

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

CIRCUIT CIVIL DIVISION

NEIL J. GILLESPIE,

Plaintiff,

vs.

CASE NO.: 05-007205

DIVISION: "C"

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

Defendants.

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TRANSCRIPT OF PROCEEDINGS

BEFORE: HONORABLE JAMES M. BARTON, II  
Circuit Judge

TAKEN AT: In Chambers  
Hillsborough County Courthouse  
Tampa, Florida

DATE: May 5, 2010

TIME: Commencing at 3:00 p.m.

REPORTED BY: SONJA BONANNO  
Court Reporter  
Notary Public  
State of Florida at Large

DEMPSTER - BERRYHILL COURT REPORTERS  
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1 APPEARANCES:

2 On behalf of the Plaintiff:

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On behalf of the Defendant:

7

8 RYAN CHRISTOPHER RODEMS, ESQUIRE  
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1                   P R O C E E D I N G S

2                   THE COURT: Good afternoon. All right. We  
3 are here in Gillespie versus Barker, Rodems & Cook,  
4 P.A., and William J. Cook.

5                   We have quite a few motions to consider that's  
6 in the order scheduling this hearing dated March  
7 29th of 2010.

8                   As you may observe, pursuant to the  
9 plaintiff's request, we have a real time reporter  
10 here this afternoon. We are prepared to make  
11 accommodations for Mr. Gillespie as he may request.

12                  We do have an hour scheduled today, which may  
13 or may not be sufficient to cover all of the  
14 motions that we have. The Court's plan is to  
15 proceed forward with the hearing, taking these  
16 motions one at a time.

17                  If we are finished by 4:00, fine; if we are  
18 not, I have one motion scheduled at 4:00 o'clock in  
19 my chambers in another case, which, if we haven't  
20 taken a break before then, we will take a break and  
21 then reconvene after that short hearing and finish  
22 up.

23                  MR. GILLESPIE: Judge, may I speak?

24                  THE COURT: About what?

25                  MR. GILLESPIE: Judge, as you know, I

1 submitted an ADA request. I have not received a  
2 response to it yet. It's my understanding that the  
3 ADA coordinator was unable to make a decision and  
4 that he has sent the matter to the legal  
5 department, and that Mr. Roland is the individual  
6 that is to make the decision.

7 THE COURT: Well --

8 MR. GILLESPIE: I have not heard from him.

9 THE COURT: Well, his role is to facilitate  
10 the request and to evaluate it. My thinking was  
11 that compliance with the request is better than any  
12 written or oral response. The last request which  
13 came as somewhat of a surprise is to -- because I  
14 didn't understand that you had any hearing problems  
15 in prior hearings, but things can happen quickly.  
16 So, that is why we have complied with your request  
17 to have a real-time court reporter present.

18 MR. GILLESPIE: Well, and with regard to that,  
19 I have an e-mail communication here with  
20 Ms. Ellababidy, and I told her that, based on what  
21 she described, I didn't know if this would be  
22 helpful because, of course, we have not addressed  
23 the issues.

24 THE COURT: Which issues?

25 MR. GILLESPIE: In the ADA request.

1 THE COURT: Okay. What issues are not  
2 accounted for? I mean, as I read your request from  
3 the counselor from Nevada, we were prepared to  
4 accommodate all of those requests that were -- that  
5 she had recommended and which she wanted me to take  
6 a look at, which I did. And I thought that we had  
7 accounted for everything in this. Is there  
8 anything more specific that are requesting today?

9 MR. GILLESPIE: Yes, Judge. Well, first of  
10 all --

11 THE COURT: Now --

12 MR. GILLESPIE: -- we have --

13 THE COURT: -- we have -- how many court  
14 reporters do we have today?

15 COURT REPORTER BONANNO: Two.

16 THE COURT: Well, we are only going to have  
17 one, so --

18 MR. GILLESPIE: And that is one of the issues  
19 right there. Because this is my private court  
20 reporter that makes a transcript -- an official  
21 transcript of the proceedings.

22 THE COURT: Okay.

23 MR. GILLESPIE: That is not covered by the  
24 ADA.

25 THE COURT: Correct.

1 MR. GILLESPIE: Okay? I am unclear as to what  
2 this lady does. I have never met her before.

3 THE COURT: Right. And she was -- and that's  
4 what we are here to discuss. She is here at your  
5 request as a real time reporter. But if you don't  
6 want her --

7 MR. GILLESPIE: There is no -- there is no  
8 hard copy transcript from this reporter, Judge.

9 THE COURT: I don't know that.

10 COURT REPORTER WHITE: It is, Judge. That is  
11 correct. I will delete the file as soon as we are  
12 done here today.

13 THE COURT: Right. That is for the purpose of  
14 this hearing. I mean, we can't, obviously, have a  
15 real-time transcript. I mean, that issue is for  
16 another day. We are dealing with today's hearing  
17 so that we can have the hearing.

18 MR. GILLESPIE: Well, that was my  
19 understanding, that there would be a real-time  
20 transcript.

21 THE COURT: Well, there is no such thing.

22 MR. GILLESPIE: There is not?

23 THE COURT: My wife is a court reporter, and  
24 there is no such things.

25 MR. GILLESPIE: I am glad you brought that up,

1 Judge, because I have a motion here for --

2 THE COURT: Mr. Gillespie, you need to -- you  
3 need to listen to me while I am talking to you,  
4 okay, sir?

5 MR. GILLESPIE: Okay.

6 THE COURT: There is no such thing as a  
7 real-time transcript produced as it happens. That  
8 is why we have a screen at your request to read  
9 what's going on, so that that issue -- so that we  
10 can have the hearing today, or if you think you  
11 need the assistance of a real-time transcript,  
12 which, again, is not perfect in our lifetime. I  
13 doubt it will ever be perfect. But what we have  
14 here is the best we have technologically available  
15 now, and it's been provided to you.

16 But, again, we are only going to have one  
17 official court reporter, and -- so, we have to  
18 decide which it's going to be.

19 COURT REPORTER WHITE: This hearing is going  
20 to be deleted as soon as I am done, so there will  
21 be no transcript available. That is why she is  
22 here, in case he wants a transcript. The  
23 transcript will have to come from her.

24 THE COURT: Okay.

25 COURT REPORTER WHITE: If that makes sense.

1           THE COURT: That makes sense. Fine. We will  
2 have them both here.

3           MR. RODEMS: Your Honor, just so the record is  
4 perfectly clear. The court reporter sitting at the  
5 table with Mr. Gillespie, as I understand it, is  
6 taking everything down verbatim as it happens. And  
7 there is a screen from which Mr. Gillespie is able  
8 to read. So, he clearly has the availability of  
9 the words that are spoken being in a written  
10 fashion that he can observe.

11           And I would note that during the entire time  
12 that you and he spoke just now, which went on for  
13 some five or ten minutes, he did not look at that  
14 scene one time and he seems to be able to hear you  
15 quite clearly.

16           THE COURT: Well --

17           MR. RODEMS: I think that is important to note  
18 as well.

19           MR. GILLESPIE: Your Honor, I concur with  
20 Mr. Rodems. I don't think this would be helpful.  
21 So, we are in agreement on that. Thank you, sir,  
22 for bringing that up. I appreciate that.

23           THE COURT: All right. So, are you saying  
24 that we can dispose with the real-time court  
25 reporter then? I am unclear because I thought you

1 had requested it. That is why -- you know, our  
2 staff went out of their way to secure the services  
3 of a real-time reporter. But it's for your  
4 benefit. If you -- if you decide that you don't  
5 want the benefit of that reporter, then she can  
6 pack up and leave. It's up to you.

7 MR. GILLESPIE: I don't know what benefit  
8 there may or may not be, Judge. But you just said  
9 on the record, I believe, that your wife is a court  
10 reporter.

11 THE COURT: I did, yes.

12 MR. GILLESPIE: And I have a motion to  
13 disclose conflict about that. And I would like to  
14 do that with the Plaintiff's Motion to Disclose  
15 Ex-parte Communication with the JNC and I have the  
16 first Amended Complaint. And I would like to give  
17 that to the bailiff so he can give that to you.

18 THE COURT: Okay. Is this set today?

19 MR. RODEMS: No, Your Honor. It's not.

20 MR. GILLESPIE: No, it's not.

21 THE COURT: Okay. One of your complaints from  
22 prior hearings when we had listed all pending  
23 motions, and it was part of your accommodations  
24 under the ADA, was that the motions scheduled for  
25 hearing should be specifically listed. So, I will

1 take a look at this, as I believe I am required to  
2 do, but --

3 MR. GILLESPIE: That's right, Judge. They  
4 should be specifically listed. And in my ADA  
5 request, I requested one or two motions per  
6 hearing, not twelve motions per hearing. So, you  
7 are right on one point. On the other point, you  
8 are incorrect.

9 THE COURT: Which is what? What am I  
10 incorrect about?

11 MR. GILLESPIE: The number of motions per  
12 hearing. One or two, not twelve.

13 THE COURT: Well that was your request, right?

14 MR. GILLESPIE: My request was one or two  
15 motions, Judge. You have not complied with that.

16 THE COURT: True.

17 MR. GILLESPIE: May I ask why?

18 THE COURT: Because we had discussed at the  
19 last hearing that we were going to go through the  
20 motions that have been set, and we were going to  
21 list them out. And then you requested, among other  
22 things, the occasional break to come up with time  
23 to gather your thoughts and --

24 MR. GILLESPIE: That's not my understanding,  
25 Your Honor. My understanding was that you were to

1 receive an ADA request for me. I provided that.  
2 My request asked for one or two motions her per  
3 hearing. Apparently, by your actions, you denied  
4 that. So, we have a problem there.

5 THE COURT: We could have a problem.

6 MR. RODEMS: Your Honor?

7 THE COURT: Yes.

8 MR. RODEMS: I would like to address two  
9 points. First of all, the three motions that  
10 Mr. Gillespie delivered today, I have not seen  
11 them, and I would object to them being heard today  
12 on the basis that I have not had an opportunity to  
13 review them. The second point is --

14 THE COURT: Well, the Certificate of Service  
15 says that it was hand delivered today to your  
16 office.

17 MR. RODEMS: Yes, sir. That is true. They  
18 were given to me when Mr. Gillespie arrived at the  
19 courtroom today.

20 THE COURT: Okay. So, you have, at least,  
21 taken a look at them, right?

22 MR. RODEMS: No. I haven't. I had to get  
23 ready for the motions that were listed today.  
24 These were literally just handed to me: The Motion  
25 for Leave to submit plaintiff 1st Amended

1 Complaint, the Motion to Disclose Ex-parte  
2 Communication with JNC, and a Motion to Disclose  
3 Conflict. Those were given to me today. I have  
4 not had a chance to read them. I do object to  
5 having them heard today.

6 The second point I would like to make is,  
7 while Mr. Gillespie has made a claim that he has a  
8 disability and has dictated now to this Court  
9 exactly how he thinks the procedure should work,  
10 under the ADA, when a litigant makes requests of a  
11 facility providing services that are so extreme  
12 that it changes the nature of the services, that  
13 person no longer qualifies as an individual with  
14 disability.

15 MR. GILLESPIE: Your Honor, we not asking for  
16 anything out of the ordinary.

17 THE COURT: Mr. Gillespie -- Mr. Gillespie,  
18 please sit down and don't interrupt. And then, I  
19 will give you ample time to respond, okay? Thank  
20 you.

21 MR. RODEMS: Now, Your Honor, there have been,  
22 as you can see from just what's listed here today,  
23 numerous motions that have been filed in this case.

24 Mr. Gillespie's request that we take one or  
25 two at a time is going to prejudice my client and

1 deny them due process of law by virtue of the fact  
2 that we are never going to be able to get this case  
3 resolved.

4 I am aware, and I think the Court can take  
5 judicial notice, that in the 13th Judicial Circuit,  
6 and in much around the State of Florida, the case  
7 load that circuit judges, such as yourself, are  
8 carrying is at an all-time high due to the number  
9 of foreclosures.

10 Most of the these motions that are in the  
11 Notice of Hearing today can be resolved in a few  
12 minutes. They are not going to take hours. I  
13 believe that Mr. Gillespie has the ability to hear  
14 more than two motions.

15 And I would also point out that whatever  
16 communications Mr. Gillespie has made with the  
17 Court system regarding his alleged disability,  
18 including this report from some counselor in  
19 Phoenix, I believe it is, have never been served on  
20 the defendants.

21 I know of no provision that allows  
22 Mr. Gillespie to claim in this court, where  
23 everything is supposed to be a public record, that  
24 he has a disability, but yet, demand that the  
25 defendants in this case, who also have due process

1 rights, are not entitled to see that information  
2 that's been shared with the Court.

3 And I am gravely concerned about Mr. Gillespie  
4 communicating with the Court ex-parte. I have sent  
5 a letter to Mr. Gillespie asking him to give me  
6 copies of the documents that he has given to the  
7 Court ex-parte regarding his alleged disability. I  
8 have not received them yet.

9 So, my concern for my client is that if  
10 Mr. Gillespie can stand up and say I can't hear,  
11 and the next thing you know is he has a real-time  
12 court reporter that he doesn't even rely upon, or  
13 Mr. Gillespie can say I have a disability called  
14 Post Traumatic Stress Disorder, or whatever it may  
15 be, depression or personal disorder, and as a  
16 result, I demand that the Court only hear one or  
17 two motions today, we are going to reach the point  
18 where my clients cannot have their day in court and  
19 we can not get this case resolved.

20 And I would note that of the motions that are  
21 set for hearing today -- one, two, three, four,  
22 five, six, seven, eight -- nine of them are  
23 plaintiff's motions.

24 So, my concern is that Mr. Gillespie is using  
25 his disability as a way to delay and prolong this

1 case. Among other things, this is prejudicing my  
2 client. We have a judgment against Mr. Gillespie  
3 for in excess of \$11,500. We are at the stage of  
4 trying to collect that judgment. One of the things  
5 that we have been trying to do since the judgment  
6 was entered is obtain discovery from Mr. Gillespie.  
7 He has refused to attend depositions, he's refused  
8 a formal request for production, he's refused to  
9 respond to interrogatories.

10 THE COURT: Now you are moving into, I think,  
11 some of your motions.

12 MR. RODEMS: Those are our contentions that we  
13 have for those motions. The point I am trying to  
14 make, Your Honor, is that what Mr. Gillespie is  
15 requesting, that we can only take one or two  
16 motions at the time, given the Court's volume of  
17 cases and the due process of the other defendants  
18 and plaintiffs in this circuit in this Court's  
19 division are entitled to and that my clients are  
20 entitled to, Mr. Gillespie's alleged accommodations  
21 are reaching a point where this Court cannot  
22 provide what he is asking for and yet still provide  
23 the services that the State of Florida requires;  
24 meaning, that Mr. Gillespie is not a qualified  
25 individual with a disability under the ADA.

1           He simply has laid down a set of circumstances  
2           that are so dramatic and so severe that the Court  
3           cannot possibly give due process to all the  
4           parties.

5           And it's not just Mr. Gillespie. Yes,  
6           Mr. Gillespie alleges that he has a disability.  
7           But the fact of the matter is that because  
8           Mr. Gillespie has a disability, does not mean that  
9           the defendants are entitled to have their case  
10          dragged out for multiple years.

11          He has made serious allegations against my  
12          clients. Three of the four pending claims were  
13          disposed of by a judge on the pleadings. We need  
14          finality in this case.

15          And what Mr. Gillespie is requesting of this  
16          Court in terms of -- that we can only do one or two  
17          motions, and then, every time we turn around,  
18          another motion is filed, he is simply setting this  
19          thing up so that it won't be solved or resolved any  
20          time in the near future. And this case has already  
21          gone on far beyond that the Florida Rules of  
22          Judicial Administration contemplate for a simple  
23          breach of contract case; which this what this is.  
24          Thank you.

25          THE COURT: All right. You may respond,

1 Mr. Gillespie.

2 MR. GILLESPIE: Yes, Your Honor. First of  
3 all, if Mr. Rodems or the Court would like a ten or  
4 fifteen minute break or recess to review today's  
5 filings, I don't see any problem with that.

6 Second of all, the reason this case has gone  
7 on so long is because Mr. Rodems should not be  
8 representing this client.

9 Also, the Court has not fulfilled its case  
10 management responsibilities. When Mr. Rodems was  
11 making motions for sanctions, the Court allowed him  
12 a half an hour to come in and hear one single  
13 motion. When I come in for motions, you give me  
14 twelve in one hour, so --

15 THE COURT: Well, I am going to give you -- as  
16 I have indicated, I am going to give you -- we can  
17 be here until 7:00 or 8:00 o'clock tonight.

18 MR. GILLESPIE: Well, that is nice of you,  
19 Judge, but I can't be here that long. I have  
20 diabetes.

21 And by the way, as to his concern about my  
22 disability, his firm represented me and  
23 investigated my disability claim. They are well  
24 familiar with it.

25 In fact, the transcript, which is the subject

1 of a Motion to Disclose Conflict -- Page 20 of the  
2 transcript is the questioning by opposing counsel  
3 on my disability.

4 So, Mr. Rodems knows about the disability, the  
5 defendants know about the disability. They have  
6 known about it for almost ten years. They have a  
7 transcript about the disability. So, all of this  
8 nonsense that he doesn't know what the disability  
9 is, he is being dishonest with the Court, Your  
10 Honor, and I am -- I am tired of it.

11 Now, I filed a motion here to convene a case  
12 management conference and a motion to declare this  
13 complex litigation so that we can proceed in an  
14 organized manner. And the way it is now, by  
15 setting twelve motions, you are not having a  
16 hearing. You are having a free-for-all.

17 And as for my Motion to Disclose Conflict, I  
18 want to know how much money Mr. Rodems' firm has  
19 paid your wife in court reporting fees because --  
20 until you mentioned it, I didn't know for sure that  
21 you were married to her. And I am taking your  
22 statement that she is a court reporter and that  
23 Chere Barton is your wife; is that correct, Your  
24 Honor?

25 THE COURT: That is correct. Yes.

1           MR. GILLESPIE: All right. And I would like a  
2 disclosure of the monies that this lawyer has paid  
3 your wife. And I want an evidentiary hearing about  
4 it.

5           And I also want to know about the other things  
6 in the Motion to Disclose Conflict, such as Barton  
7 Limited and Ms. Jacquelyn Barton, and Gerald  
8 Barton, and any interest in the May Pro Franchise  
9 (phonetic) that Mr. Rodems' law partner is involved  
10 with. That is all I have to say.

11          THE COURT: All right.

12          MR. RODEMS: Judge, I don't know your wife. I  
13 don't know what firm she is with. I don't know if  
14 she is on her own. I will be happy -- if the Court  
15 wants to hear it, I would be happy to tell you what  
16 I do know about the situation.

17          THE COURT: Well, I will note that in an  
18 unrelated case back in 2001, my wife, apparently  
19 under her company name, was the court reporter when  
20 Mr. Gillespie's deposition was taken, apparently,  
21 by somebody from your firm. Which, almost nine  
22 years ago, is news to me. And in any event, that  
23 is the extent of my knowledge.

24          MR. GILLESPIE: Thank you, Judge. The records  
25 that I handed you show that almost \$500 was paid to

1           your wife. I would like to have an evidentiary  
2           hearing so that we can have a disclosure of what  
3           the amount of money that has been paid to your wife  
4           by the defendants. And I think that is a  
5           reasonable request.

6           And based on what the responses are, a motion  
7           to disqualify may be in order. Can you answer the  
8           rest of the relationship questions in this motion,  
9           Judge?

10           THE COURT: Yes. The name, apparently, is the  
11           same with this company in Annapolis, Maryland in  
12           some real estate transaction and, I don't know,  
13           Riverbay Road. I don't know where that property  
14           was. I am looking at your motion, so -- and May  
15           Pro -- I have no connection with any of those  
16           Bartons in this request, so -- I have never heard  
17           of those folks before, nor are they, as far as I  
18           know -- well, I guess we are all related if you go  
19           back far enough, but I don't think I am related to  
20           any of those folks.

21           MR. GILLESPIE: Well, in the manner in that a  
22           husband and wife -- for the purpose of  
23           relationships, they are considered as one. So,  
24           under Florida law, if your wife accepted money from  
25           Mr. Rodems, it's the same as if you accepted money

1 from Mr. Rodems' firm.

2 MR. RODEMS: Your Honor, I have a comment on  
3 that. I believe that the courts and governing  
4 bodies have looked at judges who run for elected  
5 office. And I believe that the law allows an  
6 attorney to make a campaign donation to the judge  
7 as the judge is going through reelection. Of  
8 course, there is a statutory cap.

9 THE COURT: Well, let me interrupt you for a  
10 second.

11 MR. RODEMS: Yes, sir.

12 THE COURT: That could be as close of a  
13 situation as you can come up with on the spur of  
14 the moment because you said -- and I think the  
15 Certificate of Service bears this out, you just got  
16 served with both of these motions today.

17 So, who knows what is in the office. I do  
18 know that there is a -- I believe it's called the  
19 JEAC opinion issued by the Ethics Advisory  
20 Committee which says that, for example, when there  
21 is a court reporter, that court reporter should not  
22 have specific duties, and if the court reporter is  
23 married to the judge, she should not be the court  
24 reporter in the judge's hearing or on any of the  
25 judge's cases. And that has been scrupulously

1           adhered to over the years.

2           Certainly, when this deposition back in 2001  
3 took place, this case we are here on today didn't  
4 exist, and who could see that far into the future?  
5 But it still might be a basis for recusal. I don't  
6 know because, right now, we are just looking at the  
7 facts.

8           But, clearly, the case law is that if there is  
9 at least an arguable claim for recusal, that is the  
10 first issue that should be addressed. And I now  
11 know what your intentions are, Mr. Gillespie, now  
12 that the facts are in, and --

13           MR. RODEMS: I would like to raise one other  
14 point before we go down that path.

15           THE COURT: Okay.

16           MR. RODEMS: Mr. Gillespie had a duty to bring  
17 all of the bases for a motion for disqualification  
18 at the time that he brought his first one.

19           THE COURT: To the extent that he knew them.

20           MR. RODEMS: To the extent that he knew them,  
21 right. The documents that he is relying on -- we  
22 need to know from Mr. Gillespie how long it's been  
23 in his possession.

24           THE COURT: Well, what I am going to require  
25 him to do is -- because, right now, there is no

1 motion on the table, but it sounds like there could  
2 be one; is that correct, Mr. Gillespie?

3 MR. GILLESPIE: Judge, I would like to know  
4 the extent of the business dealings with the law  
5 firm of Barker, Rodems & Cook, P.A. with your wife.  
6 I only found out about this by scanning the  
7 transcript this past week. As you say, when the  
8 transcript was made, Chere Barton was just another  
9 face in the crowd.

10 THE COURT: Right.

11 MR. GILLESPIE: All of these documents were  
12 put away in a box and more or less forgotten about.  
13 Last week, when I was scanning documents -- and  
14 that was something in my ADA request, the scanning  
15 of documents, we haven't gotten around to that yet,  
16 but while I was scanning the documents, now the  
17 name means something to me.

18 And I did some basic investigation, and you  
19 have just confirmed that this is your wife. Now,  
20 if the defendants' law firm has done a lot of --  
21 substantial business or any business with Regency  
22 Court Reporting, I think that we need to know about  
23 it and go from there.

24 THE COURT: Now, I think it's an issue that  
25 has to be addressed, frankly, before we go any

1 further.

2 MR. RODEMS: Very well, Your Honor.

3 THE COURT: I mean, if it was -- you know, my  
4 wife's business is her own. And it's pretty clear  
5 that I don't interfere with her business, and she  
6 does not interfere with my duties as a judge. And  
7 sometimes coincidences like this do happen where  
8 events take place that bring different threads  
9 together.

10 So, you can perform that evaluation fairly  
11 quickly?

12 MR. RODEMS: Yes, sir.

13 THE COURT: Because, as I said, there is  
14 sometimes -- and I don't -- I really don't believe  
15 that Mr. Gillespie is sandbagging anybody on this,  
16 to use a common term. Had he been aware of this,  
17 it would have been presented a lot earlier.

18 MR. GILLESPIE: And may I add another concern?

19 THE COURT: Yes.

20 MR. GILLESPIE: This transcript that's in  
21 question -- and I have the transcript here, if you  
22 would like to see the full transcript. This  
23 transcript is one where Mr. Cook, who was  
24 representing me, allowed Mr. John Anthony of Gray  
25 Harris to do a very thorough questioning of my

1 disability. Even though this was a truth in  
2 lending lawsuit about check cashing my disability  
3 bore no bearing whatsoever on. And yet, this law  
4 firm permitted twenty pages of questioning about my  
5 disability. I mean, it's absolute negligence.

6 But be that as it may, this transcript -- I am  
7 assuming your wife has kept a copy of it.

8 THE COURT: You know, I am amazed at what  
9 court reporters do. And other than to know that  
10 she is working every day and does transcripts, I  
11 couldn't begin to tell you what the practices of  
12 her office are.

13 MR. GILLESPIE: And the Department of  
14 Corporations shows the registered agent of Regency  
15 Reporting Service at 3711 W. Corona Street and the  
16 office is at 625 E. Twiggs Street.

17 I am assuming that she doesn't have two  
18 offices and that one of these addresses is her  
19 home.

20 THE COURT: Well, if you knew -- and we have  
21 two court reporters here who can tell you that  
22 while we are busy sleeping, they are in their homes  
23 -- in their offices at homes pulling all-nighters,  
24 as my wife still does, preparing transcripts, so I  
25 can tell you that.

1           I can tell you that, in fact, one of those  
2 addresses is my home, there is also an office in  
3 our home. So, that is why she has listed them  
4 both. I assume. I don't really know.

5           MR. GILLESPIE: So, that would mean that the  
6 transcript, if she has kept a copy of it, is  
7 available to you in your home.

8           THE COURT: Well, I also know that she doesn't  
9 keep -- if you can imagine -- if she was the court  
10 reporter in 2001. If you can imagine, if she kept  
11 personal copies of depositions -- all of these  
12 hearings and depositions that she has done, we  
13 would have to be living in a fifty-room mansion,  
14 not that we could afford it, but -- so, the short  
15 answer is, no, she does not keep transcripts.

16           As I understand it, they are stored either in  
17 the computer for a length of time, until it's no  
18 longer required or they are on discs and things  
19 like that. Again, I am not in on the details of  
20 how that is all done.

21           MR. GILLESPIE: And that is fine, Judge. And  
22 this is why I think we need an evidentiary hearing  
23 to find out where this transcript is and who has  
24 seen it. Because it does contain all the  
25 information that Mr. Rodems is standing here

1           telling you he knows nothing about. And, yet, it's  
2           in this transcript right here.

3           MR. RODEMS: That is a complete  
4           misrepresentation of what I said. I have said  
5           Mr. Gillespie has not proven in a court of law with  
6           actual evidence what his disability is.

7           MR. GILLESPIE: That is fine.

8           THE COURT: Stop.

9           MR. GILLESPIE: Judge, can I respond to that,  
10          Judge.

11          THE COURT: Not right now. If you can come up  
12          with -- you know, if it's a one-shot deal where you  
13          say, please cover -- who ordered the court reporter  
14          that day? Was it your firm or was it this other  
15          Anthony --

16          MR. RODEMS: I can tell you -- I can tell you  
17          unequivocally that the court reporter was ordered  
18          by the party taking the deposition, which was John  
19          Anthony, Attorney at Law.

20          THE COURT: Okay. Then, if you can go back  
21          and do some research and see whether -- if your  
22          firm has ever retained my wife or her firm, Regency  
23          Court Reporting.

24          MR. RODEMS: If we can take a ten-minute, I  
25          can call the office and get that information.

1           THE COURT: Well, what I am really asking you  
2 is to get that information, put it in writing in  
3 the next couple of days -- because, as I said, this  
4 needs to be addressed. And then, I am going to --  
5 how much time, once this information is obtained,  
6 before you --

7           MR. GILLESPIE: Your Honor, I don't trust  
8 anything this man says. And let me just respond to  
9 his assertion that I have not proved in any court  
10 of law about my disability.

11           My disability has been determined by the  
12 federal government. It's not for him to decide. I  
13 have been determined disabled; I am disabled by the  
14 United States government. And that suffices for  
15 this purpose.

16           You know, I don't trust what he says. And if  
17 he is going to give testimony, I want him in the  
18 witness chair, or someone from his firm in the  
19 witness chair sworn under oath, and then we are  
20 going to get to the facts of this matter. But we  
21 are not going to take his word for it.

22           THE COURT: All right.

23           MR. GILLESPIE: Because, if you look at the  
24 amended -- the 1st Amended Complaint, Mr. Rodems is  
25 now a defendant in this matter and he is a part of

1 a civil conspiracy. So, he is in no position to  
2 stand there and testify to the truth of matters.

3 THE COURT: All right.

4 MR. RODEMS: Your Honor, let me -- may I  
5 respond?

6 THE COURT: You are going to comply with the  
7 Court's request, correct?

8 MR. RODEMS: Yes.

9 THE COURT: Within how many days?

10 MR. RODEMS: I can do that this afternoon. I  
11 can have the computer records --

12 THE COURT: Okay. How are you going to get it  
13 to Mr. Gillespie?

14 MR. RODEMS: I will prepare an affidavit and  
15 serve it to him by mail.

16 THE COURT: Okay. Is there any kind of a fax  
17 or e-mail?

18 MR. RODEMS: He has refused to allow us to  
19 send him anything by fax or e-mail.

20 THE COURT: Okay. So, mail it. And then,  
21 after that is done, how much time do you need to  
22 determine if you are going to file a motion to  
23 recuse the Court?

24 MR. GILLESPIE: Well, Judge, I think more of a  
25 determination is needed to what the underlying

1 facts are. This was a problem in the  
2 disqualification of Judge Isom. We had a similar  
3 hearing. And Judge Isom and Mr. Rodems engaged in  
4 a conspiracy of silence. It was a Motion to  
5 Disclose Conflict, and yet, they concealed the fact  
6 that Judge Isom's husband was a law partner with  
7 this firm, okay?

8 MR. RODEMS: Your Honor, I am sorry for  
9 interrupting, but --

10 THE COURT: So don't, all right? I am  
11 assuming that much, if not all of what each of you  
12 are saying, you both disagree. And I disallowed  
13 him to interrupt. I am not going to let you  
14 interrupt him either, okay?

15 MR. RODEMS: Yes, sir.

16 THE COURT: That's the way this case has been  
17 going on. I am your third judge. And if there is  
18 going to be a fourth judge -- I have already denied  
19 one motion to recuse, but I might grand the next  
20 one. I just want to know how much time,  
21 Mr. Gillespie, you are going to need to determine  
22 whether you are going to file a motion to recuse  
23 the Court.

24 MR. GILLESPIE: Well, let me answer your  
25 question this way, Judge, because you bought up the

1 issue if there will be a fourth judge.

2 Mr. Rodems, in addition to being named --

3 THE COURT: I guess what -- I mean, this is  
4 kind of unusual in the sense -- we usually have --  
5 the stereotype is defendants want to delay as much  
6 as possible, and the plaintiffs are pushing and  
7 pushing and -- you know, this is slowing your case  
8 down and it's your call. I mean, if it needs to be  
9 slowed down, then it should be, but I just want you  
10 to know, Mr. Gillespie, if you are going to get  
11 anything out of this case -- this is a 2005 case  
12 for events that apparently happened well before  
13 then. It's just -- if I were in your shoes, which  
14 I am not, but -- I mean, it needs to be -- it needs  
15 to be pushed forward.

16 MR. GILLESPIE: And let me repeat, Judge, had  
17 this case been managed properly, it would be  
18 concluded. Mr. Rodems would have been  
19 disqualified, and this case would be resolved with  
20 Judge Nielsen. He decided to submit perjury to the  
21 Court. That was on more than one occasion.

22 Then Judge Isom got the case, and they engaged  
23 in a conspiracy to hide the fact that her husband  
24 was a law partner with the predecessor firm, which  
25 is a substantial part of this case.

1           So, if Judge Isom had disclosed the conflict  
2           and we had gotten another judge, then maybe this  
3           case would have been resolved then. But Judge Isom  
4           didn't follow her own law review on what to do in  
5           cases of discovery issues.

6           That, combined with her failure to disclose  
7           the conflict, tells me she is working to do  
8           whatever she can to help this side. So, that is  
9           the problem. And moving ahead doesn't mean  
10          anything if we are moving ahead in the wrong way.

11          Mr. Rodems has -- in by failing to disclose  
12          the conflict with Judge Isom -- and in addition,  
13          there have been defamatory letters that were sent  
14          in December of last year. I am assuming they will  
15          be served with federal lawsuits. And I am hoping  
16          this case -- once this amended motion is on the  
17          record, then this case can transfer to federal  
18          court.

19          Judge, I see no way to proceed now in this  
20          Court because I am being hometowned. I have  
21          discussed this case with other attorneys. They  
22          said that your \$11,000 sanction was extreme. They  
23          never heard of it. It was wildly excessive. And  
24          they said, you are being hometowned. And  
25          "hometowned", in case you are not familiar with the

1 term, means that the Court is granting favor to an  
2 attorney from its own district and against a party  
3 from out of town. And I am from out of town, which  
4 is in another county and in another district.

5 THE COURT: All right. So, my question then  
6 is, once you receive what you are going to receive  
7 from Mr. Rodems, how long will you need to file a  
8 motion to recuse or for disqualification?

9 MR. GILLESPIE: Well, I would like to see what  
10 he has to say. I don't know if perhaps some  
11 discovery of a non-party -- to your wife would be  
12 appropriate, depending what his answers are. Or it  
13 may be not depending on what the answers are.  
14 Would you have a problem with that, Judge?

15 THE COURT: With?

16 MR. GILLESPIE: With a discovery request on  
17 this issue to your wife as a non-party.

18 THE COURT: We see discovery on non-parties  
19 all the time. I mean, parties need to do what they  
20 think they need to do.

21 MR. GILLESPIE: Well, because this just came  
22 up and I was preparing for today, I didn't have  
23 time to do research on a non-party discovery  
24 request to the wife of a judge. But I can look it  
25 up and get that out in the mail, if you don't have

1 any objection.

2 THE COURT: Well, it's not for me to object.  
3 I mean, it's for you to -- I have no standing to --  
4 I mean, I can rule on motions and --

5 MR. GILLESPIE: Well, for the purpose of a  
6 person or a relation, a judge and a wife are  
7 considered one person. So, it would be the same as  
8 if I served a discovery request on you, Judge.  
9 Would you object to that?

10 THE COURT: I have not really considered that.  
11 I always understood that -- certainly, judges and  
12 their spouses, in some legal senses, are one and  
13 the same; but in many others, they are separate and  
14 apart. That is why spouses of judges have their  
15 own businesses and their own lives. That is for  
16 them to decide, what they do and don't do, in terms  
17 of getting any discovery requests.

18 MR. GILLESPIE: But with you, Judge, would you  
19 object to a discovery request from a party?

20 THE COURT: On my -- on my wife's business?

21 MR. GILLESPIE: Well, under the legal theory  
22 in Florida that a husband and wife are considered  
23 to be the same.

24 THE COURT: Well, I don't know that I agree  
25 with you on that principle of law. Again, there

1 are the same for some purposes, but certainly not  
2 for business purposes and other things. So, I am  
3 -- I'm not sure until I see what you file. But  
4 again, you need to do what you need to do, and not  
5 worry about whether I object or not.

6 MR. GILLESPIE: All right, Judge. Well, when  
7 I get this letter, I will know better from their  
8 response. But I probably am going to make a  
9 non-party discovery request to Ms. Barton.

10 THE COURT: Okay.

11 MR. GILLESPIE: And I would just ask if we are  
12 going to move ahead with the complex litigation  
13 designation? That really should have been done  
14 four years ago. And if we are going to have a  
15 pretrial conference? Because I have served notice  
16 on Mr. Rodems about that.

17 THE COURT: About what?

18 MR. GILLESPIE: The pretrial conference,  
19 Judge. The case management conference, I am sorry.

20 THE COURT: Case management conference.

21 MR. GILLESPIE: The case management  
22 conference. Right.

23 THE COURT: Sure. I mean, we would have one  
24 anyway. But there is a notice for trial. Do you  
25 want your case set for trial yet or not?

1           MR. GILLESPIE: Well, he has to respond to  
2 Plaintiff's 1st Amended Complaint.

3           MR. RODEMS: That is not true.

4           THE COURT: Well, that hasn't been legally  
5 filed yet. It is true under the rule and procedure  
6 that you cited that a party can amend once as a  
7 matter of course without leave of Court, if the  
8 Complaint has not been answered, which -- I think  
9 it's been answered and we are at issue. That is  
10 why you moved to set the case for trial.

11          MR. RODEMS: Right.

12          THE COURT: That is why you have to file the  
13 motion and have the Court grant your motion --

14          MR. GILLESPIE: Well, we have a motion --

15          THE COURT: -- to file a 1st Amended  
16 Complaint.

17          MR. GILLESPIE: Thank you, Judge. I have  
18 Plaintiff's 1st Amended Complaint here, signed and  
19 ready to go. Can I file it today?

20          THE COURT: You can put anything in the court  
21 file that you want. The question is, is it legally  
22 filed? And it's not legally filed until I grant  
23 you leave to file it --

24          MR. GILLESPIE: All right.

25          THE COURT: -- to have it legally recognized.

1 And that is not set for hearing today.

2 MR. GILLESPIE: All right. Well, based on  
3 that. I will file and we will go by what you  
4 decide.

5 But as far as the complex litigation  
6 designation and case management conference, have  
7 you made a decision on those yet -- on how you want  
8 to go? Because I sent those to you last week.

9 THE COURT: Right. Which we will rule on  
10 those once we, first of all, determine the Court's  
11 further involvement in this case. I mean, I don't  
12 want to make -- I don't want to make rulings that  
13 are going to bind the successor judge if I am not  
14 going to be the judge on the case.

15 I think the letter and spirit of the rules  
16 relating to disqualification and recusal say that  
17 once that issue raises its head, it needs to be  
18 dealt with before anything else.

19 MR. GILLESPIE: Thank you, Judge. And  
20 Mr. Rodems is at a slight disadvantage because he  
21 doesn't know what my ADA request was. But I can  
22 assure him, it's nothing out of the ordinary. It's  
23 to follow the federal approach that Judge Barton  
24 and you and I agreed to at the last hearing, it's  
25 for a case management conference, which is a Rule

1 of Civil Procedure, it's a complex litigation  
2 designation, which absolutely should be done in  
3 this case, it's a request for case management by  
4 the Court, which the Court has a responsibility to  
5 do and, in my view, has not done.

6 What the Court has done is giving them every  
7 opportunity to rack up sanctions against me. And  
8 then, when I go to defend against them, it wants  
9 ten or twelve motions to be heard in one day. And  
10 that is not fair.

11 THE COURT: So you don't want your motions  
12 heard.

13 MR. GILLESPIE: I want them heard in a proper  
14 way, Judge.

15 THE COURT: Well, "proper" as you define it,  
16 apparently.

17 MR. GILLESPIE: Well, "proper" as the Florida  
18 Civil Rules of Procedure tell us under the a  
19 determination of complex litigation.

20 THE COURT: Right. Has this case been  
21 designated as complex litigation?

22 MR. RODEMS: No. And it doesn't meet the  
23 standards of complex litigation.

24 THE COURT: So, I know, Mr. Gillespie, you  
25 have read a lot, and, frankly, I admire you for

1 your ability to grasp certain legal concepts, but  
2 the motion to amend has to be set before it's  
3 granted and before the Amended Complaint is filed  
4 and served; if the case is going to be treated as a  
5 complex litigation, it has to meet the criteria and  
6 it has to meet the rulings on that.

7 This case has become complex because of the  
8 plethora of side issues that -- because it's very  
9 frustrating to the Court, as I think it is to you  
10 and I think it is to the defense as well that we  
11 spent five years now -- you all have, I haven't  
12 because I have not been on the case that long. But  
13 while the case is at issue, it may not be if a  
14 motion to a amend is granted. And then, where are  
15 we going to be in another five years?

16 MR. GILLESPIE: Well, Judge, within six  
17 months, I hope this will be in federal court  
18 because there will be other defendants. But the  
19 problem is, he should have been disqualified on  
20 April 25th, 2006 because of prior representation.  
21 And not just in this case, but they represented me  
22 on a number of issues. There is a counterclaim.  
23 The counterclaim is absolutely related to the prior  
24 representation.

25 THE COURT: Well, I guess, since -- is it your

1 theory of the case that since the law firm and  
2 Mr. Cook represented you and they know a lot about  
3 you, they should not be able to defend themselves?

4 MR. GILLESPIE: They should be able to defend  
5 themselves. Absolutely, Judge, but they need to  
6 hire counsel to do that.

7 THE COURT: Well, they have.

8 MR. GILLESPIE: And they need to hire counsel  
9 that has not represented me. They can hire any  
10 other law firm in the world. And there is case law  
11 on this, Judge. How can you determine the standard  
12 on whether or not it's the same matter? And the  
13 standard -- and I don't have the case law here  
14 today because, as I said here in my letter, I have  
15 withdrawn that motion to disqualify them, but I can  
16 put the information in there about Judge Isom.

17 But the standard in Florida is that whatever  
18 an ordinary person will determine related. If an  
19 ordinary person would see the lawsuit with Amscot  
20 Corporation and the whole issue about truth in  
21 lending, and whether or not that entitles them to  
22 \$50,000 and this lawsuit which is saying, no, you  
23 are not entitled to \$50,000 under a truth in  
24 lending claim -- if an ordinary person would  
25 understand that, then he is disqualified. And it

1           should have been four years ago.

2           THE COURT: Well, as you say -- I think I  
3 heard you say you have withdrawn that motion, so --

4           MR. RODEMS: Judge?

5           THE COURT: Yes, sir.

6           MR. RODEMS: May I be heard?

7           THE COURT: You may.

8           MR. RODEMS: Judge Nielsen already heard the  
9 motion to disqualify. And all of the arguments  
10 have been made before Judge Nielsen, and Judge  
11 Nielsen ruled on it. I don't know if Mr. Gillespie  
12 knows that Judge Nielsen is the judge who presides  
13 over the complex litigation business litigation  
14 section in this circuit, and he has already moved  
15 to disqualify him, and Judge Nielsen denied that  
16 and recused himself on his own volition.

17           I would like to point out to the Court that  
18 Florida Rules of Civil Procedure 2.330 does require  
19 that motions to disqualify to be in writing,  
20 alleged specifically the facts and reason upon  
21 which the movant relies, and be sworn to. And it  
22 also requires the motion to be filed within ten  
23 days of the discovery of the facts constituting the  
24 grounds for the motion. Mr. Gillespie comes in  
25 here with rank speculation, no basis whatsoever,

1 and all of a sudden, the wheels of justice come to  
2 a grinding halt. Then, I have to sit here while he  
3 impugns my name and my credibility and he accuses  
4 me and Judge Isom of conspiring against him. He is  
5 accusing, apparently, Judge Isom's husband A.  
6 Woodson Isom of being a partner at the law firm of  
7 Barker, Rodems, Cook, Ferrentino --

8 MR. GILLESPIE: Objection, Your Honor. That  
9 is not what I said.

10 MR. RODEMS: I will say now that during the  
11 entire time that I was associated with what was  
12 originally in 1991 known as Alpert, Josey & Grilli  
13 to the time that I left that law firm, Mr. Isom was  
14 never employed there. And I only met him on two or  
15 three occasions.

16 So, if Mr. Isom was at one time partners with  
17 Jonathan Albert at another firm, I have no  
18 knowledge about it. It dates back to prior to  
19 1991. That is about as remote as you can get.

20 MR. GILLESPIE: Judge --

21 MR. RODEMS: I am not finished, sir.  
22 Mr. Gillespie's Motion to Disclose Conflict raises  
23 a court transcript that was taken in 2001. Now,  
24 there has to be a limit to somebody taking  
25 liberties with the rules and causing delays in the

1 proceedings.

2 I will be happy to file the information with  
3 the Court regarding the court reporting firm of  
4 Regency Reporting and the court reporter named  
5 Chere J. Barton and any monies that have been paid  
6 to her by Barker, Rodems & Cook. I will do so  
7 within twenty-four hours.

8 But, Your Honor, the last time we had hearings  
9 in this case was in January. It's taken us until  
10 May to get back before you. This is now going to  
11 cause a further delay. And the Court is asking  
12 Mr. Gillespie how long he needs to gather  
13 information to file a motion to disqualify -- Your  
14 Honor, with all due respect to my clients, if  
15 Mr. Gillespie has a motion to disqualify, he needs  
16 to follow the rules, put it in writing, swear to  
17 it, and file it with the court.

18 Running around with wild speculation and  
19 coming into this courtroom and impugn judges and  
20 other people who are sworn to uphold the  
21 constitution and the laws of the state --

22 MR. GILLESPIE: Objection, Your Honor.

23 THE COURT: Just -- no. Don't interrupt.  
24 Enough is enough. I am not going to say it again.

25 MR. GILLESPIE: I am sorry, Your Honor.

1           MR. RODEMS: Judge, we need to get closure on  
2 this issue. Mr. Gillespie has not filed a -- does  
3 not file a motion to disqualify, we need to move  
4 this case forward. And I don't think that it is  
5 appropriate to invite Mr. Gillespie to dictate how  
6 long he wants to do some discovery to come up with  
7 some basis to make a motion to disqualify.

8           THE COURT: Well, you might not think that,  
9 but it was of a concern to the Court, and that is  
10 why I asked Mr. Gillespie.

11           I will have an order drafted indicating  
12 provide Mr. Gillespie with this information which  
13 will be served on him, apparently by mail, within  
14 twenty-four hours, and then Mr. Gillespie within  
15 what the rule requires -- within ten days of  
16 receiving that information, he would need to file  
17 his motion.

18           MR. GILLESPIE: That is fine, Judge. If the  
19 rule is ten days, I don't have any problem with  
20 that.

21           THE COURT: Okay.

22           MR. GILLESPIE: I am happy to comply with  
23 that. I would ask what the order is going to  
24 require him to disclose.

25           THE COURT: Disclose the payment to Chere J.

1           Barton and/or Regency Court Reporting -- or  
2           whatever the corporate name is. Not only in the  
3           case that you found, but any others.

4           MR. GILLESPIE: Can I just -- just to be  
5           clear, so it would be payment to Regency Reporting  
6           Services, whether or not Ms. Barton was the actual  
7           person doing the transcribing. I don't know if she  
8           has employees.

9           THE COURT: Sure. She usually has one or two  
10          people that works with her.

11          MR. RODEMS: Our software does have the  
12          capability to search files either by individual  
13          names and also by corporate names, so I will be  
14          happy to do that.

15          THE COURT: Great.

16          MR. GILLESPIE: I am also going to make a  
17          non-party discovery request on Ms. Barton in her  
18          capacity and see if the answers are the same.

19          THE COURT: Okay.

20          MR. GILLESPIE: I hope they are.

21          THE COURT: And then, I will -- again, I will  
22          -- I really don't feel -- because this is not  
23          whether it's remote or whether -- I mean, it could  
24          be that Mr. Gillespie gets this information and he  
25          may say, well, it was nine years ago and I am not

1 going to file a motion, or, you know, he may think  
2 there is enough. That will be his decision. And I  
3 am going to give him ten days to do that after he  
4 is provided the information.

5 MR. RODEMS: Yes, sir. Could you -- Judge, is  
6 it possible that while we here today, that we find  
7 out when we can have additional hearing time in  
8 front of you?

9 THE COURT: Correct. And I think it would be  
10 good to -- and again, my game plan is to set a  
11 block of time, like today. If we would have gotten  
12 through any of these motions, which apparently, we  
13 have not, then we would take a break at 4:00, and  
14 then come back and do the rest. That is kind of my  
15 game plan for the case management conference and  
16 these motions. And we will see how many, if any,  
17 of these we will get through.

18 Again, Mr. Gillespie, I am trying to help you  
19 proceed forward to get your case set for trial,  
20 which is, I assume, something that you want. And I  
21 know you have made another request to keep trying  
22 to find a lawyer, which, if that happens, I am sure  
23 that would be a great benefit to you as well.

24 MR. GILLESPIE: Well, let me ask you this,  
25 Judge, because I haven't received the responses

1 from the Court on my ADA request, and I don't see  
2 how we can move forward until this request is  
3 responded to. Can you tell me when I will get a  
4 response?

5 THE COURT: Which part of that do you want a  
6 response to?

7 MR. GILLESPIE: Well, the request filed on  
8 February 19th.

9 THE COURT: Can you hand it to the bailiff and  
10 I will take a look at it.

11 (Plaintiff complied.)

12 THE COURT: I'll go down the list, if you want  
13 me to.

14 MR. GILLESPIE: That is fine, Judge.

15 THE COURT: You see, under the federal  
16 approach -- if you really want that -- I refer to  
17 that and as shorthand -- the federal approach is to  
18 rule on written motions without oral argument from  
19 the parties. And if that is what you are wanting  
20 me to do, I am more than happy to do that.

21 The second -- and that's if you wanted me to.  
22 And I just want to make sure that you understood  
23 what I meant by the term, quote, the federal  
24 approach, close quote. Because federal judges  
25 grant hearings not as a matter of right, which,

1 under Florida law, for the most part, if somebody  
2 wants a hearing on motions -- again, there are a  
3 few exceptions, of course, the Court has to afford  
4 them one. Under the federal system, in the civil  
5 courts, judges have discretion -- as I understand  
6 it, it's total discretion on any and all motions as  
7 to whether a hearing like this is granted or not.

8 MR. GILLESPIE: Well, the way I understood the  
9 description under the federal approach last time --  
10 and we have a transcript that we can go back to --  
11 was that the motions would be submitted to you, and  
12 then, you would set time for the hearing. Now, you  
13 are telling me something --

14 THE COURT: That is not the federal approach.  
15 The federal approach is deciding whether they --  
16 the Court thinks it needs a hearing or not, and it  
17 would only set hearings on motions that it felt  
18 would be beneficial to have a hearing on, as  
19 opposed to entitlement to a have a hearing. But if  
20 you think that is appropriate, I will be glad to do  
21 that, Mr. Gillespie.

22 MR. RODEMS: Your Honor --

23 THE COURT: Mr. Gillespie, is that what you  
24 want me to do?

25 MR. GILLESPIE: Well, that is a difficult --

1           that is a different standard of what you said last  
2           time. So, my ADA request in front of you now is  
3           based upon what you said the last time. Now you  
4           are saying something different. So, I would like  
5           to think about that.

6           THE COURT: Okay. In any event, the federal  
7           approach also sets -- when a hearing is set, to not  
8           coordinate the hearing time with either side, and  
9           just to set them. And that is what I did this  
10          time. I didn't coordinate this time with anybody.  
11          We just picked a date on the court's calendar and  
12          set it. I will be glad to keep doing that.

13          MR. RODEMS: Your Honor, if I may?

14          THE COURT: Yes.

15          MR. RODEMS: Since Mr. Gillespie has expressed  
16          some reservation with hearing multiple motions at  
17          the same time, what you just suggested would seem  
18          to be a reasonable accommodation, in that  
19          Mr. Gillespie would have, as in federal court,  
20          fourteen days from the date a motion is filed to  
21          file a response, and then the Court would decide  
22          the motions based on the motion and the legal  
23          memoranda. If that system were imposed, then  
24          Mr. Gillespie would have fourteen days to prepare a  
25          written response to any particular motion, which

1           would -- if conducting motions one after the other  
2           in a hearing would pose a problem, deciding them on  
3           paper, as it is, would avoid that problem. And we  
4           certainly would be agreeable to that suggestion.

5           And quite frankly, if that were the case, I  
6           think that we could probably move this case along  
7           much faster.

8           THE COURT: In any event, I will take a look  
9           at that. And again, in terms of setting hearings,  
10          I will continue to do what I have done this time,  
11          which is, again, as I understand it, part of the  
12          federal approach, which is to set hearings, and  
13          party will show up or not. They don't have to show  
14          up in a civil case.

15          Your request two and five about case  
16          management conferences, I will set case management  
17          conferences. As to three, I don't believe this  
18          case qualifies as complex litigation, so I am --  
19          these are not -- these are rules of procedure, but  
20          I don't think the Court is required to abrogate the  
21          standards of a rule of procedure, and I am not  
22          going to.

23          MR. GILLESPIE: Judge, may I ask a question?  
24          Mr. Rodems had indicated that Judge Nielsen is in  
25          charge of the business complex litigation. Is a

1 case designated under "complex" able to be heard in  
2 an ordinary court or must it go to business complex  
3 litigation?

4 THE COURT: Well, we are talking apples and  
5 oranges. The Complex Business Litigation Division  
6 over which Judge Nielsen presides has its own set  
7 of rules and procedures. I don't believe this case  
8 would qualify for that, nor does it qualify under  
9 the Rule of Civil procedure 1.201 that you cited.

10 MR. GILLESPIE: When Mr. Rodems stood up and  
11 said all of that verbiage about Judge Nielsen, all  
12 of that was just hot air.

13 THE COURT: Well, I don't know if he  
14 understood the distinction. Some lawyers who are  
15 not involved in that litigation --

16 MR. GILLESPIE: He is a certified -- he is  
17 certified by the Florida Bar in civil procedure, so  
18 I would assume that he does understand.

19 THE COURT: In any event, I am not going to  
20 impose a complex litigation designation. In terms  
21 of five and six, the Court is -- you know, to the  
22 extent that there is proof of stalking and perjury,  
23 you know, there are remedies for that which this  
24 Court -- normally, in a civil litigation -- we have  
25 separate courts that issue injunctions and deal

1 with stalking and domestic violence. And also, if  
2 perjury is proven, then it's dealt with.

3 MR. GILLESPIE: Un-hun. Judge, back to the  
4 complex litigation --

5 THE COURT: I am going through the list now.  
6 Seven -- while I admire Judge Isom and also her Law  
7 Review article that she wrote back in 1998, I am  
8 not sure that I am going to apply that.

9 And finally, I will apply the rule of law in  
10 Haines versus Kerner, 404 US 520, a 1971 United  
11 States Supreme Court case along with the Florida  
12 court decision and other decision that deal with  
13 pro se litigants in proceedings and pleadings.  
14 There are cases that run the gamut that talk about  
15 pro se litigants are less stringently looked at  
16 than pleadings drafted by attorneys, but even pro  
17 se litigants have to follow the same rules of  
18 procedure and pleadings that everybody does.

19 MR. GILLESPIE: And that's fine, Judge. I  
20 would like to have the same rules apply to me that  
21 Mr. Rodems has, and that is a half an hour and  
22 forty-five minutes for a single hearing. That is  
23 all I am asking for.

24 THE COURT: We will see. Again, because of  
25 the volume of cases that we have now in this

1 division, which is roughly five thousand cases,  
2 rather than the less than one thousand cases only a  
3 few years ago, I screen any request for hearing  
4 time more than a half an hour, so --

5 MR. GILLESPIE: Judge, getting back to complex  
6 litigation, I don't see how you cannot conclude  
7 that it is complex. The rules state that it may --  
8 "Any issues that require extensive judicial  
9 management to expedite the action, keep costs  
10 reasonable, or promote judicial efficiency."

11 And I have gone through an exhaustive  
12 explanation as to why it applies. Are you saying  
13 that you don't believe that?

14 THE COURT: Well, first of all, I am not going  
15 to -- I am not going to establish a case is complex  
16 litigation by virtue of an ADA request. Now, if  
17 you have a motion for the Court -- a formal motion  
18 to have the Court decide under that rule of  
19 procedure to designate this as complex litigation,  
20 you know, I will be glad to take a look at that.

21 MR. GILLESPIE: There is one, Your Honor.

22 THE COURT: Okay.

23 MR. GILLESPIE: And I have given you both -- I  
24 have given you two opportunities. I have given you  
25 one opportunity initially under the ADA. I didn't

1 get a response. I took that as a no. Then I gave  
2 you a second independent motion just like any other  
3 attorney would submit.

4 THE COURT: Okay.

5 MR. GILLESPIE: And I believe it should be  
6 considered, and I believe it should be decided.

7 THE COURT: Okay. Well, again, at some point,  
8 I will make a ruling on that. But again, I want to  
9 figure out and make a ruling on whether or not I am  
10 going to continue to be the judge in this case.

11 And we have got our game plan to do that, and  
12 that is as far as we are going to go today.

13 MR. GILLESPIE: And that is fine, Judge. You  
14 made a decision in this case already. You felt  
15 that Mr. Rodems was entitled to \$11,500 for some  
16 really minor missteps.

17 THE COURT: Well, that is your  
18 characterization. That, obviously, wasn't the  
19 Court's.

20 MR. GILLESPIE: Yes, that is my  
21 characterization. Do you still feel that that was  
22 appropriate?

23 THE COURT: Yes.

24 MR. GILLESPIE: Okay. Well, I think that we  
25 have a wide gulf here.

1 COURT REPORTER BONANNO: I am sorry?

2 THE COURT: A wide gulf, I understood him to  
3 say.

4 COURT REPORTER BONANNO: Thank you.

5 THE COURT: And that is probably true in every  
6 case that I have got, Mr. Gillespie. And sometimes  
7 both sides feel that there is a wide gulf between  
8 what each side wants the Court to do and what the  
9 Court does. That's why we have Appellate Courts,  
10 so --

11 MR. GILLESPIE: And the Appellate Courts,  
12 unfortunately, are just rubber stamps of the trial  
13 courts.

14 THE COURT: Well, having been reversed by the  
15 Appellate Court, I can tell you that what you are  
16 saying is inaccurate. And again, you are  
17 intelligent, you are articulate, but your lack of  
18 experience in legal matters is evident. And I will  
19 try to work with you to get your case ready for the  
20 trial that you think it deserves. And I hope that  
21 we eventually get to that point.

22 But, again, if you can get this information to  
23 Mr. Gillespie, draft an order setting up the  
24 procedure, and then I will look to see --  
25 Mr. Gillespie, I know you have been doing this

1           anyway, but if you file a motion to recuse,  
2           obviously, the original goes to the clerk, a  
3           courtesy copy should come to me, and obviously, a  
4           copy should going to Mr. Rodems.

5           MR. GILLESPIE: And that is fine, Judge. But  
6           Judge Isom's Law Review addressed the appellate  
7           process. As she said that for the most part, the  
8           appellate process will reaffirm the trial court's  
9           authority; no mention of the merits.

10           And in the 2nd District Court of Appeal gets  
11           over six thousand appeals on annual basis. Most of  
12           them have no written opinion. "No written opinion"  
13           means no appeal to the Supreme Court. For all of  
14           those cases with no written opinion, it's  
15           essentially a rubber stamp.

16           THE COURT: Well, you may legitimately feel  
17           that way. But knowing the judges, most of them, on  
18           the 2nd District Court of Appeal and having sat on  
19           the 2nd District Court of Appeal as an associate  
20           judge, I can tell you that what might appear to be  
21           a rubber stamp involves countless hours of  
22           reviewing transcripts and files and records to  
23           determine whether a trial court opinion should be  
24           per curium affirmed without any opinion, which  
25           looks like it's three words, but it involves a lot

1 of work and a lot of hours. And I know that is how  
2 that court operates. You would not, because you  
3 have never been on the inner workings of that  
4 court. And so, I can understand how you might feel  
5 way, but all I can do is say, you know, in my  
6 experience being within the court, not only as an  
7 associate judge but also having clerked with an  
8 appellate court in the last millennium, there is a  
9 lot that goes on in those cases that people just  
10 never see, even where there is a very brief "per  
11 curium affirmed".

12 If you can draft that order. And we will try  
13 to keep the case moving along.

14 MR. RODEMS: Briefly, Judge. Will the Court  
15 be making a decision on whether we are going to  
16 proceed with the federal procedure of deciding  
17 motions based on the submission of motions?

18 THE COURT: I have indicated what my  
19 procedures are going to be in terms of the ADA  
20 request that we have just gone over, but that is  
21 about as far as I am going to go until I figure out  
22 and rule on the motion to recuse that has not been  
23 filed that may be filed.

24 MR. RODEMS: Yes, sir.

25 THE COURT: That is the next step here. And

1 with that, we are adjourned.

2 (End of procedure.)

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CERTIFICATE OF COURT REPORTER

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STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

I, SONJA BONANNO, COURT REPORTER for the  
Circuit Court of the Thirteenth Judicial Circuit of the  
State of Florida,

DO HEREBY CERTIFY that I was authorized to,  
and did report the proceedings and evidence in this  
hereinbefore-styled cause, as stated in the caption  
attached, and that the preceding transcript attached  
hereto is a true, accurate and correct computerized  
transcription of my report of the proceedings had at  
said session.

I FURTHER CERTIFY that I am not employed by or  
related to the parties to this matter nor interested in  
the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my  
hand and seal in Tampa, Hillsborough County, Florida,  
this 8th day of May, 2010.

\_\_\_\_\_  
SONJA BONANNO, Court Reporter

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