Ryan Christopher Rodems (Doc. 1). Mr. Gillespie sought and was granted leave to amend his complaint (Doc. 13) but he chose instead to voluntarily dismiss his claims against the Firm and Mr. Rodems (Doc. 22). Upon receipt of Mr. Gillespie's notice of voluntary dismissal the Court directed the Clerk to enter judgment dismissing all claims against the Firm and Mr. Rodems without prejudice (Doc. 25). The Judgment was entered on November 23, 2010 (Doc. 26).

On June 21, 2011, Ryan Christopher Rodems, Chris A. Barker and William J. Cook (the "Assignees"), filed their Notice of Assignment of Claims and Motion for Dismissal of Action with Prejudice (the "Notice") (Doc. 32). Attached to the Notice is a



document entitled “Settlement Agreement and General Mutual Release” (the “Settlement Agreement”) (Id.). The parties to the Settlement Agreement are Mr. Gillespie, the Assignees and the Firm. In the Settlement Agreement, Mr. Gillespie assigned “all claims pending or which could have been brought, based on the allegations of [Mr. Gillespie], against any person or entity, without limitation, in [this case].” In return, he received the satisfaction of a judgment.

Mr. Gillespie has motioned this Court to strike or set aside both the Notice and the Settlement Agreement (Doc. 33). The Assignees served a response to the motion in which they dispute certain facts alleged by Mr. Gillespie, assert that he does not have standing to bring his motion to strike and they say this Court does not have subject matter jurisdiction (Doc. 40).

Federal Rule of Civil Procedure 12(f) states that “[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” (Emphasis supplied). The only pleadings allowed are: (1) a complaint; (2) the answer to the complaint; (3) the answer to a counterclaim; (4) the answer to a cross-claim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the Court orders one, a reply to an answer. Fed. R. Civ. P. 7. Because the Notice and Settlement Agreement are not pleadings they are not subject to a motion to strike. *McNair v. Monsanto Co.*, 279 F.Supp.2d 1290, 1298 (M.D. Ga. 2003)(“motion to strike is only appropriately addressed toward matters contained in the pleadings.”); *Merritt v. Hubb Intern. Southwest Agency Ltd.*, 2011 WL 4026651, \*2 (N.D. Ga. 2011)(motion to strike declaration held procedurally improper because Rule 12(f) only applies to pleadings.); *Certain Underwriters at Lloyd’s London v. Belu*, 2009

WL 2848995, \*3 (N.D. Ga. 2009)(explaining that Rule 12(f) only applies to pleadings); and Morgan v. Sears, Roebuck & Co., 700 F.Supp. 1574, 1576 (N.D. Ga. 1988)(noting that the proper method of challenging evidence is by filing a notice of objection).

Therefore, Plaintiff, Neil J. Gillespie's Motion to Strike or Set Aside Mr. Rodems' Notice of Assignment of Claims and Motion for Dismissal of Action with Prejudice and Motion to Strike or Set Aside Settlement Agreement and General Mutual Release (Doc. 33) is DENIED.

IT IS SO ORDERED.

DONE and ORDERED in Ocala, Florida on the 6<sup>th</sup> day of October, 2011.



THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to:

Neil J. Gillespie  
Counsel of Record

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 NUMBER: 05-CA-7205

DIVISION: J

**OFFICE OF THE PUBLIC DEFENDER'S MOTION FOR CLARIFICATION**

COMES NOW, the undersigned on behalf of the Office of the Public Defender, to seek clarification of a Clerk's Determination dated May 27, 2011, attached hereto as Exhibit A, allegedly appointing the Office of the Public Defender on behalf of the plaintiff, Neil Gillespie, in this cause based upon the following:

1. An Application for Criminal Indigent Status and Clerk's Determination attached hereto as Exhibit A purports to appoint the Office of the Public Defender to represent the plaintiff in this cause.

2. It appears from the docket in this cause that Neil Gillespie is the plaintiff in this cause and that he is before the Court based upon an Order to Show Cause.

3. Section 27.51, Florida Statutes, sets forth the duties of the Public Defender. The duties of the Public Defender under Section 27.51(b)(3), Florida Statutes, provide that the Public Defender can be appointed in an action for criminal contempt; however, there is no basis for a belief that the plaintiff in this cause, Neil Gillespie, is facing an action for criminal contempt.

WHEREFORE, the undersigned seeks to clarify with the Court the applicability of the Application for Criminal Indigent Status and Clerk's Determination as evidenced in Exhibit A, attached hereto.

I HEREBY CERTIFY that a copy of the foregoing motion has been furnished to Neil Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala, FL 34481, Ryan C. Rodems, Esq. of Barker, Rodems & Cook, P.A., 400 North Ashley Drive, Suite 2100, Tampa, FL 33602, and to Richard L. Coleman, Esq., P.O. Box 5437, Valdosta, GA 31603, by hand or U.S. mail delivery, this 1<sup>st</sup> day of June, 2011.

Respectfully submitted,

LAW OFFICE OF JULIANNE M. HOLT  
PUBLIC DEFENDER

---

Mike Peacock  
Florida Bar # 0303682  
Post Office Box 172910  
Tampa, Florida 33672-0910  
(813) 272-5980  
(813) 272-5588 (fax)  
[peacock@pd13.state.fl.us](mailto:peacock@pd13.state.fl.us)

/km

IN THE CIRCUIT/COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

STATE OF FLORIDA vs. Neil Gillespie

CASE NO. 05-CA-007205

Defendant/Minor Child

**APPLICATION FOR CRIMINAL INDIGENT STATUS**

I AM SEEKING THE APPOINTMENT OF THE PUBLIC DEFENDER  
OR

I HAVE A PRIVATE ATTORNEY OR AM SELF-REPRESENTED AND SEEK DETERMINATION OF INDIGENCE STATUS FOR COSTS

Notice to Applicant: The provision of a public defender/court appointed lawyer and costs/due process services are not free. A judgment and lien may be imposed against all real or personal property you own to pay for legal and other services provided on your behalf or on behalf of the person for whom you are making this application. There is a \$50.00 fee for each application filed. If the application fee is not paid to the Clerk of the Court within 7 days, it will be added to any costs that may be assessed against you at the conclusion of this case. If you are a parent/guardian making this affidavit on behalf of a minor or tax-dependent adult, the information contained in this application must include your income and assets.

- I have 0 dependents. (Do not include children not living at home and do not include a working spouse or yourself.)
- I have a take home income of \$ 0 paid ( ) weekly ( ) bi-weekly ( ) semi-monthly ( ) monthly ( ) yearly  
(Take home income equals salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered support payments)
- I have other income paid ( ) weekly ( ) bi-weekly ( ) semi-monthly ( ) monthly ( ) yearly: (Circle "Yes" and fill in the amount if you have this kind of income, otherwise circle "No")
 

|                                |                    |                |                                                                        |              |                |
|--------------------------------|--------------------|----------------|------------------------------------------------------------------------|--------------|----------------|
| Social Security benefits.....  | Yes \$ <u>1744</u> | No             | Veterans' benefit.....                                                 | Yes \$ _____ | No <u>(No)</u> |
| Unemployment compensation..... | Yes \$ _____       | No <u>(No)</u> | Child support or other regular support from family members/spouse..... | Yes \$ _____ | No <u>(No)</u> |
| Union Funds.....               | Yes \$ _____       | No <u>(No)</u> | Rental income.....                                                     | Yes \$ _____ | No <u>(No)</u> |
| Workers compensation.....      | Yes \$ _____       | No <u>(No)</u> | Dividends or interest.....                                             | Yes \$ _____ | No <u>(No)</u> |
| Retirement/pensions.....       | Yes \$ _____       | No <u>(No)</u> | Other kinds of income not on the list.....                             | Yes \$ _____ | No <u>(No)</u> |
| Trusts or gifts.....           | Yes \$ _____       | No <u>(No)</u> |                                                                        |              |                |
- I have other assets: (Circle "Yes" and fill in the value of the property, otherwise circle "No." Use the back of this form to provide additional information.)
 

|                                                              |                   |                |                                                                                            |                |                |
|--------------------------------------------------------------|-------------------|----------------|--------------------------------------------------------------------------------------------|----------------|----------------|
| Cash.....                                                    | Yes \$ <u>60</u>  | No             | Savings.....                                                                               | Yes \$ _____   | No <u>(No)</u> |
| Bank account(s).....                                         | Yes \$ _____      | No <u>(No)</u> | Stocks/bonds.....                                                                          | Yes \$ _____   | No <u>(No)</u> |
| Certificates of deposit or money market accounts.....        | Yes \$ _____      | No <u>(No)</u> | *Equity in Real estate (excluding homestead): Yes \$ _____                                 | No <u>(No)</u> |                |
| *Equity in Motor Vehicles/Boats/Other tangible property..... | Yes \$ <u>300</u> | No             | *Equity means value minus loans. Also list any expectancy in an interest in such property. |                |                |

List the year/make/model and tag #: 1997 Dodge Van  
78# X7254

List the address of this property:  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
County of Residence \_\_\_\_\_
- I have a total amount of liabilities and debts in the amount of \$ 544,000
- I receive: (Circle "Yes" or "No")
 

|                                                              |                 |                |
|--------------------------------------------------------------|-----------------|----------------|
| Temporary Assistance for Needy Families-Cash Assistance..... | Yes <u>(No)</u> | No <u>(No)</u> |
| Poverty-related veterans' benefits.....                      | Yes <u>(No)</u> | No <u>(No)</u> |
| Supplemental Security Income (SSI).....                      | Yes <u>(No)</u> | No <u>(No)</u> |
- I have been released on bail in the amount of \$ 0 Cash \_\_\_\_\_ Surety \_\_\_\_\_ Posted by: Self \_\_\_\_\_ Family \_\_\_\_\_ Other \_\_\_\_\_

2011 MAY 27 PM 3:58

A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under s. 27.52, F.S., commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. I attest that the information I have provided on this Application is true and accurate to the best of my knowledge.

Signed this 27 day of MAY, 2011.

Neil J Gillespie  
Signature of Applicant for Indigent Status

Date of Birth 3-19-1956

Print Full Legal Name Neil J Gillespie  
Address 8092 SW 115th Loop  
City, State, Zip OCALA, FL 32811  
Phone number 352-859-7807

Driver's license or ID number G421-630-560990

**CLERK'S DETERMINATION**

Based on the information in this Application, I have determined the applicant to be  Indigent ( ) Not Indigent  
 The Public Defender is hereby appointed to the case listed above until relieved by the Court.

Dated this 27 day of May, 2011  
[Signature]  
Deputy Clerk

PAT FRANK  
Clerk of the Circuit Court

This form was completed with the assistance of \_\_\_\_\_  
Clerk/Deputy Clerk/Other authorized person

APPLICANTS FOUND NOT INDIGENT MAY SEEK REVIEW BY ASKING FOR A HEARING TIME. Sign here if you want the judge to review the clerk's decision of not indigent.

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

NEIL J. GILLESPIE,  
Plaintiff,

CASE NUMBER.: 05-CA-7205

v.

DIVISION: J

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

Defendants.

ORDER RELIEVING THE OFFICE OF THE PUBLIC DEFENDER OF THE  
THIRTEENTH JUDICIAL CIRCUIT FROM REPRESENTATION  
OF PLAINTIFF NEIL GILLESPIE

THIS CAUSE having come to be heard on the Motion of the Office of the Public Defender for Clarification and the Court being fully advised in the premises does hereby relieve the Office of the Public Defender of the Thirteenth Judicial Circuit from representation of the plaintiff in this cause as there is no lawful basis for the appointment of the Office of the Public Defender to represent the plaintiff in the cause currently before the Court.

DONE AND ORDERED at Tampa, Hillsborough County, Florida on this \_\_\_\_\_ day of June, 2011.

HONORABLE JAMES D. ARNOLD  
CIRCUIT COURT JUDGE  
THIRTEENTH JUDICIAL CIRCUIT  
HILLSBOROUGH COUNTY, FLORIDA

Copies furnished to:

~~Neil Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala, FL 34481~~  
Ryan C. Rodems, Barker, Rodems & Cook, 400 North Ashley Dr., Ste. 2100, Tampa, FL 33602  
Richard L. Coleman, Esq., P.O. Box 5437, Valdosta, GA 31603  
Mike Peacock, Office of the Public Defender

/km

**ORIGINAL SIGNED**

JUN - 1 2011

JAMES D. ARNOLD  
CIRCUIT JUDGE

EXHIBIT

4

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

**NEIL J. GILLESPIE,**

**Plaintiff,**

**vs.**

**Case No.: 05CA7205**

**Division: J**

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

**Defendants.**

**WRIT OF BODILY ATTACHMENT**

**THE STATE OF FLORIDA:**

**To Each Sheriff of the State:**

It appearing to the Court that **NEIL J. GILLESPIE**, of 8092 SW 115<sup>th</sup> Loop, Ocala, Florida 34481, although properly served with the Order to Show Cause entered May 4, 2011, failed to appear on June 1, 2011 and show cause, if any, why he should not be held in contempt for failure to appear for deposition and produce documents pursuant to the Notice Of Deposition Duces Tecum as ordered by this Court.

This Writ, therefore, is to command you to take **NEIL J. GILLESPIE** into custody and bring him before the Honorable James D. Arnold, at Courtroom 501, 800 East Twiggs Street, Tampa, Florida 33602, immediately, and within 72 hours after he is taken into custody, for a hearing to determine whether he shall be held in custody until the deposition ordered by the Court is completed.

Service and execution of this Writ may be made on any day of the week and any time of the day or night.

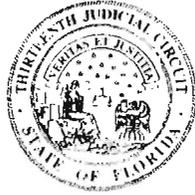
**DONE AND ORDERED** in Chambers at Tampa, Hillsborough County, Florida, this 1<sup>st</sup> day of June, 2011.

James D. Arnold  
Circuit Judge

**ORIGINAL SIGNED**

~~JUN 1 2011~~

**JAMES D. ARNOLD  
CIRCUIT JUDGE**



**ADMINISTRATIVE OFFICE OF THE COURTS**  
THIRTEENTH JUDICIAL CIRCUIT OF FLORIDA  
LEGAL DEPARTMENT

DAVID A. ROWLAND

GENERAL COUNSEL

July 9, 2010

Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

*Via E-Mail:* [neilgillespie@mfi.net](mailto:neilgillespie@mfi.net)

Re: ADA Accommodation Request  
*Gillespie v. Barker, Rodems & Cook*, Case No.: 05-CA-007205,  
Thirteenth Judicial Circuit, General Civil Division

Dear Mr. Gillespie:

This is a response to your July 6, 2010 ADA request for accommodation directed to Gonzalo Casares, the Thirteenth Judicial Circuit ADA Coordinator. You request the same ADA accommodations previously submitted on February 19, 2010. Your February 19, 2010 ADA request was a request for the court to take the following case management actions:

1. Stop Mr. Rodems' behavior directed toward you that is aggravating your post traumatic stress syndrome.
2. Fulfill case management duties imposed by Florida Rule of Judicial Administration 2.545 and designate the above-referenced case as complex litigation under Florida Rule of Civil Procedure 1.201.
3. Offer services, programs, or activities described in Judge Isom's law review article – *Professionalism and Litigation Ethics*, 28 Stetson L. Rev. 323, 324 (1998) – so the court can “intensively” manage the case.



Neil J. Gillespie

July 9, 2010

Page 2

4. Enforce Judge Isom's directives imposed on February 5, 2007 which require both parties to only address each other by surname when communicating about this case and require parties to communicate in writing instead of telephone calls.
5. Allow a 180-day stay so you can scan thousands of documents in this case to PDF and find and hire replacement counsel.

As ADA Coordinator, Mr. Casares can assist in providing necessary auxiliary aids and services and any necessary facility-related accommodations. But neither Mr. Casares, nor any other court employee, can administratively grant, as an ADA accommodation, requests that relate to the internal management of a pending case. All of your case management requests – that opposing counsel's behavior be modified, that the court fulfill its duties under Rule 2.545, that the above-referenced case be designated as complex, that your case be "intensively" managed as suggested by Judge Isom's law review article, that Judge Isom's previous directive regarding communication between parties be enforced, that your case be stayed – must be submitted by written motion to the presiding judge of the case. The presiding judge may consider your disability, along with other relevant factors, in ruling upon your motion.

Sincerely,



David A. Rowland

cc: The Honorable Martha J. Cook  
Ryan C. Rodems, Counsel for Defendant  
Gonzalo Casares, ADA Coordinator for the Thirteenth Judicial Circuit

20 Cases Related to Gillespie v. Barker, Rodems & Cook, PA, 05-CA-007205

RCR - denotes cases where Ryan Christopher Rodems represented his firm and partner against former client Gillespie

1. *RCR* Hillsborough Co. 05-CA-7205, Gillespie v. Barker, Rodems & Cook, P.A., Aug-11-2005 to Jun-21-2011, (Mr. Bauer appeared for Gillespie April 2, 2007 through October 1, 2009).
2. *RCR* Hillsborough Co. 05-CA-7205, Vexatious libel counterclaim, BRC v. Gillespie, Jan-19-2006 to Sep-28-2010, (Mr. Bauer appeared for Gillespie April 2, 2007 - October 1, 2009)
3. *RCR* 2dDCA, 2D06-3803: Gillespie v. BRC, discovery related appeal (Gillespie pro se) (closed)
4. *RCR* 2dDCA, 2D07-4530: BRC v. Gillespie, voluntary dismissal (Mr. Bauer for Gillespie) (closed)
5. *RCR* 2dDCA, 2D08-2224: Gillespie v. BRC, § 57.105 sanctions (Mr. Bauer for Gillespie) (closed)
6. *RCR* 2dDCA, 2D10-5197: Gillespie v. BRC, appeal final summary judgment (Gillespie pro se) (closed)
7. *RCR* 2dDCA, 2D10-5529: Gillespie v. BRC, prohibition, remove Judge Cook (Gillespie pro se) (closed)
8. *RCR* 2dDCA, 2D11-2127: Gillespie v. BRC, prohibition/venue, Judge Arnold (Gillespie pro se) (closed)
9. *RCR* Fla.Sup.Ct. SC11-858: Gillespie v. BRC, habeas corpus, prohibition (Gillespie pro se) (closed)
10. *RCR* Fla.Sup.Ct. SC11-1622: Gillespie v. BRC, mandamus, other relief (Gillespie pro se) (closed)
11. *RCR* Federal Ct. 5:10-cv-503: Gillespie v. Thirteenth Judicial Circuit, Fla., Civil Rights/ADA (closed, appeal)
12. Federal Ct. 5:11-cv-539: Estate/Gillespie v. Thirteenth Jud. Cir., FL., Civil Rights, ADA (closed, appeal)
13. C.A.11, 12-11028-B: Estate/Gillespie v. Thirteenth Jud. Cir., FL., Estate, Civil RICO, Title 15. (closed, appeal)
14. *RCR* C.A.11, 12-11213-C: Gillespie v. Thirteenth Judicial Circuit, Fla., Civil Rights, ADA, (closed, appeal)
15. *RCR* SCOTUS Rule 22 Application, Justice Thomas May 31, 2011, not docketed. (Gillespie pro se)  
Emergency Petition for Stay or Injunction, re: Supreme Court of Florida SC11-858
16. *RCR* SCOTUS Rule 22 Application, Justice Thomas June 11, 2011, not docketed. (Gillespie pro se)  
Extraordinary Writ of Prohibition, re: Supreme Court of Florida SC11-858
17. *RCR* SCOTUS Petition for Writ of Certiorari August 20, 2012 review Fla.Sup.Ct. case no. SC11-1622,  
Returned August 23, 2012 because the petition was determined out-of-time.
18. *RCR* SCOTUS Rule 13.5 Application to Justice Thomas, docketed August 13, 2012, No. 12A215  
Granted Sep-13th; Time extended to file to December 10, 2012, C.A.11 12-11028, 12-11213
- 
19. Original Case 99-2795-CIV-T-26C, Eugene R. Clement v. AMSCOT, December 8, 1999
20. Original Appeal 01-14761-AA, Clement, Blomefield, Gillespie v. AMSCOT Corp, August 20, 2001



U.S. Department of Justice

Civil Rights Division

MJK:aw:rs  
DJ 144-17M-0

*Criminal Section - PHB  
950 Pennsylvania Ave, NW  
Washington, DC 20530*

**JAN 31 2011**

Mr. Neil Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Dear Mr. Gillespie:

This responds to your letter, postmarked October 7, 2010, in which you allege that Judge Martha J. Cook has falsified records and denied your request for accommodation under the Americans with Disabilities Act. You further allege that former attorneys at Barker, Rodems & Cook, amongst other things, have defrauded you and others while representing you in consumer litigation against AMSCOT Corporation. We apologize for our delay in responding.

The Criminal Section of the Civil Rights Division at the Department of Justice is responsible for investigating and prosecuting criminal conduct involving deprivations of rights. In general, these matters include acts involving racial or religious violence, misconduct by local and federal law enforcement officials, violations of peonage and involuntary servitude statutes, and violence against reproductive health care facilities.

We have carefully reviewed the information which you furnished. However, we have concluded that your complaint does not involve a prosecutable violation of federal criminal civil rights statutes. This is not a judgment on the truth or merit of your complaint, it is simply to inform you that this is not the type of case that this office could prosecute. Accordingly, we are unable to assist you.

For your information, complaints relating to Judicial Misconduct deserving appellate review should be referred to the Judicial Qualifications Commission of Florida. You may wish to write directly to:

Judicial Qualifications Commission  
1110 Thomasville Road  
Tallahassee, FL 32303-6224

**EXHIBIT**  
**APPENDIX N**

Thank you for bringing this matter to our attention.

Sincerely,

Mark J. Kappelhoff  
Section Chief  
Criminal Section

By:

A handwritten signature in black ink, appearing to read 'Angela Washington', with a long, sweeping horizontal flourish extending to the right.

Angela Washington  
Paralegal Specialist  
Criminal Section



U.S. Department of Justice

Civil Rights Division

Disability Rights Section - NYA  
950 Pennsylvania Avenue N.W.  
Washington, DC 20530

204-17M-0

AUG 03 2011

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

Re: 13th Judicial Circuit Court

Dear Mr. Gillespie:

This letter is in response to the complaint that you filed with this office alleging a possible violation of the Americans with Disabilities Act (ADA). The Disability Rights Section reviews individual complaints filed by persons under Title II of the ADA.

After carefully reviewing the information that you provided, we have decided not to take any further action on your complaint. Unfortunately, due to the thousands of Title II complaints that we receive each year, we do not have the resources to resolve all of them. We have made no determination regarding the merits of your complaint or whether it could be redressed under the ADA or another statute. Moreover, our decision does not affect your right to pursue your complaint in another manner. You may wish to contact an attorney or legal service to determine what remedies may be available.

We have enclosed a list of agencies and groups in your state that may be of some assistance to you. If you have access to the internet, the text of the ADA, the Department's regulations, and many technical assistance publications are provided on our ADA Home Page at <http://www.ada.gov>. If you have specific questions about Title II of the ADA or want copies of technical assistance publications sent to you, you may call the ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TTY).

We regret that we are unable to assist you.

Sincerely,

Jeanine Worden  
Deputy Chief  
Disability Rights Section  
Civil Rights Division

Enclosures

372621





*David Gee, Sheriff*  
*Jose Docobo, Chief Deputy*

---

P.O. Box 3371  
Phone (813)247-8000  
www.hcso.tampa.fl.us

Hillsborough County  
Tampa, Florida 33601

January 12, 2011

Mr. Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481

Dear Mr. Gillespie:

In response to your letter dated November 13, 2010, I made contact with Deputy Christopher E. Brown concerning your request for an explanation regarding why he escorted you out of the courthouse on September 28, 2010 after a hearing with Judge Martha Cook. Deputy Brown advised that the Judge ordered you to leave after a disruption in the courtroom. He stated that he followed you to the front door as you exited the building without assistance. Other than the official records maintained by the Court, I am not aware of any other records related to the hearing before Judge Cook.

As we discussed on the telephone today, you expressed some concern over your personal safety while in the courthouse due to a disability and due to a potential threat from opposing counsel. Please let me know the date and time of your next visit to the courthouse and we will take action to help ensure a safe and orderly visit. Please feel free to contact me with any additional questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "James P. Livingston".

James P. Livingston, Major  
Court Operations Division

**EXHIBIT**  
APPENDIX P

**EXHIBIT**  
**E**

## INDEX TO SEPARATE VOLUME APPENDICES

### SEPARATE VOLUME APPENDICES, U.S. ELEVENTH CIRCUIT

Motion To Reconsider, Vacate or Modify Order, May 31, 2012  
Title 15 of the United States Code pertaining to restraint of trade and monopolies  
Civil RICO 18 U.S.C. § 1961 et seq., Hobbs Act, 18 U.S.C. § 1951, etc.

Mental Integrity as a Fourteenth Amendment Liberty Interest, August 6, 2012  
Consolidated Amended Motion For Disability Accommodation  
Waiver of Confidentiality  
Motion for Declaratory Judgment - Appoint Guardian Ad Litem  
Appendix 1, Appendix 2, Appendix 3

Affidavit of Neil J. Gillespie, in support of disability motion  
Consolidated Notice, Pro Se Electronic Case Filing Prohibition  
in support of disability motion, and IFP fee waiver

### SEPARATE VOLUME APPENDICES, U.S. DISTRICT COURT, Case 5:11-cv-539

First Amended Complaint (Doc. 15)  
and separate volumes Appendix 1, Appendix 2, Appendix 3

Response to Show Cause (Doc. 14)

Notice of Filing Rule 4(d) notice waiver of summons (Doc. 16)

Motion for leave to proceed in forma pauperis (Doc. 3)

Notice of Hunger Strike (Doc. 17)

### SEPARATE VOLUME APPENDICES, THE FLORIDA BAR

The Florida Bar file RFA No. 13-7675 Respondent Robert W. Bauer

The Florida Bar file TFB No. 2013-10,271 (13E) Respondent Ryan Christopher Rodems

The Florida Bar file TFB No. 2013-10,162 (6D) Eugene P. Castagliuolo

### SEPARATE VOLUME APPENDICES, JUDICIAL QUALIFICATIONS COMMISSION (JQC)

Florida JQC file Docket No. 12385 Respondent Judge Claudia R. Isom

Florida JQC file Docket No. 10495 Respondent Judge Martha J. Cook

SEPARATE VOLUME APPENDICES, U.S. DISTRICT COURT, Case 5:10-cv-503

Complaint, and Exhibits 1-2, 5-15; PACER Docket Case 5:10-cv-503

**NOTE: The District Clerk refused to put exhibits 1-15 on PACER**

Separate Volume Exhibit 3 (152 pages) Plaintiff's First Amended  
Complaint, Hillsborough 05-CA-7205

Separate Volume Exhibit 4 (191 pages) Emergency Motion To Disqualify  
Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems &  
Cook, P.A. Hillsborough 05-CA-7205

Plaintiff's Response to Order To Show Cause (Doc. 58)

Separate Volume Appendix with the following:

Plaintiff's Notice of Voluntary Dismissal as to Defendants Rodems & BRC in  
Lieu of Amended Complaint (Doc. 22)

Plaintiff's Notice of Filing Affidavits, Extraordinary Circumstances (Doc. 23)  
(Judge Cook)

Plaintiff's Notice of Filing Transcript (Doc.49) (re Foley & Lardner, LLP)

Plaintiff's Unopposed Motion, Submit Addendum to Show Cause Response (Doc. 60)

Motion to Amend The Judgment (Doc. 68) (Exhibit 1, letter to Chief District  
Judge, Hon. Anne C. Conway, re: disqualification of Ryan Christopher Rodems)

SEPARATE VOLUME APPENDICES, FLORIDA SUPREME COURT, SC11-1622

Petition for Writ of Mandamus SC11-1622

Affidavit of Neil J. Gillespie, re Eugene P. Castagliuolo, SC11-1622

Orders and motion for reconsideration SC11-1622

SEPARATE VOLUME APPENDIX  
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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| <u>McPartland v. ISI Inv. Services, Inc.</u> , 890 F.Supp. 1029, M.D.Fla., 1995                             | 10           |
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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgments below.

**OPINIONS BELOW**

The Eleventh Circuit's opinion in case no. 12-11213 entered July 16, 2012 denied leave to proceed *in forma pauperis* holding the appeal is frivolous, and is unpublished. (Appendix A).

The Eleventh Circuit's entry of dismissal in case no. 12-11213 was entered August 7, 2012 for want of prosecution for failing to pay the filing fees, and is unpublished. (Appendix B).

The district court's order of dismissal in case no. 5:10-cv-00503-WTH-TBS entered February 27, 2012 is the subject of this petition, and is unpublished. (Appendix C).

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The Eleventh Circuit's opinion in case no. 12-11028 entered May 7, 2012 denied leave to proceed *in forma pauperis* holding the appeal is frivolous, and denied motions to consolidate the appeals, appoint counsel, and toll time, and is unpublished. (Appendix D).

Eleventh Circuit motion for reconsideration, case no. 12-11028, was denied in part and granted in part June 19, 2012, and is unpublished. (Appendix E). Reconsideration was denied for leave to proceed *in forma pauperis*, denied consolidation of the appeals, denied appointment of counsel, denied a request to toll time, and was granted to amend a request for disability accommodation, which was fully submitted August 6, 2012 but not considered as the case closed.

The Eleventh Circuit's entry of dismissal in case no. 12-11028 was entered July 13, 2012 for want of prosecution for failing to pay the filing fees, and is unpublished. (Appendix F).

The district court's order dismissing case in case no. 5:11-cv-00539-WTH-TBS entered January 24, 2012 is the subject of this petition, and is unpublished. (Appendix G).

## **JURISDICTION**

Justice Thomas granted a 60 day extension of time to file the petition for writ of certiorari to and including December 10, 2012 in Application No. 12A215, which was docketed on August 13, 2012 with the decision entered on September 13, 2012.

The Eleventh Circuit's opinion in case no. 12-11213 was entered July 16, 2012, and entry of dismissal was entered August 7, 2012. The Eleventh Circuit's opinion in case no. 12-11028 was entered May 7, 2012, a motion for reconsideration was denied in part and granted in part June 19, 2012, and entry of dismissal was entered July 13, 2012.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Set out in a Separate Volume Appendix: Constitutional and Statutory Provisions Involved

**This petition draws into question the constitutionality of certain Florida Statutes below**

### Federal Provisions

U.S. Const. art. I, § 8, Commerce Clause  
U.S. Const. amend. I Petition for redress  
U.S. Const. amend. IV Secure persons, houses, etc  
U.S. Const. amend. V process, life, liberty, property  
U.S. Const. amend. VI Assistance of Counsel  
U.S. Const. amend. VII Trial by jury, property  
U.S. Const. amend. VIII Excessive fines  
U.S. Const. amend. IX Rights retained  
U.S. Const. amend. X Powers not delegated  
U.S. Const. amend. XI Immunity.  
U.S. Const. amend. XIV Citizenship (liberty)  
Due Process, Equal Protection Clauses

15 U.S.C. Chapter 1, Sherman Act (15 U.S.C. 1-7)  
15 U.S.C. § 12-27, Clayton Act.  
15 U.S.C § 45 - Section 5, FTC Act  
15 U.S.C. § 1640 Truth in Lending Act (TILA)  
18 U.S.C. § 1951, The Hobbs Act  
18 U.S.C § 1961-68, RICO  
18 USC § 2511 - disclosure of communications  
42 U.S.C. § 12101 et seq., ADA  
29 U.S.C. § 701 et. seq., Rehab Act 1973, 504-508  
42 U.S.C. 10801 et seq.; Federal Protection,  
Advocacy for Mentally Ill Individuals Act.  
28 U.S.C. §§ 2201-2202 Declaratory Judgment Act

42 U.S.C. § 1981. Equal rights under the law  
42 U.S.C. § 1982. Property rights of citizens  
42 U.S.C. § 1983. Civil action deprivation rights  
42 U.S.C. § 1985. Conspiracy interfere w/rights  
42 U.S.C. § 1986. Action for neglect to prevent  
42 U.S.C. § 1988. Proceedings in vindication

### Florida provisions

The Rules Regulating The Florida Bar  
The Florida Code of Judicial Conduct  
Fla. Sup.Ct. Manual Internal Operating P  
Florida Rules of Civil Procedure  
Florida Rules of Appellate Procedure  
Florida Rules of Judicial Administration

Fla. Const. Article 1, § 2, basic rights  
Fla. Const. Article 1, § 9, due process.  
Fla. Const. Article 1, § 17, excessive fines  
Fla. Const. Article 1, § 21, access to courts

Fla. Stat. § 784.048(2) criminal (harassment)  
Fla. Stat. §§ 768.16 to 768.26,  
The Florida Wrongful Death Act.  
Fla. Stat. § 825.01 et seq., Abuse, Neglect,  
Exploitation of Elderly Persons, Disabled Adults

Constitutional challenge, Fla. Stat., sec. 454.021  
Attorneys; admission to practice law;  
Supreme Court to govern and regulate

Constitutional challenge, Fla. Stat., sec. 25.382  
State courts system

Constitutional challenge, Fla. Stat., sec. 38.01 et  
seq., Disqualification of judges

Constitutional challenge, Fla. Stat., sec. 43.20  
Judicial Qualifications Commission

Constitutional challenge, Fla. Stat., sec. 43.291  
Judicial nominating commissions

Constitutional challenge, Fla. Stat., sec. 57.105  
Awards of attorney's fees against pro se

Constitutional challenge, Fla. Stat., sec. 27.52  
Appointment of Counsel (to include disabled)

Constitutional challenge, Fla. Stat., Ch. sec.  
934.01 et seq., Security of Communications

## STATEMENT OF THE CASE

My name is Neil J. Gillespie, the petitioner appearing pro se, a law-abiding consumer of legal and court services affecting interstate commerce, among other things. (“Gillespie”).

On the morning of September 28, 2010 Gillespie needed the assistance and protection of an Article III federal judge, the Hon. Wm. Terrell Hodges, and the Ocala Fla. U.S. District Court, in a 5 year-old Fla. state court lawsuit gone bad with Ryan Christopher Rodems<sup>1</sup>, of Barker, Rodems & Cook, that cheated Gillespie in a prior case. The Fla. suit was to recover the money.

Gillespie’s Complaint (Doc.1) in 5:10-cv-00503 pled violations of the Americans with Disabilities Act (ADA), and deprivation of rights under section 1983 in the Florida lawsuit.

Unfortunately Gillespie did not get federal assistance or protection;<sup>2</sup> things got a worse<sup>3</sup>.

Mr. Rodems was somehow representing the State of Florida June 21, 2011 and moved to dismiss Gillespie’s federal claims against the State of Florida which he assigned to himself and his partners. But only the Florida AG may represent the State of Florida in a federal court action.

---

<sup>1</sup> The Florida Bar opened complaint no. 2013-10,271 (13E) against Mr. Rodems Sep-13, 2012.

<sup>2</sup> Respondent Judge Martha Cook held Gillespie in civil contempt with writ of bodily attachment during an ex parte hearing, where she made a false record that he “elected to leave”. Fortunately the bailiff, Deputy C.E. Brown, told his commander that Judge Cook ordered Gillespie to leave. This was after Gillespie provided her a copy of the Complaint in 5:10-cv-503, filed hours before.

Mr. Rodems got a warrant to arrest Gillespie on the pretext of a court-ordered deposition after the case was closed and on appeal. In 2008 Respondent Judge James Barton awarded \$11,550 to Mr. Rodems in attorney-fee sanctions, blaming Gillespie for Mr. Rodems’ earlier misconduct and disruption of the tribunal. Gillespie was later incompetently represented by Respondent Robert Bauer, at a cost of \$31,863, referred from the Fla. Bar. His 2d Bar complaint is enclosed.

<sup>3</sup> The public defender was appointed to represent Gillespie June 1, 2011 at a civil contempt hearing, but the judge relieved the defender at the hearing and immediately entered an order to arrest Gillespie. For twenty-one days law enforcement sought Gillespie, who was at home with the blinds closed working on his appeal. Day after day the sheriff came pounding on the door looking to arrest Gillespie. On June 3, 2011 Gillespie hired attorney Eugene P. Castagliuolo off Craigslist to prepare for the deposition, but that was a disaster, and the Bar opened a complaint.

Gillespie filed a second federal lawsuit September 16, 2011. His amended complaint cites in his first paragraph Title 15 of the United States Code pertaining to restraint of trade and monopolies, racketeering offenses under 18 U.S.C. § 1951, and more as described below. It also pleads the wrongful death of his Mother.

District Court 5:11-cv-00539-WTH-TBS  
Eleventh Circuit 12-11028

First Amended Complaint, January 17, 2012

Hon. Wm. Terrell Hodges, Article III Senior Judge  
Hon. Thomas B. Smith, Magistrate Judge

Original jurisdiction, 28 U.S.C. § 1331:

U.S. Const. amend. V and XIV, due process  
U.S. Const. amend. VIII, cruel-unusual punishment  
U.S. Const. amend. XIV, equal protection

Title 15 of the United States Code pertaining  
to restraint of trade and monopolies  
18 U.S.C. 1346 Fraud and honest services  
18 U.S.C. 1951 Interference with commerce

42 U.S.C. § 1981 Equal rights under the law  
42 U.S.C. § 1982 Property rights of citizens  
42 U.S.C. § 1983 Civil action deprivation rights  
42 U.S.C. § 1985 Conspiracy interfere w/rights  
42 U.S.C. § 1986 Action for neglect to prevent  
42 U.S.C. § 1988 Proceedings in vindication

42 U.S.C. 10801 et seq.; Federal Protection,  
Advocacy for Mentally Ill Individuals Act  
42 U.S.C. §§ 12101 et seq., Americans  
with Disabilities Act (ADA)

Pendent jurisdiction, 28 U.S.C. § 1367:

Fla. Const. Article 1, § 2, basic rights  
Fla. Const. Article 1, § 9, due process  
Fla. Const. Article 1, § 17, excessive fines  
Fla. Const. Article 1, § 21, access to courts

Fla. Stat. §§ 768.16 to 768.26  
The Florida Wrongful Death Act

District Court 5:10-cv-00503-WTH-(DAB)-TBS  
Eleventh Circuit 12-11213

Complaint filed, September 28, 2010

Hon. Wm. Terrell Hodges - Article III Senior Judge

Hon. Thomas B. Smith, Magistrate Judge  
July-29-2011 to February-27-2012

Hon. David A. Baker, Magistrate Judge  
September-28-2010 to July-29-2011

Original jurisdiction, 28 U.S.C. §§ 1331, 1343:

U.S. Const. amend. V and XIV, due process  
U.S. Const. amend. VIII, cruel-unusual punishment  
U.S. Const. amend. XIV, equal protection

42 U.S.C. § 1983, Civil action deprivation of rights  
42 U.S.C. §§ 12101, Americans w/Disabilities Act

Pendent jurisdiction, 28 U.S.C. § 1367:

Fla. Const. Article 1, § 17, excessive punishments  
Fla. Const. Article 1, § 21, access to courts

Gillespie is a Consumer of Legal and Court Services - Not a Criminal

“U.S. federal judges occupy the social and political space between individuals and the Constitution. They locate the boundaries between the power of society and government and the rights guaranteed under the Constitution of the United States.” - Alan Bliss<sup>1</sup>

On September 28, 2010 Gillespie believed an Article III federal judge was independent, and exercised what Article III calls "the judicial power of the United States."

Unfortunately our Founders did not consider the corrupting power and influence of a rival called The Florida Bar. The Hon. Wm. Terrell Hodges, nominated by President Nixon, and confirmed by the U.S. Senate, is also a member of The Florida Bar, ID No. 36398.

To his credit, Judge Hodges did not grant Mr. Rodems' motion (Doc. 32) to dismiss with prejudice a federal court action against the State of Florida. Mr. Rodems also had no authority<sup>2</sup> to represent the State of Florida and negotiate a settlement agreement and assignment of Gillespie's federal claims to himself and his law partners while Gillespie was unlawfully detained and in custody of one of the Respondents, the Thirteenth Judicial Circuit Florida, in deprivation of the very rights he sought to enforce in federal court.

The Court cited Heck v. Humphrey in its Order of Dismissal (Doc. 64.) and declined to “entertain any disputes within the purview of the settlement agreement”. Heck is a criminal matter. Gillespie is not a criminal, he is a law-abiding consumer of legal and court services.

Unfortunately the providers of those legal and court services have not provided them to Gillespie in an effective and expeditious manner for which he paid. At worst, some have acted unlawfully, even criminally, in the denial of those services, prejudicial to justice.

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<sup>1</sup> Quote by historian Alan Bliss, brochure by the Historical Committee, Middle District, Florida.

<sup>2</sup> Only the Attorney General of Florida may represent the State of Florida in a federal court action, Fla Const Art IV § 4, and FS § 16.01.

## Overview

This petition concerns the failure of The Florida Bar to properly discipline the practice of law as the regulatory and discipline “arm” of the Florida Supreme Court, which has a monopoly over the practice of law in restraint of trade, through deceptive acts, and racketeering, affecting interstate commerce. In 2008 Mr. Rodems garnished \$598.22 in Social Security disability money from Gillespie’s account in a Georgia State bank, through the use of Florida legal process in a pattern of racketeering against Gillespie, a Florida resident and citizen, affecting interstate trade.

This matter spans 12 years and 20 related legal actions. (Appendix M). Before filing a lawsuit, Gillespie unsuccessfully complained since 2003 to The Florida Bar<sup>3</sup>. There have been 12 Bar complaints; two currently open. One against Mr. Bauer is presented here for pendent jurisdiction. All are discussed in this petition. Gillespie made several complaints to the Florida Judicial Qualifications Commission (JQC); one currently being reconsidered, another JQC complaint against Respondent Judge Claudia Isom is presented with this petition for pendent jurisdiction. Gillespie made complaints to the U.S. Department of Justice, to the criminal section (Response at Appendix N), and to the disability rights section. (Response at Appendix O).

## Disability of the Petitioner

Gillespie is an indigent, fifty-six (56) year-old single man, law-abiding, late-in-life college educated, and a former business owner, disabled with physical and mental impairments. August 28, 2012 Gillespie submitted a letter to The Honorable William K. Suter, Clerk of the Court, requesting disability accommodation or information. Gillespie resubmits the letter now.

---

<sup>3</sup> Law firms are not regulated in Florida. Only individual attorneys are subject to discipline and regulation by the Florida Bar, according to the affidavit sworn to October 7, 2010 of Kenneth L. Marvin, Director of Lawyer Regulation, cited by Attorney General McCollum in State, Office of Att’y Gen. v. Shapiro & Fishman, LLP, 59 So. 3d 353, 355 (Fla. 4th DCA 2011).

Discussion of the first question presented

1. Can a Florida lawyer in private practice usurp the authority of an Article III federal judge in a federal civil rights and disability lawsuit, by improperly representing the State of Florida during a coercive custody of the disabled and mentally impaired petitioner to force a settlement, and assign the petitioner's claims against the State of Florida to himself and his law partners, then move to dismiss the federal lawsuit with prejudice on behalf of the State of Florida?

The answer is no. Only the Florida Attorney General can represent the State of Florida, which in this petition includes the following Respondents:

Thirteenth Judicial Circuit, Florida  
Claudia Rickert Isom, Circuit Judge, and individually  
James M. Barton, II, Circuit Judge, and individually  
Martha J. Cook, Circuit Judge, and individually  
David A. Rowland, Court Counsel, and individually  
Gonzalo B. Casares, ADA Coordinator, and individually

Case law holds that a circuit court judge does not have authority to appoint counsel to represent the State of Florida:

Only the Attorney General of Florida may represent the State of Florida in a federal court action. A circuit court judge was without the authority to appoint an acting state attorney to represent the state in an action pending before a federal court. State ex rel. Shevin v. Weinstein, 353 So. 2d 1251 (Fla. Dist. Ct. App. 3d Dis1. 1978).

Section 16.01 Florida Statutes states:

16.01 Residence, office, and duties of Attorney General. The Attorney General:  
(4) Shall appear in and attend to, in behalf of the state, all suits or prosecutions, civil or criminal or in equity, in which the state may be a party, or in anywise interested, in the Supreme Court and district courts of appeal of this state.

The Florida Constitution: Article IV, SECTION 4. Cabinet.—

(b) The attorney general shall be the chief state legal officer. There is created in the office of the attorney general the position of statewide prosecutor. The statewide prosecutor shall have concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is affecting or has affected two or more judicial circuits as provided by general law. The statewide prosecutor shall be appointed by the attorney general from not less than three persons nominated by the judicial nominating commission for the supreme court, or as otherwise provided by general law.

Petitioner's Response to the District Court's Orders Closing His Cases

District Court Order of Dismissal  
Case 5:10-cv-00503-WTH-TBS Document 64

Appearing at Appendix C is the Order of Dismissal (Doc. 64) entered February 27, 2012.

The Court held the Complaint is due to be dismissed for several reasons. Gillespie will respond to the fourth reason first as it involves Mr. Rodems and the first question presented:

And fourth, it appears that the Plaintiff has assigned all of his claims in this case to Defendants Ryan Christopher Rodems, Chris A. Barker, and William J. Cook, who have moved for voluntary dismissal with prejudice under Fed. R. Civ. P. 41(a)(2). (See Doc. 32).[fn2]

<sup>2</sup>The Court is aware that the Plaintiff has challenged the validity of the settlement agreement and assignment of claims on the grounds that it was procured by fraud, executed under duress, and without informed consent (Docs. 33, 39, 61, 63). However, the core of the settlement agreement containing the assignment involved the resolution of various matters pending in state court, and the settlement agreement itself appears to have been executed as part of a state court proceeding. (Doc. 32, 40). As such, the state court is the appropriate judicial body with the jurisdiction to resolve any disputes over the validity and/or enforceability of the settlement agreement and assignment. This Court will not (absent subject-matter jurisdiction) entertain any disputes within the purview of the settlement agreement unless and until the state court enters a judgment declaring the settlement agreement and assignment invalid. Cf. Heck v. Humphrey, 512 U.S. 477, 114 S.Ct. 2364 (1994).

The Court is correct, Gillespie has challenged the validity of the settlement agreement, and also in Doc. 62, Gillespie's Petition for Writ of Mandamus to the Florida Supreme Court, SC11-1622. However, as established in the preceding page, Mr. Rodems is without authority to represent the State of Florida, and his settlement and assignment is a nullity, an unauthorized practice of law.

The Court's reliance on Heck is misplaced, see Gillespie's motion under Rule 59(e) to amend the judgment. (Doc. 68). Gillespie also noted:

1. Magistrate Judge Baker failed to follow mandatory case law on the disqualification of counsel in his Order (Doc. 20) that denied plaintiffs pro se motion to disqualify (Doc. 8) Ryan Christopher Rodems and Barker, Rodems & Cook, P.A.. Plaintiff is concerned that the Judge may have a conflict, bias, or prejudice as set forth in

28 U.S.C. § 455.

2. The Court also failed to properly manage this lawsuit as set forth in Plaintiffs 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.

Exhibit 1 to Doc. 68 is Gillespie's letter to The Honorable Anne C. Conway

Chief United States District Judge, for the Middle District of Florida, that stated in part:

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).

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?

Response to issues 1 - 3 in Order to Dismiss:

First, the Plaintiff has never effected service of summons on any of the Defendants, or complied with any of the requirements of Fed. R. Civ. P. 4.

Gillespie served all the Defendants (except Mr. Rodems and his firm) in compliance with Rule 4(d) waiver of service, but none waived service. Gillespie responded to this issue in more detail in his Response to Order to Show cause. (Doc. 58) submitted November 9, 2011:

Gillespie is indigent and cannot afford to pay to have a summons served to each of the above Defendants, which is eleven (11) Defendants/summons. Gillespie filed on the Court's form an affidavit of indigence to proceed in forma pauperis November 20, 2011 in related case 5:11-cv-00539 and is awaiting a decision. If found indigent Gillespie will seek a waiver of the fees to serve the Defendants listed above, and any others needing service in this case.

The Court also held:

Second, the Complaint consists of 39 pages of rambling, largely incomprehensible allegations and fails to set forth “a short and plain statement of the claim showing that the pleader is entitled to relief,” as required by Fed. R. Civ. P. 8(a)(2).

Gillespie agrees with the Court. The Complaint (Doc. 1) was an incomplete first draft. Gillespie planned to file the Complaint (Doc. 1) weeks earlier, but was delayed until September 28, 2010 due to mental illness and other disabilities. Gillespie contacted by letter August 30, 2010 James Leanheart, Court Operations Supervisor, about filing documents. The Complaint (Doc.1) was an incomplete first draft, but Exhibits 1-15 were complete and stood to clarify any “rambling”.

Gillespie raised this issue again with the District Clerk Sheryl L. Loesch April 5, 2012 but did not get a response.

3. Prior to personally filing this pro se case, I wrote August 30, 2010 to James Leanheart, Court Operations Supervisor, about filing documents on the CM/ECF system and PACER. This is the operative language from paragraph five of the accompanying letter: (Exhibit 2)

“My...claims...involve documents in the state court record from the Circuit Civil Court of the 13th Judicial Circuit, including...an amended complaint (150 pages), and an emergency motion to disqualify counsel (190 pages). What is the procedure for including or incorporating these numerous and sometimes large documents into my...civil rights complaint?”

Mr. Leanheart did not respond in writing, but we spoke by phone September 10, 2010. Following Mr. Leanheart’s instructions, I filed all the documents in paper September 28, 2010. I personally filed the case September 28, 2010 and personally handed the paper documents to a deputy clerk. But the Clerk did not put any of the exhibits on the CM/ECF system and/or PACER, not the amended complaint (Exhibit 3), not the emergency motion to disqualify counsel (Exhibit 4), none of the 15 exhibits were put on PACER. I complained to the deputy clerks in Ocala more than once to no avail. I complained in person a number of times and the error was not corrected. I live in Ocala and almost always hand deliver my documents to a deputy clerk in order to save the cost of postage or courier service as I am indigent.

My letter dated August 30, 2010 to Mr. Leanheart states I planned to file a pro se lawsuit in two weeks or so, but I was delayed until September 28, 2010 due to mental illness and other disabilities, see Doc. 36 for my notice of filing disability information.

District Court Order Dismissing Case  
Case 5:11-cv-00539-WTH-TBS Document 18

Appearing at Appendix G is the Order Dismissing Case (Doc. 18) entered January 24, 2012. The First Amended Complaint was also incomplete, as explained in the Eleventh Circuit no. 12-11028, Motion To Reconsider, Vacate or Modify Order, May 30, 2012:

1. This appeal is not frivolous. The District Court has jurisdiction under RICO, the Racketeer Influenced and Corrupt Organizations Act. The First Amended Complaint filed January 17, 2012 (Doc. 15) is actually an incomplete RICO lawsuit based in part on a federal RICO lawsuit against The Florida Bar filed by attorney Mary Alice Gwynn on April 21, 2008, Lanson v. The Florida Bar, case no. 9:08-cv-80422-WJZ, U.S. District Court, S.D. of Florida. (Exhibit 1). The Complaint in Lanson alleges the following in "The Facts" section, page 3:

The Florida Supreme Court has delegated to The Florida Bar the function of "disciplining" its members in this integrated state bar system. The Supreme Court and The Bar have a fiduciary duty to the public as well as to members of The Bar to exercise that disciplining function through "honest services," afforded all involved in this disciplinary process - both the members of the public allegedly harmed by the unethical practice of law and lawyers who may be targeted for discipline - due process of law, equal protection, and all other constitutionally-guaranteed rights. The Florida Bar unfortunately is being operated, and demonstrably so, in a fashion as to protect itself rather than the public and honest lawyers. It is presently violating federal laws in pursuit of illicit ends, just as the United States Supreme Court predicted would eventually become the case with integrated state bars such as Florida's.

Attorney misconduct, ratified by the courts, is the essence of Gillespie's lawsuits too. Gillespie plead verbatim the following from the Lanson jurisdiction section in his jurisdiction section:

"18 USC 1346 (fraud and honest services); 18 USC 1951 (interference with commerce), Title 15 of the United States Code pertaining to restraint of trade and monopolies (antitrust law)"

Like Lanson, Gillespie has filed meritorious Bar complaints with The Florida Bar against lawyers guilty of multiple breaches of The Florida Bar's Rules regarding ethics, which complaints The Bar has failed to properly adjudicate. Gillespie in his First Amended Complaint (Doc. 15) includes Appendix 3, Exhibits 1 through 11, which relate to Gillespie's Bar complaint against Mr. Bauer, Gillespie v. Robert W. Bauer, The Florida Bar File No. 2011-073(8B).

2. As set forth in the First Amended Complaint (Doc. 15), Gillespie alleged facts and partial jurisdiction for RICO claims although not identified as such. Gillespie was unable to compete the RICO complaint in a timely manner due to disability, time constraints, and lack of legal training. Gillespie believed the First Amended Complaint (Doc. 15) had to be filed and served by January 17, 2012 in compliance with Rule 4(m), FRCP, which requires service on the defendants within 120 days after the complaint is filed. January 17, 2012 was exactly 120 days after the Complaint (Doc. 1) was filed September 16, 2011. Gillespie planned to amend the complaint again after it was served to include the RICO claims, if necessary. In addition, Gillespie filed January 9, 2012 his Petition for Writ of Mandamus in the Florida Supreme Court, case no. SC11- 1622, and was mentally exhausted from that effort. Gillespie was hopeful that the Florida Supreme Court would remedy the gross injustice in the Florida state court case, Gillespie v. Barker, Rodems & Cook, P.A., et al, 05-CA-7205, Hillsborough County, Florida. If the Florida Supreme Court honestly considered his petition, Gillespie believed he could avoid RICO litigation.

3. Gillespie's First Amended Complaint (Doc. 15) alleged facts showing a "pattern of racketeering activity" by the Defendants, although not specifically cited under 18 USC § 1961 et seq., the RICO statute. RICO allows private civil action under 18 USC § 1964(c) Any person injured in his business or property by reason of a violation of section 1962 may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee. **Gillespie, and the Estate of Penelope Gillespie, have been injured as to property, the right to their claims.** The Defendants are an enterprise under RICO, and their racketeering activity includes the following:

a. Gillespie established a cause of action for fraud, etc., in the state court action 05-CA-7205, against Barker, Rodems & Cook, P.A. for stealing \$7,143 during their prior representation of Gillespie in the Amscot case. (Appeal no. 01-14761-AA, C.A.11) (Doc. 15, ¶13). (Violation, 18 USC § 1341, Frauds and swindles; 18 USC § 1343 - Fraud by wire).

b. Ryan Christopher Rodems unlawfully represented his firm and partner against Gillespie, a former client, in the same matter as the prior representation. (Doc. 15, ¶13) (violation of Bar rules, and holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995.) During the course of the litigation Mr. Rodems harassed and intimidated Gillespie well beyond the scope of zealous advocacy, and prevented the lawful adjudication of this case. Rodems made numerous false statements of material fact to the court, failed to cooperate with opposing counsel, and disrupted the tribunal for strategic advantage. Mr. Rodems made false representations to the court to have an arrest warrant issued for Gillespie for the purpose of forcing a walk-away settlement agreement in the case, and to force a walk-away settlement agreement in Gillespie's federal civil rights and ADA disability lawsuit. Mr. Rodems intentionally inflicted emotional distress on Gillespie, who is mentally ill. As such, Mr. Rodems violated the following:

18 USC § 1512 - Tampering with a witness, victim, or an informant  
18 USC § 1513 - Retaliating against a witness, victim, or an informant  
18 USC § 1951 - Interference with commerce by threats or violence

c. Mr. Rodems pursued vexatious litigation against Gillespie in the form of a libel counterclaim from January 19, 2006 through September 28, 2010, whereupon Rodems voluntarily dismissed the counterclaim without prejudice. (Doc. 15, ¶13). The vexatious counterclaim was to extort a settlement. Under the Hobbs Act, 18 U.S.C. § 1951, 'extortion' means the obtaining of property from another...under color of official right.'.

d. Judge Claudia Isom, the second trial judge in the state court action, authored an essay, Professionalism and Litigation Ethics, 28 STETSON L. REV. 323 (Exhibit 10), that describes a racket or scheme where the Court favors intensive case management for lawyers to avoid costly sanctions, because judges are elected and need the support of lawyers. The essay acknowledges that lawyers behave badly in court, and this behavior is intended to churn more fees for themselves. In Gillespie's case the Thirteenth Judicial Circuit refused to provide him the same kind of intensive case management, but instead held Gillespie to impossible standards to slam him with \$11,550 in sanction, which in turn were used to extort a settlement. The \$11,550 award under section 57.105 is contrary to the law on discovery:

Pretrial discovery was implemented to simplify the issues in a case, to encourage the settlement of cases, and to avoid costly litigation. Elkins v. Syken, 672 So.2d 517 (Fla. 1996). The rules of discovery are designed to secure the just and speedy determination every action (In re Estes' Estate, 158 So.2d 794 (Fla. Dist. Ct. App. 3d Dist. 1963), to promote the ascertainment of truth (Ulrich v. Coast Dental Services, Inc. 739 So.2d 142 (Fla. Dist. Ct. App. 5th Dist. 1999), and to ensure that judgments are rested on the real merits of causes (National Healthcorp Ltd. Partnership v. Close, 787 So.2d 22 (Fla. Dist. Ct. App. 2d Dist. 2001), and not upon the skill and maneuvering of counsel. (Zuberbuhler v. Division of Administration, State Dept. of Transp. 344 So.2d 1304 (Fla. Dist. Ct. App.2d Dist. 1977).

Judge Isom also failed to disclose during a conflict hearing February 1, 2007 a conflict with husband Woody Isom who practiced law with Jonathan Alpert, who represented Gillespie in the Amscot case. Rodems, present at the hearing, failed to make the disclosure too, a conspiracy of silence to the detriment of Gillespie. Mr. Rodems and law partner Mr. Cook have given money contributions to Judge Isom's judicial campaign. In return Judge Isom acted with unlawful favor toward Rodems and his law firm. This racketeering activity is in violation of the following:

18 USC § 1341 - Frauds and swindles (mail fraud)

18 USC § 1343 - Fraud by wire  
18 USC § 1346 - (fraud and honest services)  
18 USC § 1512 - Tampering with a witness, victim, or an informant  
18 USC § 1513 - Retaliating against a witness, victim, or an informant  
18 USC § 1951 - (interference with commerce)

e. Judge Barton negligently managed the state action, and failed to timely conclude the litigation. Judge Barton negligently exceeded the time to conclude this litigation by many years, in violation of the Florida Rules of Judicial Administration: (Doc. 15, ¶31)

Rule 2.250(a)(1)(B), the time standard for a civil trial case is 18 months from filing to final disposition.

Rule 2.545 Case Management (a) Purpose. Judges and lawyers have a professional obligation to conclude litigation as soon as it is reasonably and justly possible to do so.

Rule 2.545(b) Case Control. The trial judge shall take charge of all cases at an early stage in the litigation and shall control the progress of the case thereafter until the case is determined. The trial judge shall take specific steps to monitor and control the pace of litigation.

Judge Barton negligently allowed Mr. Rodems to re-litigate matters already decided by the Order of Judge Nielsen entered January 13, 2006. (Res judicata). Judge Barton accepted as true false testimony by Mr. Rodems in the improper re-litigation of the Order of Judge Nielsen entered January 13, 2006. Judge Barton negligently allowed this case to languish for a period of one year following the motion to withdrawal by Gillespie's lawyer Robert W. Bauer on October 13, 2008. This racketeering activity is in violation of the following:

18 USC § 1341 - Frauds and swindles (mail fraud)  
18 USC § 1343 - Fraud by wire  
18 USC § 1346 - (fraud and honest services)  
18 USC § 1512 - Tampering with a witness, victim, or an informant  
18 USC § 1513 - Retaliating against a witness, victim, or an informant  
18 USC § 1951 - (interference with commerce)

f. Judge Barton continued the pattern of racketeering activity in awarding \$11,550 in sanctions to Mr. Rodems. (Doc. 15, ¶13b). Judge Barton was negligent in his failure to conduct a hearing on a Claim Of Exemption And Request For Hearing served August 14, 2008 by Gillespie's attorney Robert W. Bauer. Judge Barton entered Order Granting Defendants' Motion For Writ of Garnishment After Judgment July 24, 2008. On July 29, 2008 Mr. Rodems obtained Writs of Garnishment against Gillespie's bank accounts, and client account with Mr. Bauer. Rodems garnished \$598.22 from Gillespie's bank accounts with Park

Avenue Bank, a Georgia bank, affecting interstate commerce. (Doc. 15, ¶13b). Mr. Rodems garnished Gillespie's Social Security Disability benefits, exempt from garnishment under section 222.18 Florida Statutes. Judge Barton failed to provide Gillespie accommodation under the ADA. Barker, Rodems & Cook, P.A. paid money to Regency Reporting Service, owned by Chere Barton, wife of Judge Barton, who acted with unlawful favor toward Mr. Rodems and his firm. This racketeering activity is in violation of the following:

- 18 USC § 1341 - Frauds and swindles (mail fraud)
- 18 USC § 1343 - Fraud by wire
- 18 USC § 1344 - Bank fraud
- 18 USC § 1346 - (fraud and honest services)
- 18 USC § 1512 - Tampering with a witness, victim, or an informant
- 18 USC § 1513 - Retaliating against a witness, victim, or an informant
- 18 USC § 1951 - (interference with commerce)

g. Gillespie retained Robert W. Bauer to defend Rodems' vexatious libel counterclaim. Bauer was a referral from The Florida Bar. (Doc. 15, Count 2). Mr. Bauer was incompetent, see paragraph 48, below. Also see paragraphs 49 and 50 of the First Amended Complaint. (Doc. 15).

48. Mr. Bauer does not appear to possess sufficient literacy to practice law. His writing contains numerous spelling and other errors. Mr. Bauer compensates for his insufficient literacy by hiring law students and recent law school graduates to work for him and do the legal work that he himself is not capable of producing. Mr. Bauer also uses the text from the pro se pleadings of his clients as his own work product, then charges the client for the work as his own, and submits the work to the court as his own. This is set forth in the Bar complaint, Gillespie v. Robert W. Bauer, The Florida Bar File No. 2011-073(8B). (Appendix 3).

Mr. Bauer has had a number of Bar complaints, and other complaints, by former clients. A large number of the complaining clients are disabled and/or elderly, suggesting a pattern of disregard by Mr. Bauer toward elderly and disabled clients. (Doc. 15, ¶51a-d). Mr. Bauer prevented Gillespie from testifying in his own case. (Doc. 15, page 8). Mr. Bauer charged Gillespie \$33,000 for representation then dropped the case. (Doc. 15, page 8). Mr. Bauer refused to sign a contingent fee agreement. In July 2009 Gillespie hired attorney Seldon Childers to review this matter, and he concluded the following about the original complaint. (Doc. 15, ¶65, Appendix 1, Exhibit 7).

“Plaintiff has already paid twice the actual damages in attorneys fees to date in the case and there is still essentially no complaint filed. [at footnote 3] i.e. the current complaint is deficient and will have to be amended by a new complaint that is largely re-written, which will re-set all case deadlines and permit more discovery, new motions to dismiss, motions for

summary judgment, and a new answer with affirmative defenses and counter-claims, all of which will have to be dealt with just as they were the first time around.” (Analysis of Case, Sep-17-09, page 3, ¶2.)

Based upon Mr. Childers’ review, Mr. Bauer should not have undertaken this representation on an hourly fee basis. Even under the best scenario, this case would lose \$7,475.34. Under the worst scenario the case would lose \$204,067.41. This litigation was never in Gillespie’s interest, only Mr. Bauer’s interest, a clear breach of fiduciary duty and a violation of section 825.103(1)(a), Fla. Stat. (Doc. 15, ¶67) This racketeering activity is in violation of the following:

- 18 USC § 1341 - Frauds and swindles (mail fraud)
- 18 USC § 1343 - Fraud by wire
- 18 USC § 1344 - Bank fraud
- 18 USC § 1346 - (fraud and honest services)
- 18 USC § 1512 - Tampering with a witness, victim, or an informant
- 18 USC § 1513 - Retaliating against a witness, victim, or an informant
- 18 USC § 1951 - (interference with commerce)

h. Successor Judge Martha Cook conspired with Mr. Rodems to misuse and deny Gillespie judicial process under the color of law as set forth in the related federal action (5:10-cv-503). (Doc. 15, page 9). Judge Cook’s pattern of racketeering activity is set forth in numerous pleadings and affidavits, including:

(A) The Complaint (Doc. 1) in the related case 5:10-cv-503, and accompanying exhibits.

(i) Exhibit 12 is Gillespie’s affidavit of September 27, 2010 that shows Judge Cook refused to hear Gillespie’s Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA. Gillespie’s affidavit shows Judge Cook falsified a record in violation of section 839.13(1) Fla. Stat., committed official misconduct in violation of section 838.022, Fla. Stat., and made a false statement in writing to mislead a public servant (the Clerk) in the performance of her official duty in violation of section 837.06, Fla. Stat., False official statements.

(ii) Exhibit 13 is Gillespie’s affidavit of September 27, 2010 that shows Judge Cook falsified an description of Gillespie’s panic attack July 12, 2010 in her Order dated July 29, 2010, in violation of section 839.13(1), Florida Statutes.

(B) Plaintiff’s Verified Emergency Motion for Order of Protection and Removal. (Doc. 5) shows that Judge Cook accused Gillespie of feigning disability, ordered Gillespie removed from a hearing September 28, 2010, then proceeded with the

hearing ex parte to grant Mr. Rodems final summary judgment, and held Gillespie in contempt.

(C ) Plaintiff's Voluntary Notice of Dismissal (Doc. 22) Extraordinary Circumstances, paragraphs 12, 13 and 14:

12. Judge Cook is knowingly and willfully harming Gillespie through a confusion technique. Judge Cook is doing this to help Mr. Rodems and Barker, Rodems & Cook prevail over Gillespie in the lawsuit over which she presides. Judge Cook knowingly introduced false information into the court record and other such as a coercive technique used to induce psychological confusion and regression in Gillespie by bringing a superior outside force to bear on his will to resist or to provoke a reaction in Gillespie. The CIA a manual on torture techniques, the KUBARK manual, calls this the Alice in Wonderland or confusion technique.

13. Dr. Huffer says misinformation by the court triggers symptoms of Legal Abuse Syndrome. The psychic injury is a barrier to due process because your body may be present in court but your mind is not, and that is a violation of civil rights and the ADA.

14. A letter from Dr. Huffer in support of Gillespie is attached to this notice. (Exhibit A). The letter shows that Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities. Dr. Huffer wrote: "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." (Dr. Huffer, October 28, 2010, paragraph 2)

(D) Plaintiff's Notice of Filing Affidavits of Extraordinary Circumstances (Doc. 23) shows Judge Cook denied Gillespie civil rights, ADA rights, and acted with malice aforethought in harming Gillespie through the Intentional Infliction of Severe Emotional Distress. The notice filed the following five (5) affidavits of Neil J. Gillespie:

1. Affidavit of Neil J. Gillespie, October 28, 2010, *Judge Martha J. Cook, falsified record of Gillespie's panic attack; ADA*

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*

3. Affidavit of Neil J. Gillespie, October 28, 2010, *Judge Martha J. Cook ordered Gillespie removed from the hearing of September 28, 2010, and accused Gillespie in open court of feigning illness; ADA*

4. Affidavit of Neil J. Gillespie, October 29, 2010, *Judge Martha J. Cook ordered Gillespie removed from the hearing on Defendants' Final Summary Judgment Count I, proceeded without Gillespie, granted SJ for Defendants on TILA fees previously denied with prejudice and by three different federal courts*

5. Affidavit of Neil J. Gillespie, October 29, 2010, *Judge Martha J. Cook ordered Gillespie removed from the hearing on Defendants' Motion for an Order of Contempt and Writ of Bodily Attachment, then falsified the Order stating Gillespie voluntarily left the hearing and did not return*

Judge Cook failed to provide Gillespie accommodation under the ADA. Mr. Rodems and law partner Mr. Cook have given money contributions to Judge Cook's judicial campaign. In return Judge Cook acted with unlawful favor toward Mr. Rodems and his law firm. This racketeering activity is in violation of the following:

18 USC § 1341 - Frauds and swindles (mail fraud)

18 USC § 1343 - Fraud by wire

18 USC § 1344 - Bank fraud

18 USC § 1346 - (fraud and honest services)

18 USC § 1512 - Tampering with a witness, victim, or an informant

18 USC § 1513 - Retaliating against a witness, victim, or an informant

18 USC § 1951 - (interference with commerce)

i. On June 1, 2011 Judge James Arnold, in cooperation with Rodems, issued a politically motivated warrant to arrest Gillespie to force a "walk-away" settlement in the state and federal actions. (Doc. 15, ¶13, page 9). As set forth in the First Amended Complaint, paragraph 16:

16. Gillespie is an individual with mental illness as defined by 42 U.S.C. Chapter 114 The Protection and Advocacy for Individuals with Mental Illness Act, § 10802(4)(A) and (B)(i)(III). Gillespie was involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense. Gillespie's involuntary confinement was in the George E. Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida. On June 1, 2011 Judge Arnold issued a politically motivated warrant to arrest Gillespie for the purpose of harming Gillespie by abuse as defined § 10802(1) and neglect as defined by § 10802(5) to force a walk-away settlement agreement in the state action, and to force a walk-away settlement agreement in the federal action,

Gillespie's civil rights and ADA lawsuit against the Thirteenth Judicial Circuit, Florida, et al., for the misuse and denial of judicial process under the color of law, and denial of disability accommodation. Gillespie was involuntary confined by two (2) fully armed deputies of the Hillsborough County Sheriff's Office, and involuntarily held during an improper full deposition, post final summary judgment, an open-ended deposition without time limit, with no lunch break, and no meals usually given to an inmate, until Gillespie suffered injury and agreed to sign a walk-away settlement agreement. Gillespie was so impaired when he signed the agreement that the record shows he was unable to make the settlement decision himself.

This racketeering activity is in violation of the following:

- 18 USC § 1341 - Frauds and swindles (mail fraud)
- 18 USC § 1343 - Fraud by wire
- 18 USC § 1344 - Bank fraud
- 18 USC § 1346 - (fraud and honest services)
- 18 USC § 1512 - Tampering with a witness, victim, or an informant
- 18 USC § 1513 - Retaliating against a witness, victim, or an informant
- 18 USC § 1951 - (interference with commerce)
- 42 U.S.C. Chapter 114, Protection and Advocacy for Individuals with Mental Illness
- Act 42 U.S.C., Chapter 126, §§ 12101 et seq., Americans with Disabilities Act

j. For additional examples of Defendants' racketeering activity see:  
Plaintiff's Response to Order to Show cause, with exhibits. (Doc. 58)  
Unopposed Motion for Leave to Submit Addendum to Doc. 58 (Doc. 60)

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Note: The District Court in 5:10-cv-503 also held:

Third, the Complaint fails to allege the basis for the Court's subject-matter jurisdiction as required by Fed. R. Civ. P. 8(a)(1) – the parties are clearly all citizens of Florida and therefore not diverse, and the Plaintiff has not alleged any intelligible facts that would support a finding of the existence of federal question jurisdiction. See 28 U.S.C. §§ 1331-1332.

Gillespie believes this case 5:10-cv-503, and 5:11-cv-539 should be consolidated, see his motion in the Eleventh Circuit. Then an amended complaint should be filed, with assistance of counsel.

## The Florida Supreme Court - The Florida Bar

Challenges to constitutionality of Florida Statutes related to practice of law in Florida:

Constitutional challenge, Fla. Stat., sec. 454.021 Attorneys; admission to practice law; Supreme Court to govern and regulate.

Constitutional challenge, Fla. Stat., sec. 25.382 State courts system.

Constitutional challenge, Fla. Stat., sec. 38.01 et seq., Disqualification of judges.

Constitutional challenge, Fla. Stat., sec. 43.20 Judicial Qualifications Commission.

Constitutional challenge, Fla. Stat., sec. 43.291 Judicial nominating commissions.

### 28 U.S.C., § 1367 Pendant Jurisdiction - Florida Bar Complaint

Robert W. Bauer RFA No. 13-7675 October 31, 2012

Complaint submitted October 31, 2012 against Robert W. Bauer was designated RFA No. 13-7675 (Request For Assistance). Mr. Bauer of Gainesville was referred to Gillespie in 2007 by the Florida Bar Lawyer Referral Service, and appeared for Gillespie in Gillespie v. Barker, Rodems & Cook through October 2008. Again, Mr. Rodems would not cooperate with Mr. Bauer, and the two later joined forces against Gillespie, after Bauer billed Gillespie about \$31,863 in legal fees, which fit nicely into Rodems' plans.

On November 9, 2012 ACAP Bar Counsel Mr. Wilhelm wrote Gillespie about his complaint against Mr. Bauer: "Please resubmit the complaint deleting issues concerning the closing of your prior case 2011-00,073." Gillespie responded this was impossible given "the issues are inextricably intertwined". This current complaint states in part:

Mr. Bauer and Mr. Rodems engaged in a pattern of racketeering activity to subvert or undermine my initial complaint against Bauer, file no. 2011-00,073 (8B). While the Florida Bar does not have jurisdiction to consider civil or criminal violations of RICO, the Racketeering, Influenced and Corrupt Organizations Act, 18 U.S.C. Sec. 1961-68, it does have jurisdiction and a duty to investigate related breaches of the Rules of Professional Conduct, Rules 4-8.4(c), 4-8.4(d), and 4-8.3(a), breaches of duty that facilitate the RICO activity.

Gillespie submits RAF No. 13-7675 with this petition for pendant jurisdiction Under 28 U.S.C., section 1367 as denied by the Florida Bar, which is the Florida Supreme Court.

28 U.S.C., § 1367 Pendant Jurisdiction - Judicial Qualifications Commission  
Respondent Judge Claudia R. Isom - Docket No. 12385

The Florida Judicial Qualifications Commission (JQC) denied by letter October 10, 2012 JQC Docket No. 12385, Gillespie's JQC complaint against Respondent Judge Claudia R. Isom.

In a letter denying the complaint, JQC General Counsel Michael Schneider wrote in part:

The Commission has completed its review of your complaint in the above matter and has determined, at its meeting held on Friday, October 5, 2012, that the concerns you have expressed are not allegations involving a breach of the Code of Judicial Conduct warranting further action by the Commission but are matters for review *solely* through the court system.

Gillespie submits JQC Docket No. 12385 with this petition for pendant jurisdiction under 28 U.S.C., § 1367 because the same allegations of judicial misconduct in the JQC complaint form the basis of allegations in this petition, and the JQC has indicated these matters are “for review *solely* through the court system.” From the complaint:

Please find enclosed my...complaint against Judge Claudia Rickert Isom for failing to disclose a conflict with her husband, attorney Woody Isom, and my former attorney Jonathan Alpert. Judge Isom lied to me in open court February 1, 2007 by failing to make the disclosure. Judge Isom's deceit in the case before her had significant consequences as outlined herein. Judge Isom engaged in dishonesty prejudicial to the administration of justice, and brought discredit to the courts and the judiciary.

Judge Isom was dishonest February 1, 2007 during a conflict hearing in my civil lawsuit, Gillespie v. Barker, Rodems & Cook, PA, et al, Case No. 05-CA-007205, Hillsborough Co. Judge Isom lied by omission when she failed to disclose that Woody Isom and Jonathan Alpert were previously law partners and shareholders at the law firm Fowler White in Tampa.

Judge Isom's dishonesty during the conflict hearing over which she presided is a serious breach of judicial ethics giving rise to this complaint. As set forth in my affidavit, Judge Isom denied me disability accommodation, and made rulings contrary to law. Judge Isom even ruled contrary to her own law essay, *Professionalism and Litigation Ethics*, 28 STETSON L. REV. 323. (Exhibit 6).

As set forth in my affidavit, fifteen (15) additional related cases followed in this matter, in addition to the original case, after Judge Isom belatedly stepped down. (Exhibit 6: Paragraph 47/exhibit 19). The cost of Judge Isom's dishonesty and denial of justice has been enormous to me, all the lawyers involved, and to the court system.

Florida Judicial Qualifications Commission  
Respondent Judge Martha J. Cook - Docket 10495

The Florida Judicial Qualifications Commission (JQC) denied by letter January 7, 2011 JQC Docket 10495, Gillespie's JQC complaint against Judge Martha J. Cook. Five days later Gillespie received January 12, 2011 a letter from Maj. James Livingston with a statement of Deputy Christopher E. Brown that impeached Judge Cook's record that Gillespie "elected to leave" the hearing September 28, 2010. Gillespie resubmitted the complaint to the JQC with Maj. Livingston's letter on November 26, 2012. Gillespie submits JQC Docket No. 10495 with this petition for pendant jurisdiction under 28 U.S.C., § 1367 because the same allegations of judicial misconduct in the JQC complaint form the basis of allegations in this petition, and the JQC previously wrote that "the concerns you have expressed are not violations of the Code of Conduct warranting further action by the Commission."

The transcript shows the hearing was a foregone conclusion. From the complaint:

Evidence of Judge Cook's judicial misconduct and disability is not limited to lying in open court and making improper ex parte rulings. The transcript shows Judge Cook immediately signed, without review, a six page Order on Final Summary Judgment As To Count I prepared in advance of the hearing by Mr. Rodems, suggesting the decision was a foregone conclusion. Transcript, September 28, 2010, pages 15-16.

24 [MR. RODEMS] And we have brought with us today, Your  
25 Honor, a proposed Final Summary Judgment as to  
1 Count One along with the appropriate copies and  
2 postage, pre-paid envelopes. In the event that  
3 the order is not satisfactory and you'd like us  
4 to send over a CD with this version on it so it  
5 can be modified, we can certainly do that.  
6 But, we would ask you to review that and  
7 consider entering that. Thank you.  
8 THE COURT: I've signed the order. I will  
9 have the original document with the clerk and  
10 conform copies and mail it.

Judge Cook's immediate signature and entry of Mr. Rodems' six page proposed Order without reading, let alone sufficient review, makes it impossible to determine her reasoning process because there is no independent authorship. Mr. Rodems' proposed Order contains many factual errors, facts disputed in Plaintiff's First Amended Complaint submitted May 5, 2010.....

Ryan Christopher Rodems, Florida Bar File No. 2013-10,271 (13E)

Complaint opened by the Florida Bar September 13, 2012

The following is from Gillespie's complaint submitted September 10, 2012:

Mr. Rodems has committed multiple violations of the Rules Regulating The Florida Bar while representing his law firm and partner in civil litigation against me, a former client on the same or "substantially related" matter, contrary to Bar Rules 4-1.7, 4-1.9, 4-1.10 and the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995, and similar cases.

Lying is a habit for Mr. Rodems, and he is guilty of misconduct related to lack of candor, which rules and standards are contained in a publication by The Florida Bar Ethics Department, the Informational Packet entitled "Candor Toward The Tribunal". Rodems is guilty of dishonesty, fraud, deceit, misrepresentation, and conduct prejudicial to the administration of justice. Rodems also knowingly disparaged, humiliated, and discriminated against me on the basis of disability. Mr. Rodems' partner and law firm previously consulted with me on disability and the Florida Division of Vocational Rehabilitation (DVR), in DLES case no: 98-066-DVR.

Mr. Rodems misused discovery, disrupted the tribunal, obtained \$11,550 in sanctions, and then a money judgment against me. Much of the case was spent obtaining and executing on the \$11,550 judgment. Through a series of ex parte hearings, Mr. Rodems wrongly obtained a warrant for my arrest on civil contempt, a writ of bodily attachment, for allegedly failing to attend a full deposition, post final judgment. On June 21, 2011 Mr. Rodems announced that he had accumulated another 130 hours of sanctions. That would amount to \$45,500 at \$350 per hour.

The following is from Gillespie's rebuttal submitted October 16, 2012:

Susan Bloemendaal improperly closed my complaint against Mr. Rodems by letter November 19, 2007. Ms. Bloemendaal was then, and is today, Chief Branch Discipline Counsel for the Tampa Branch Office of The Florida Bar. My complaint was not processed by the central ACAP<sup>1</sup> complaint intake office in Tallahassee, even though I provided the complaint directly to Kenneth Marvin, Director of Lawyer Regulation in Tallahassee. Mr. Marvin sent my complaint to Tampa, which was procedurally incorrect. There is a mandatory complaint intake process, set forth in the Bar Counsel Manual. The mandatory complaint intake process begins at ACAP in Tallahassee. My complaint was not processed by central ACAP. Therefore Ms. Bloemendaal lacked proper authority to consider my complaint at that point in the process. Ms. Bloemendaal and Mr. Lovell improperly dismissed my complaints as shown in this rebuttal.

My complaints made during the years 2004 through 2007 were inarticulate due to inexperience with the complaint process. My complaints alleged closing statement fraud (Rule 4-1.5(f)(5)), no signed contingent fee agreement (Rule 4-1.5(f)(2)), and representation against a former client on the same or substantially related matter. (Rules 4-1.7, 4-1.9, 4-1.10). Other things I complained about were subordinate, and also inartfully alleged. Ms. Bloemendaal authored four letters to me dated November 19, 2007 that ignored the essence of my former lawyers' misconduct.

Gillespie made this complaint on the suggestion of the Florida Attorney General after Mr. Castagliuolo threatened to sue Gillespie and a court reporter. From Gillespie's rebuttal Sep-14, 2012:

I. Evidence of Racketeering Activity

1. Mr. Castagliuolo admitted in his written response August 30, 2012 that Mr. Rodems made an unsolicited offer to assist Castagliuolo in any future Bar grievance from me. (p.3, ¶1):

“My opposing counsel at Gillespie's deposition was Ryan Christopher “Chris” Rodems. Chris once remarked to me, unsolicited, that he would be happy to speak to The Florida Bar on my behalf if Gillespie grieved me the way he did Bob Bauer.”

This shows how the discipline process is compromised, in this case by Mr. Rodems, who's misconduct is at the center of this matter. It suggests a pattern of racketeering activity where adversaries know in advance how to position themselves to avoid discipline. In this case it may have caused Mr. Castagliuolo to work for the benefit of Mr. Rodems instead of me, his client.

2. Mr. Bauer sent me a letter dated August 24, 2012 stating that Mr. Rodems' “Settlement Agreement and General Mutual Release” of June 21, 2011 does not bind him, it binds me. The letter appears at Exhibit 1 to this rebuttal. This is the operative quote:

Mr. Rodem's (sic) release dated June 21, 2011 does not have any legal effect on the amount of money that is owed to this firm. Further, it does not bind this firm in any way. I (sic) does bind you - but not us.

I was shocked by Mr. Bauer's statement, as Mr. Castagliuolo made the decision to accept this settlement. I do not understand how a settlement can only bind me. Castagliuolo never explained this to me. I believe this is further evidence that Mr. Castagliuolo worked against my interest.

From Gillespie's initial complaint August 11, 2012, page 2:

3. On June 15, 2011 Mr. Castagliuolo notified me by email at 10:03 p.m. that he planned to argue his own “health issues” to Judge Arnold at the hearing the next day: (Exhibit 4)

“The game plan is this: “Judge, I've prevailed upon Mr. Gillespie to appear for a deposition. Due to his health issues and my health issues, I am requesting 60 days to get this done. Will you please vacate/quash the writ, with a specific instruction to law enforcement to rescind the warrant ?””

That strategy failed, and literally shows Mr. Castagliuolo's “health issues” were an issue in the representation. He lacks stamina for litigation that resulted in *ineffective assistance of counsel*.

Writ of Bodily Attachment - Order of Arrest - June 1, 2011  
Public Defender Relieved - June 1, 2011

Mike Peacock, Administrative Counsel of the Public Defender for the Thirteenth Judicial Circuit, appeared June 1, 2011 and submitted *Office Of The Public Defender's Motion For Clarification* arguing Gillespie was not entitled to representation on civil contempt.

Hillsborough Judge James Arnold agreed and relieved the Public Defender by Order (Appendix K) holding that “there is no lawful basis for the appointment of the Office of the Public Defender to represent the plaintiff in the cause currently before the Court.”

Judge Arnold immediately entered the Order to arrest Gillespie. (Appendix K).

Law Enforcement Sought to Arrest Gillespie for 21 Days  
Mr. Rodems refused to cooperate with counsel

Gillespie did not have funds to hire a lawyer June 1, 2011 for the contempt hearing where the public defender was appointed, and relieved by Judge Arnold. Mr. Rodems would not cooperate with Mr. Castagliuolo, who became frustrated and turned his rage against Gillespie. r. Castagliuolo claimed he could not get a copy of the writ of bodily attachment from Rodems or the Court. Gillespie sent a friend to get the writ, but that person could not. A courier service also failed to get the writ. Later Gillespie learned that Mr. Castagliuolo's daughter Maria E. Castagliuolo is employed as an attorney for the Public Defender for the Thirteenth Circuit.

During the 21 day period when Gillespie was being sought by law enforcement on Gillespie was living at home with the blinds closed, working on the appeal in 2D10-5197 of Judge Cook's September 28, 2010 ex parte ruling on final summary judgment, and the civil contempt and writ of bodily attachment, the same used by Mr. Rodems to get the order to arrest Gillespie. It was difficult to work on the case as the Marion County Sheriff was pounding on Gillespie's door day after day trying to arrest him.

Disability and Impairment of Neil J. Gillespie and Penelope Gillespie

Gillespie has a record of craniofacial disorder and speech impairment since birth.

Gillespie has a record of traumatic brain injury sustained during a robbery in 1988 near his home when he lived in Philadelphia, Pennsylvania. Prior to that injury Gillespie owned and successfully operated a car business, which he established. Gillespie was an entrepreneur of necessity, a survivor, not a victim, of disability and employment discrimination. Gillespie was a productive member of society, employed people in business, served customers, obeyed the law, and paid his taxes. Unfortunately Gillespie's ability to work as he did changed after the injury.

The record shows Gillespie suffers from depression, post traumatic stress disorder (PTSD), diabetes type II adult onset, traumatic brain injury (TBI), velopharyngeal incompetence (VPI), craniofacial disorder, and impaired hearing. Social Security determined Gillespie totally disabled in 1993 shortly after he relocated to Florida. The Florida Division of Vocational Rehabilitation (DVR) approve a rehabilitation plan in 1994, but denied Gillespie services in 1997 when it determined his disability was too severe for services to result in employment.

Gillespie is also regarded as impaired by others, like Mr. Rodems, who often disparaged, humiliated and discriminated against Gillespie on the basis of disability, shown by this quote from Mr. Rodems' six-page diatribe to Gillespie December 13, 2006, sent by him as counsel for Barker, Rodems & Cook in the litigation that forms the basis of this petition:

“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)

Gillespie's Mother, Penelope Gillespie, was a 78 year-old unremarried widow, with Alzheimer's dementia and other ailments. Ms. Gillespie died September 16, 2009 as a proximate cause of negligence per se by the Defendants in 5:11-cv-539, for violation of laws, statutes or

rules that either are designed to protect a particular class of persons from their inability to protect themselves, or establish a duty to take precautions to guard a certain class of persons from injury, (Florida Freight Terminals, Inc. v. Cabanas) in addition to federal disability, civil rights, and other protections guaranteed by the Constitution and Laws of the United States. This is set out in Plaintiff's First Amended Complaint (5:11-cv-539) which appears in a Separate Volume Appendix to this petition, along with all the supporting exhibits.

Foley & Lardner, LLP - May 25, 2011  
Trade affecting interstate commerce

Kristen J. Sterken of Foley & Lardner, LLP called Gillespie with an offer of pro bono representation May 25, 2011 at 11:55 a.m., contingent on a conflict check. Ms. Sterken responded to Gillespie's email to participants in Turner v. Rogers and attached motion for appointment of counsel and disability accommodation in Hillsborough County, Florida, which motion is also filed in the district court, 5:10-cv-503 (Doc. 37), and on PACER.

A transcript of Ms. Sterken's phone call to Gillespie shows this offer of representation:

Transcript of phone call from Ms. Sterken, May 25, 2011, Page 5

7 MS. STERKEN: Okay. Sounds good. Well, we  
8 just wanted to let you know, you know, certainly we  
9 would need to run conflicts and there is a process  
10 before we could agree to represent you in this  
11 case. But we're certainly interested. We think  
12 this raises an important issue. So if you're still  
13 looking for representation we would love to start  
14 to look at conflicts and those other issues.

Two days later the offer was withdrawn by Michael D. Leffel of Foley with no mention of any conflict found. Ms. Sterken and Mr. Leffel practice in Foley's Wisconsin office, which offer of counsel affects interstate commerce. A transcript of Ms. Sterken's call to Gillespie appears at Doc. 49 in case 5:10-cv-503, along with written communication between the parties.

## Telephone Recording

This petition challenges the constitutionality of Fla. Stat. 934.01 et seq., Security of Communications, and its requirement for two-party consent to record telephone calls, which conflicts with federal one-party consent in 18 USC § 2511, and the laws of most states.

Gillespie purchased a \$15 *Telephone Handset Recording Control* from Radio Shack on December 20, 2005 to record phone calls from doctors treating his Mother who was hospitalized. It was a form of enhanced note-taking. On March 3, 2006 Gillespie partially recorded a phone call from Mr. Rodems, who argued with Gillespie, and misquoted him in an affidavit Rodems submitted to the court March 6, 2006. Mr. Rodems requested a bailiff be present at an upcoming hearing, alleging a threat of violent physical attack in Judge Nielsen's chambers. A subsequent investigation by Tampa Police lawyer Kirby Rainesburger concluded February 22, 2010:

I'm not suggesting that Mr. Rodems was right or accurate in representing to the court as an "exact quote" language that clearly was not an exact quote. I'm only concluding that his misrepresentation does not, in my judgment, rise to the level of criminal perjury. No further action is contemplated by this agency at this time.

Gillespie realized the need to record any future calls from Mr. Rodems to avoid a repeat of this problem, and found online and purchased a DynaMetric Call Saver kit that recorded and saved telephone phone calls to .wav files rather than clunky cassette tapes. He also installed a voice announcer: "This call is being recorded for quality assurance purposes". Gillespie relied on the holding of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

On July 25, 2012 attorney Eugene P. Castagliuolo accused Gillespie of wrongfully recording a phone call June 14, 2011 where he admitted to mental problems. Mr. Castagliuolo threatened to sue Gillespie under chapter 934 Fla. Stat., and also threatened Michael Borseth, a court reporter who made the transcript. Gillespie reported Mr. Castagliuolo's threat to Florida

Attorney General Pam Bondi by letter August 1, 2012. Mr. Castagliuolo has been threatening Gillespie for the past year over a number of issues related to his representation of Gillespie at Mr. Rodems' deposition. Gillespie's letter to the Attorney General stated on page 2, in part:

I believe Mr. Castagliuolo is misinformed about Chapter 934, Florida Statutes as interpreted by Royal Health Care Servs., Inc., 924 F.2d 215 (11th Cir. 1991). In my personal opinion Florida law prohibits the "interception" of certain communications, not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. A land-line home office telephone, really any land-line home phone, is the type that intercepts a call before it is recorded.

On August 10, 2012 Gillespie received an email response from Samantha Santana of the Florida Attorney General's Office. Ms. Santana wrote in part:

It appears that you provided a copy of your complaint about Attorney Eugene Castagliuolo to The Florida Bar, which is the appropriate agency to address this matter. Please follow up with The Bar directly for further assistance.

Gillespie submitted a Bar complaint the next day, August 11, 2012.

#### Notice of Telephone Recording

Gillespie provided notice<sup>1</sup> in Gillespie v. Barker, Rodems & Cook, 05-CA-7205,

Plaintiff's Notice of Telephone Recording, December 30, 2009: (after Mr. Bauer's withdrawal)

All calls on plaintiff's home office business telephone extension 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).

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<sup>1</sup> Notice of Mr. Rodems' Written Consent to Record, December 29, 2006.

The Florida Bar, by certified letter to Paul Hill, General Counsel, October 30, 2008.

The Tampa Police Department, during Mr. Rainesburger's investigation of Mr. Rodems.

Gainesville Florida Police Dept./City Attorney Thomas B. Arden, by letter November 4, 2011.

The Florida Attorney General, by letter August 1, 2012, and perhaps at other times.

Right to Mental Integrity as a Fourteenth Amendment Liberty Interest in Litigation

The Eleventh Circuit motion for reconsideration, case no. 12-11028, was denied in part and granted in part June 19, 2012. (Appendix E ) The motion was granted to amend a request for disability accommodation, which was fully submitted August 6, 2012 but the case closed.

Procedurally, Gillespie submitted April 7, 2012 to the Eleventh Circuit a consolidated motion for appointment of counsel under the Americans With Disabilities Act (ADA) 42 U.S.C. §§ 12101 - 12213. At that time Gillespie did not know the ADA did not apply to the federal judiciary, and the Eleventh Circuit granted leave to amend. Case law submitted showed appoint of counsel was appropriate:

When a litigant's health is at risk, appointment of counsel is appropriate. In an opinion decided March 27, 2012 by Judge Richard Posner of the 7th U.S. Circuit Court of Appeals in a civil rights suit brought under 42 U.S.C. § 1983, the Court suggested appointment of counsel because withholding nutritious food would violate the Eighth Amendment. (Prude v. Clarke, No. 11-2811; Appeal from the U.S. District Court for the Eastern District of Wisconsin. No. 2:10-cv-00167-JPS—J.P. Stadtmueller, Judge.). This is what happened in Gillespie's state court action June 21, 2011, *see* District Court case no. 5:10-cv-00503-WTH-TBS Doc. 33, Doc. 39, Doc. 47, Doc. 61, Doc. 62. In the related case 5:11-cv-00539, *see* First Amended Complaint, Doc. 15, paragraph 16.

Gillespie submitted August 6, 2012 in the Eleventh Circuit:

CONSOLIDATED AMENDED MOTION FOR DISABILITY ACCOMMODATION  
*WAIVER OF CONFIDENTIALITY*  
MOTION FOR DECLARATORY JUDGMENT - APPOINT GUARDIAN AD LITEM

Although not cited as such (due to ignorance at the time), 28 U.S.C. §§ 2201-2202 the Declaratory Judgment Act §2201(a) provides:

(a) In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is

or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

Declaratory Judgment Act §2202 provides:

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

Gillespie's motion argued the Disability Obstruction or Barrier was Ryan Christopher Rodems:

6. Opposing counsel Ryan Christopher Rodems (Bar ID: 947652) has directed, with malice aforethought, a course of harassing conduct toward Gillespie that has aggravated his disability, intentionally inflicted severe emotional distress\* on Gillespie, and has served no legitimate purpose, in the state court lawsuit that gives rise to this appeal...

\*To state a cause of action for intentional infliction of severe emotional distress, a complaint must allege four elements: 1. deliberate or reckless infliction of mental suffering; 2. outrageous conduct; 3. the conduct caused the emotional distress; and; 4. the distress was severe; *Liberty Mutual Insurance Co. v. Steadman*, 968 So. 2d 592, 594-95 (Fla. 2d DCA 2007)

In support of this amended disability request, Gillespie submitted the following:

a. Affidavit of Neil J. Gillespie, on the *Conflict of Interest and ADA denial by Florida Judge Claudia R. Isom in case 05-CA-7205, Hillsborough Co.*, July 30, 2012. This affidavit shows a three-month window of misconduct by the bench and the bar that was

b. *Consolidated Notice of Pro Se Electronic Case Filing Prohibition by District Court*, July 27, 2012, shows e-filing is a reasonable disability accommodation.

Paragraph 9: The Right to Mental Integrity as a Fourteenth Amendment Liberty Interest

Washington Et Al. v. Harper, 494 U.S. 210 (1990)  
Supreme Court of United States, No. 88-599  
Argued October 11, 1989 - Decided February 27, 1990

The Court acknowledges that under the Fourteenth Amendment "respondent possesses a significant liberty interest in avoiding the unwanted administration of antipsychotic drugs," ante, at 221, but then virtually ignores the several dimensions of that liberty. They are both physical and intellectual. Every violation of a person's bodily integrity is an invasion of his or her liberty. The invasion is particularly intrusive if it creates a substantial risk of permanent injury and premature death.[1] Moreover, any such action is degrading if it overrides a competent person's choice to reject a specific form of medical treatment.[2] And when the purpose or effect of forced drugging is to alter the will and the mind of the subject, it constitutes a deprivation of liberty in the most literal and

fundamental sense.

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone — the most comprehensive of rights and the right most valued by civilized men." *Olmstead v. United States*, 277 U. S. 438, 478 (1928) (Brandeis, J., dissenting).

The liberty of citizens to resist the administration of mind altering drugs arises from our Nation's most basic values.

#### PLAINTIFF'S AMENDED ACCOMODATION REOUEST AMERICANS WITH DISABILITIES ACT (ADA)

*Submitted March 5, 2007, Hillsborough County, Florida, case 05-CA-7205*

10. Gillespie's amended ADA request of March 5, 2007 in the state court (Exhibit 4) shows that Gillespie was determined totally disabled in 1994 by Social Security, and:

- a. Gillespie has depression, post-traumatic stress disorder (PTSD), velopharyngeal incompetence (VPI), and diabetes type II adult onset;
- b. Mr. Rodems knew Gillespie was disabled from his firm's prior representation;
- c. Mr. Rodems inflicted new injuries on Gillespie based on his disability through the *Intentional Infliction of Emotional Distress*, beginning March 3, 2006;
- d. Gillespie sought medical treatment of injuries inflicted by Mr. Rodems, treatment that included mind-altering drugs, including Effexor XR, a serotonin norepinephrine reuptake inhibitor (SNRI), to the maximum dosage, and that the drugs diminished Gillespie's ability to represent himself.

#### Two Aspects: Right to Mental Integrity *as a Fourteenth Amendment Liberty Interest*

11. There are two aspects to mental integrity as a Constitutionally protected Fourteenth Amendment liberty interest:

- a. The right to mental integrity as a liberty interest to be free from the *intentional infliction of severe emotional distress* while pursuing justice in the courts. Gillespie suffered a panic attack in court July 12, 2010 when Judge Cook refused to follow the directives of Court Counsel David A. Rowland as to ADA accommodations. (Exhibit 3).

b. The right to mental integrity as a liberty interest to be free from mind altering drugs while pursuing justice. Gillespie, in treating psychic wounds inflicted with malice aforethought by Mr. Rodems, could not avoid mind altering drugs anymore than a wounded soldier on the battlefield can avoid a tourniquet after loosing a limb. Gillespie's doctor prescribed Effexor and other drugs in an effort to restore Gillespie's mental integrity shattered by the intention infliction of severe emotional distress by Mr. Rodems.

Gillespie's Misplaced ADA Request For Counsel, Hillsborough Co.

34. Gillespie made a misplaced ADA request September 26, 2006 to Hillsborough Judge Richard A, Nielsen: (Exhibit 22.1).....

35. This Court does not need to consider whether the appointment of counsel was reasonable under the ADA in 2006. Gillespie retained counsel in March 2007 from the Florida Bar Lawyer Referral Service, Robert W. Bauer, and the same disability issues continued in this case without Gillespie: Outrageous conduct by Mr. Rodems. [A.¶40-45] Mr. Rodems also failed to cooperate with Mr. Castagliuolo. [A.¶46]. Even with counsel, Gillespie could not be protected as required by the ADA. Therefore, disqualification of Ryan Christopher Rodems was appropriate under the ADA in September 2006. Of course, disqualification of Mr. Rodems was appropriate April 25, 2006 pursuant to Bar Rules, and the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. [A.¶18]. Upon information and belief, Asst. Court Counsel Nauman had a duty to inform Judge Nielsen that Mr. Rodems' appearance was improper pursuant to Bar Rules, and the holding of McPartland, let alone the ADA.

36. On July 9, 2010 Court Counsel David A. Rowland responded .....

Mr. Rowland's letter appears at Appendix L to the petition.

Dear Mr. Gillespie:

This is a response to your July 6, 2010 ADA request for accommodation directed to Gonzalo Casares, the Thirteenth Judicial Circuit ADA Coordinator. You request the same ADA accommodations previously submitted on February 19, 2010. Your February 19, 2010 ADA request was a request for the court to take the following case management actions:

1. Stop Mr. Rodems' behavior directed toward you that is aggravating your post traumatic stress syndrome....

Mr. Rowland stated that ADA Coordinator Gonzalo had no authority stop Rodems outrageous conduct. Rowland wrote "All of your case management requests - that opposing counsel's behavior be modified,...must be submitted by written motion to the presiding judge of the case. The presiding judge may consider your disability, along with other relevant factors, in ruling upon your motion."

The ADA Required Disqualification of Mr. Rodems

February 12, 2010 Mr. Rodems filed *Defendant's Motion For An Order Determining Plaintiff's Entitlement To Reasonable Modifications Under Title II Of The Americans With Disabilities Act* in the state court because there was a delay in the report from Dr. Huffer. This ADA law is from Mr. Rodems' motion, which is in Gillespie's Eleventh Circuit motion:

Under Title II of the ADA, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(7). "Public entity" includes "any State or local government" and "any department, agency, special purpose district, or other instrumentality of a State or States or local government ...." 42 U.S.C. § 12131(1).

Even after Gillespie hired Mr. Bauer, the outrageous conduct of Mr. Rodems prevented Gillespie from even attending a hearing. Mr. Bauer refused to permit Gillespie to attend or testify at hearings in his case because Mr. Rodems would knowingly make comments to prod me "for no better purpose than to anger you". Bauer wrote this email July 8, 2008 at 6.05 p.m."

"No - I do not wish for you to attend hearings. I am concerned that you will not be able to properly deal with any of Mr. Rodems comments and you will enflame the situation. I am sure that he makes them for no better purpose than to anger you. I believe it is best to keep you away from him and not allow him to prod you."

As set forth in footnote 2 of Mr. Rodems' motion:

Under Title II of the ADA, "[d]isability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment." 28 C.F.R. § 35.104. "The phrase physical or mental impairment" includes "[a]ny mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities." 28 C.F.R. § 35.104. "The phrase major life activities means functions such as caring for one's self, performing manual tasks,

walking, seeing, hearing, speaking, breathing, learning, and working." 28 C.F.R. § 35.104. A "qualified individual with a disability" is "an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." 42 U.S.C. § 12131(2).

As set forth in this petition, Gillespie is disabled, has a record of impairment, and is regarded as having such an impairment. Even Mr. Rodems agrees on this, and often sent Gillespie letters or left phone messages such as this one December 13, 2006:

"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."

As set forth in footnote 3 of Mr. Rodems' motion:

If Plaintiff has a "disability," then the "reasonable modifications" he may request are those necessary for him to meet "the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." 42 U.S.C. § 12131(2).

As set forth in this petition, the reasonable ADA modification was the disqualification of Mr. Rodems, which was required under *McPartland v. ISI Inv. Services, Inc.*, 890 F.Supp. 1029, M.D.Fla., 1995. This accommodation would not have cost the court anything, other than the cost of paper to enter the order of disqualification.

Gillespie's motion to proceed in forma pauperis denied

The Eleventh Circuit denied Gillespie leave to proceed in forma pauperis. As set forth in

CONSOLIDATED NOTICE OF PRO SE  
ELECTRONIC CASE FILING PROHIBITION BY DISTRICT COURT  
*In support of Disability Accommodation and IFP Fee Waiver*

I. Appellants...give notice of electronic filing (e-filing) prohibition in the District Court, which cost Gillespie not less than \$1,094.94, and 178.5 hours labor....This money could have been used to pay the fees.

## REASONS FOR GRANTING THE PETITION

Evidence of a crisis in the practice of law in the State of Florida.



Former Florida Gov. Charlie Crist (r) to Scott Rothstein (l): “*Scott - You are amazing!*”

See U.S. v. Rothstein, 09-cr-60331, U.S. District Court, Southern District of Florida.

See The Florida Bar v. Scott W. Rothstein, TFB Case No. 2010-50,656(09B)

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Something is not right in Florida. Like Gillespie, the citizens of Florida also need the assistance and protection of an Article III federal judge.

Unfortunately, every Article III federal judge in Florida is a member of The Florida Bar.

**This is a case for The Supreme Court of the United States**

### **Disbar The Florida Bar**

Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975) held lawyers engage in "trade or commerce" and hence ended the legal profession's exemption from antitrust laws.

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A pamphlet<sup>1</sup> published by The Florida Bar Public Information and Bar Services Department as a service for consumers states: “The Florida Bar disciplinary program has become the gold-standard for protecting the public.” Yet somehow Scott Rothstein, at the time a member in good standing with the Florida Bar, was able to operate a massive 1.2 billion dollar Ponzi scheme from the law offices of Rothstein Rosenfeldt Adler P.A. right under the Bar’s nose, and

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<sup>1</sup> Hiring the Right Person to Help Me With My Legal Problems

while serving on a Florida Bar grievance committee. Rothstein was also appointed August 25, 2008 by Florida Gov. Charlie Crist to serve as a Commissioner on the Fourth Appellate District Judicial Nomination Commission, arguably at the height of his racketeering activities, to which he plead guilty and on June 9, 2010 received a 50-year prison sentence.

The Commerce Clause -Article I, Section 8, Clause 3  
Constitution of the United States

[The Congress shall have Power] To regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes;

Sherman Antitrust Act, 15 U.S.C. §§ 1-7; Section 1:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.....

Clayton Antitrust Act 15 U.S.C. § 12-27

The Clayton Antitrust Act of 1914, codified at 15 U.S.C. 12-27, outlaws the following conduct: price discrimination; conditioning sales on exclusive dealing; mergers and acquisitions when they may substantially reduce competition; serving on the board of directors for two competing companies.

Section 5, FTC Act 15 U.S.C § 45

15 USC § 45 - Unfair methods of competition unlawful; prevention by Commission

(a) Declaration of unlawfulness; power to prohibit unfair practices; inapplicability to foreign trade

(1) Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.

RICO 18 U.S.C § 1961-68

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

From Gillespie's Eleventh Circuit no. 12-11028-B, Motion to Reconsider:

Lawyers, Judges, Courts, and Government Units - "Enterprises" Under RICO

9. Governmental units, such as the New York City Civil Court, may be "enterprises" within the meaning of RICO. United States v. Angelilli, 660 F. 2d 23 (C.A.2 1981). A court may be an enterprise within the meaning of RICO. United States v. Bachelar, 611

F.2d 443, 450 (3d Cir.1979) (Philadelphia Traffic Court). Judges and lawyers may be “enterprises” within the meaning of RICO. U.S. v. Limas, 1:11-cr-00296, U.S. District Court, Southern District of Texas, Brownsville (Indictment of Judge Abel C. Limas March 29, 2011). In this matter, Mr. Rodems, Barker, Rodems & Cook, PA, Mr. Bauer and his law office, are “enterprises” within the meaning of RICO. The Thirteenth Judicial Circuit, The Florida Bar, the Hillsborough County Clerk, the Hillsborough County Sheriff, even the Florida Supreme Court, are “enterprises” within the meaning of RICO, to which judicial immunity or other immunity does not attach.

#### The Hobbs Act

18 USC § 1951 - Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section (2) The term “extortion” means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term “commerce” means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

#### Too Many Bad Apples Spoil a Profession

A relative handful of bad lawyers and firms are responsible for an enormous amount of harm in Florida, lawyers like Scott W. Rothstein, David J. Stern, and Ryan Christopher Rodems.

The American Bar Association in February 1992 issued a report by the McKay Commission entitled Lawyer Regulation for A New Century: Report of the Commission on Evaluation of Disciplinary Enforcement<sup>2</sup>. The Report made this warning 20 years ago:

The incompetence and neglect of relatively few lawyers must not continue to sully the image of the rest. We cannot afford to let legitimate disagreements between lawyers and

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<sup>2</sup> One of the nine members of the McKay Commission that issued this Report to the ABA was John Berry, currently the Director of The Florida Bar’s Legal Division.

clients go unresolved. Without a mechanism to resolve these complaints and disputes, clients are harmed and the profession's reputation unnecessarily suffers.

The consequences of continuing to ignore these problems are clear. The Federal Trade Commission has made several attempts to gain jurisdiction over some complaints against lawyers. State legislatures have made forays into lawyer regulation with increasing frequency. Legal consumer organizations have grown in membership and in political activism.

### The Rules Regulating the Florida Bar Do Not Protect Consumers

Florida fails to adequately protect consumers of legal and court services, and fails to properly regulate lawyers, law firms, the practice of law, and state judicial officers affecting interstate commerce as shown in this petition and elsewhere.

The Florida Supreme Court has misused its monopoly over the practice of law, through malfeasance, misfeasance and nonfeasance, by and through its disciplinary arm, The Florida Bar, which unfortunately is being operated in a fashion as to protect itself and certain favored dishonest lawyers rather than the public and honest lawyers.

The Florida Supreme Court and The Florida Bar have neglected their fiduciary duty to the public, the consumers of legal and court services.

The Florida Supreme Court has improperly restrained trade by limiting the practice of law through the Florida Board of Bar Examiners and its requirements. This results in high costs to consumers, hourly rates of \$200 or more, costs beyond the reach of many Floridians.

### **CONCLUSION**

The petition for writ of certiorari should be granted, together with such other and further relief as The Supreme Court of The United States deems just and equitable.

Respectfully submitted, December 10, 2012

  
Neil J. Gillespie, petitioner pro se

No: \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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NEIL J. GILLESPIE, ET AL, - PETITIONERS

VS.

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, ET AL. - RESPONDENTS

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**PROOF OF SERVICE**

I, Neil J Gillespie, do swear or declare that on this date, December 10, 2012, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by delivery to a third-party commercial carrier for delivery within 3 calendar days. The Separate Volume Appendices are provided in PDF on CD due Gillespie's indigence and disability.

The names and addresses of those served are as follows:

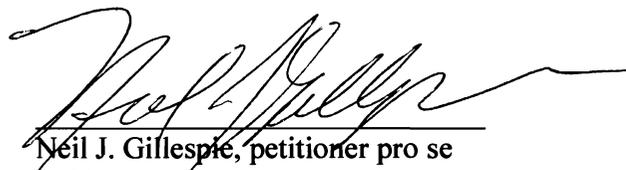
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Ryan Christopher Rodems, Attorney at Law  
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501 E. Kennedy Blvd, suite 790  
Tampa, Florida 33602  
Telephone: (813) 489-1001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 10, 2012.



Neil J. Gillespie, petitioner pro se  
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Ocala, Florida 34481  
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