



RICK SCOTT  
GOVERNOR

STATE OF FLORIDA  
**Office of the Governor**

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

[www.flgov.com](http://www.flgov.com)  
850-488-7146  
850-487-0801 fax

May 20, 2015

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

**RE: Chief Inspector General Case # 201505200004**

Dear Mr. Gillespie:

The Office of the Chief Inspector General received your complaint on May 20, 2015, in which you expressed concerns about the handling of your case by the Supreme Courts, Office of Inspector General.

Upon review of your information we have determined that the most appropriate official to address your concerns is Florida Supreme Court Chief Justice, Jorge Labarga. You may wish to contact Chief Justice Labarga by calling (850) 413-8371, or by writing to the following address:

**The Honorable Jorge Labarga, Chief Justice  
Florida Supreme Court  
500 South Duval Street  
Tallahassee, FL 32399-1925**

Thank you for bringing this matter to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Robinson", written over a circular stamp.

Heather Robinson  
Operations Manager  
Office of the Chief Inspector General

HR:mg



OFFICE OF THE GOVERNOR  
RICK SCOTT  
THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

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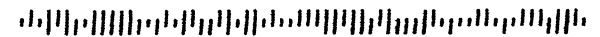
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Mr. Neil Gillespie  
8092 S.W. 115th Loop  
Ocala, FL 34481

34481+3567



May 19, 2015

Melinda M. Miguel  
Chief Inspector General  
Office of the Chief Inspector General  
The Capitol - Room 2103  
400 S. Monroe Street  
Tallahassee, FL 32399-0001  
Phone: (850) 717-9264  
Fax: (850) 921-0817  
Website: <http://www.floridaoig.com/default.htm>  
E-Mail: [cig@eog.myflorida.com](mailto:cig@eog.myflorida.com)  
E-Mail: [Melinda.Miguel@eog.myflorida.com](mailto:Melinda.Miguel@eog.myflorida.com)

Dear Chief Inspector General Miguel:

Inspector General Greg White refused to investigate the enclosed complaint against the Second District Court of Appeal submitted December 4, 2014 under the Florida State Courts System Fraud Policy for failure to have internal controls to provide reasonable assurance that the 2dDCA complied with administrative policies, procedures, and rules as well as applicable statutes.

IG White emailed me Tuesday, December 09, 2014 at 4:37 PM (copy enclosed)

Mr. Gillespie:

Whether or not an investigation is conducted upon receipt of a complaint is at the discretion of the inspector general. We recently conducted an operational audit of the Second DCA (attached) and found, contrary to your assertions, that the court does have adequate internal controls in place in accordance with law and court policy and promotes the effective and efficient use of state resources. After reviewing some of the voluminous material that you have sent to me, I conclude that your complaint is not creditable. There will be no further investigation by this office into your matter. Additionally, your legal issues are properly addressed through the judicial process and this office will not be involved in any attempt to circumvent that process.

I will be returning the paper documents you sent.

Sincerely,

*Greg White, MBA, CIA, CGAP*  
*Inspector General*  
*Supreme Court of Florida*  
*500 South Duval Street*  
*Tallahassee, FL 32399-1925*  
*Phone: (850) 488-9123*

IG White wrote "After reviewing some of the voluminous material that you have sent to me, I conclude that your complaint is not creditable." It appears IG White is biased toward me, and his decision reflects his bias: IG White failed to explain why my complaint is not creditable.

IG White is wrong in his statement:

“Additionally, your legal issues are properly addressed through the judicial process and this office will not be involved in any attempt to circumvent that process.”

This complaint is directed only against the Florida Second District Court of Appeal. Misconduct by individual judges will be brought by separate complaint to the appropriate agency. This is not a Florida Bar complaint. Clearly IG White is biased against me, and refused his duty as IG.

The Office of the Chief Inspector General was created in Section 14.32, Florida Statutes, effective October 1, 1994. This office has the responsibility for promoting accountability, integrity, and efficiency in state government. The Chief Inspector General has responsibility for monitoring the activities of the Offices of Inspectors General in the state agencies that are under the jurisdiction of the Governor. The Chief Inspector General also serves in accordance with 20.055, Florida Statutes, as the agency Inspector General for the Office of the Governor. The Chief Inspector General reports directly to the Governor both administratively and functionally.

Florida State Courts System Fraud Policy

VI. Investigation of Allegations of Fraud

a. Authority to Investigate Allegations of Fraud

i. The IG is authorized under section 20.055(6), Florida Statutes, to initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. The IG is also authorized to receive and investigate complaints filed pursuant to the Whistle-blower's Act in section 112.3187-112.31895, Florida Statutes. The IG shall refer complaints involving judges, attorneys or other licensed or regulated individuals to the appropriate oversight or regulatory body for investigation and determination of probable cause.

ii. In the course of investigating fraud, suspected fraud or other wrong-doing within the scope of this policy, the IG shall have free and unrestricted access to all records and premises required to evaluate allegations. When investigating fraud, suspected fraud or other wrong-doing within the scope of this policy, the IG may inspect, examine, copy or remove SCS records and property without prior consent of any individual who may have custody of such items.

Thank you in advance for the courtesy of a response.

Sincerely,



Neil J. Gillespie  
8092 SW 115th Loop  
Ocala, Florida 34481  
Tel. 352-854-7807  
Email: neilgillespie@mfi.net

**Neil Gillespie**

---

**From:** "Greg White" <whiteg@flcourts.org>  
**To:** "Neil Gillespie" <neilgillespie@mfi.net>  
**Sent:** Tuesday, December 09, 2014 4:37 PM  
**Attach:** D-4 Final Report 2DCA.pdf  
**Subject:** RE: Public records request to Inspector General Greg White

Mr. Gillespie:

Whether or not an investigation is conducted upon receipt of a complaint is at the discretion of the inspector general. We recently conducted an operational audit of the Second DCA (attached) and found, contrary to your assertions, that the court does have adequate internal controls in place in accordance with law and court policy and promotes the effective and efficient use of state resources. After reviewing some of the voluminous material that you have sent to me, I conclude that your complaint is not creditable. There will be no further investigation by this office into your matter. Additionally, your legal issues are properly addressed through the judicial process and this office will not be involved in any attempt to circumvent that process.

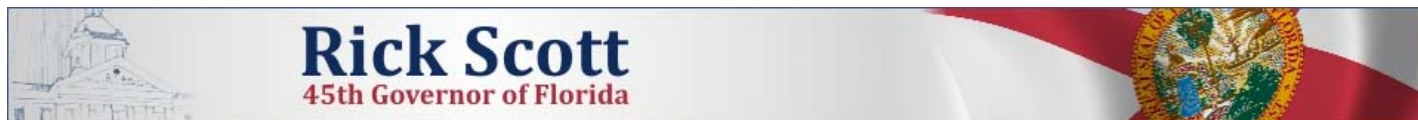
I will be returning the paper documents you sent.

Sincerely,

*Greg White, MBA, CIA, CGAP*  
*Inspector General*  
*Supreme Court of Florida*  
*500 South Duval Street*  
*Tallahassee, FL 32399-1925*  
*Phone: (850) 488-9123*

---

**From:** Neil Gillespie [mailto:neilgillespie@mfi.net]  
**Sent:** Tuesday, December 9, 2014 10:16 AM  
**To:** Greg White; Inspector General's Office  
**Cc:** Neil Gillespie  
**Subject:** Public records request to Inspector General Greg White



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## Office of the Chief Inspector General

### Contact:

Chief Inspector General  
850 / 717-9264  
850 / 921-0817 (fax)

The Office of the Chief Inspector General was created in [Section 14.32, Florida Statutes](#), effective October 1, 1994. This office has the responsibility for promoting accountability, integrity, and efficiency in state government. The Chief Inspector General has responsibility for monitoring the activities of the Offices of Inspectors General in the state agencies that are under the jurisdiction of the Governor. The Chief Inspector General also serves in accordance with [20.055, Florida Statutes](#), as the agency Inspector General for the Office of the Governor. The Chief Inspector General reports directly to the Governor both administratively and functionally.

Within the Office of Chief Inspector General, there are two distinct functions: **audits** and **investigations**.

The **audit function** is an independent, objective assurance and consulting activity designed to add value and improve the Office of the Governor's operations or operations funded by the Office of the Governor. In carrying out the audit responsibilities, the Chief Inspector General reviews and evaluates internal controls to ensure fiscal accountability of the agency. Audits are conducted in accordance with professional auditing standards.

In carrying out the **investigative duties**, the Chief Inspector General initiates, conducts, supervises, and coordinates investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in government.

## Comments Closed

Comments are closed.

[Contact Governor Scott](#)

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2. **Fold the printed label at the solid line below.** Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
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NEIL J. GILLESPIE 352-854-7807 NEIL J. GILLESPIE 8092 SW 115TH LOOP OCALA FL 34481	2 LBS	1 OF 1
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<b>SHIP TO:</b> MELINDA M. MIGUEL, CHIEF IG OFFICE OF CHIEF INSPECTOR GENERAL 400 S. MONROE STREET THE CAPITOL - ROOM 2103 <b>TALLAHASSEE FL 32399-6526</b>		
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SUPREME COURT OF FLORIDA  
SUPREME COURT BUILDING  
500 SOUTH DUVAL STREET  
TALLAHASSEE, FLORIDA 32399-1927



NEIL GILLESPIE  
8092 SW 115<sup>TH</sup> LOOP  
OCALA, FL 34481



December 4, 2014

Greg White, Inspector General  
Office of Inspector General, State Courts System  
Supreme Court Building  
500 South Duval Street  
Tallahassee, FL 32399-1925

VIA Email: [Inspgenl@flcourts.org](mailto:Inspgenl@flcourts.org)  
VIA Email: [white@flcourts.org](mailto:white@flcourts.org)

Dear Inspector General Greg White:

This complaint is made under the Florida State Courts System Fraud Policy against,

Florida Second District Court of Appeal (2dDCA)  
1005 E. Memorial Blvd. P.O. Box 327  
Lakeland, FL 33801 Lakeland, FL 33802  
Telephone: (863) 499-2290, FAX (863) 413-2649

for failure to have internal controls to provide reasonable assurance that the 2dDCA complied with administrative policies, procedures, and rules as well as applicable statutes. As shown in this complaint, operations of the 2dDCA did not support the goals and objectives of the State Courts System, and did not promote the effective and efficient use of state resources.

This complaint is directed only against the Florida Second District Court of Appeal. (hereinafter called "Court" or "2dDCA"). Misconduct by individual judges will be brought by separate complaint to the appropriate agency. This is not a Florida Bar complaint.

1. The case file in docket no. 2D08-2224 was wrongly destroyed April 10, 2014;
2. 13 anonymous decisions entered in case 2D10-5197; none carry the name or signature of a judge of the 2dDCA; only the name of Clerk appears;
3. \$14 fee for records showing who entered anonymous decisions in 2D10-5197;
4. The 2dDCA took "no judicial action" on my notice of appeal December 5, 2013, contrary to Art. V, sec. 2(a), Fla. Const. and Rule 9.040(b)(1), requiring transfer of the cause to an appropriate court, the Florida Supreme Court.
5. The 2dDCA failed to take judicial action in case 2D11-2127 as required by the Constitution and laws of Florida, including the Florida Rules of Appellate Procedure, and the Florida Rules of Judicial Administration.

Office of Inspector General  
<http://www.floridasupremecourt.org/oig/index.shtml>

The Office of Inspector General (OIG) is an integral part of the State Courts System.

The purpose of the OIG is to provide a central point for coordination of, and responsibility for, activities that promote accountability, integrity, and efficiency in the State Courts System.

The goal of the OIG is to proactively perform engagements designed to add value and improve the programs and operations of the State Courts System.

### Mission of the Office of Inspector General

“To proactively perform engagements designed to add value and improve the programs and operations of the State Courts System”

### Jurisdiction for the Inspector General, State Courts System

- Florida Constitution, Article V, Judiciary, Section 4, District Courts of Appeal
- Florida Statutes, Title V, Judicial Branch, Chapter 35, District Courts of Appeal (35.03)
- F.S. § 25.382 State courts system.— (1) As used in this section, “state courts system” means all officers, employees, and divisions of the Supreme Court, district courts of appeal...
- F.S. § 29.001 State courts system elements and definitions.— (1) For the purpose of implementing s. 14, Art. V of the State Constitution, the state courts system is defined to include the enumerated elements of the Supreme Court, district courts of appeal...
- F.S. § 29.004 State courts system.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state courts system to be provided from state revenues...

### Authority for the Inspector General, State Courts System

Section 20.055, Florida Statutes, Agency inspectors general.—

(1) As used in this section, the term:

(d) “State agency” means... the state courts system.

(2) The Office of Inspector General is established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government....

### Florida State Courts System Fraud Policy

#### VI. Investigation of Allegations of Fraud

##### a. Authority to Investigate Allegations of Fraud

i. The IG is authorized under section 20.055(6), Florida Statutes, to initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. The IG is also authorized to receive and investigate complaints filed pursuant to the Whistle-blower’s Act in section 112.3187-112.31895, Florida Statutes. The IG shall refer complaints involving judges, attorneys or other licensed or regulated individuals to the appropriate oversight or regulatory body for investigation and determination of probable cause.

ii. In the course of investigating fraud, suspected fraud or other wrong-doing within the scope of this policy, the IG shall have free and unrestricted access to all records and premises required to evaluate allegations. When investigating fraud, suspected fraud or other wrong-doing within the scope of this policy, the IG may inspect, examine, copy or remove SCS records and property without prior consent of any individual who may have custody of such items.

#### Background Information

I had six cases in the Second District Court of Appeal related to Hillsborough Case 05-CA-7205, Neil J. Gillespie v. Barker, Rodems & Cook, PA, and William J. Cook. (BRC).

A seventh case was filed November 19, 2014, Docket No. 14-5388, and is currently active.

Attorney Robert W. Bauer of Gainesville represented me in 2007 and 2008, and in two appeals below. Mr. Bauer was a referral from The Florida Bar Lawyer Referral Service.

<u>2D06-3803</u>	Gillespie v. BRC, discovery sanction appeal, Gillespie appeared pro se
<u>2D07-4530</u>	BRC v. Gillespie, voluntary dismissal, Robert W. Bauer for Gillespie
<u>2D08-2224</u>	Gillespie v. BRC, F.S. § 57.105 sanctions, Robert W. Bauer for Gillespie
<u>2D10-5197</u>	Gillespie v. BRC, final summary judgment, Gillespie appeared pro se
<u>2D10-5529</u>	Gillespie v. BRC, prohibition Judge Cook, Gillespie appeared pro se
<u>2D11-2127</u>	Gillespie v. BRC, prohibition Judge Arnold, venue, habeas corpus; pro se

#### Counts 1 through 5 against the Second District Court of Appeal

Evidence provided or available in support of counts 1 - 5 against the 2dDCA

#### **Set out as an Appendix see attached**

Amended Application for Order-2D10-5197-Jun-12-2014-corrected (14p)

Exh 8, 2013, 12-10-13, Order DENIED appeal to SCOTUS

2014, 06-12-14, APPENDIX 2DCA Public Records 18p

Exh 10, 2013, 10-07-13 form letter response Clerk Birkhold

Exh 11, 2014, 06-12-14, docket 2D08-2224 case destroyed

Addendum-Amended Application for Order-2D10-5197-Jun-17-2014-corrected (17p)

Separate Appendix, 2013, 10-01-13, letter NJG to Chief Judge Davis-53p

Emergency Petition Writ of Prohibition; Motion Change Venue, 2D11-2127, May 2, 2011

Remove CIRCUIT COURT JUDGE JAMES D. ARNOLD as trial court judge

Remove the THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, as venue and jurisdiction in Lower Court Case No. 05-CA-007205

Motion for a Change of Venue (to another District Court of Appeal)

Acknowledgment of New Case, FEE WAIVED, May 3, 2011

Order, DENIED petition for writ of habeas corpus, May 4, 2011

AMENDED Order, DENIED petition for writ of prohibition, May 6, 2011

Count 1 - Second District Court of Appeal

1. The case file in docket no. 2D08-2224 appears wrongly destroyed April 10, 2014;

The wrongful destruction of the case file in docket no. 2D08-2224 is significant because Robert W. Bauer (Bar ID 11058) represented me and filed, *inter alia*, a brief on my behalf, before moving to withdrawal from the case. The 2dDCA denied Mr. Bauer's motion to withdrawal, but he stopped working on the case anyway. Other motions I filed relative to Mr. Bauer's nonperformance, which as essentially contempt of court, were denied.

Clerk of Court James Birkhold provided me a form letter dated October 7, 2013 that appears at Exhibit 10. This message appears at the bottom of the form letter,

Judge Davis has turned over your lengthy submission to me for a response. 2008-2224 we do not show has been destroyed, although the time has expired to retain the file and it is possible it has been destroyed and a clerical error may lead to the conclusion that we retain it. This file if we have it is stored offsite. On our next trip to that storage area we will check and get back to you on this. The other concerns you express in your submission do not seem to be matters that would invite appropriate comment from the court. - signed James Birkhold, Clerk, October 7, 2013.

The case docket appears at Exhibit 11 and shows three relevant entries:

- August 23, 2013: Miscellaneous Motion by Neil J. Gillespie "to surrender files".
- September 20, 2013: Deny Miscellaneous Motion-79a, see order in 11-2127.
- April 10, 2014: Case Destroyed

Separate Appendix, 2013, 10-01-13, letter NJG to Chief Judge Davis-53p

My 8 page letter with 45 pages of attachments to the Chief Judge shows on page 1,

Please advise if any other appellate case shown in the motion has not been destroyed or is otherwise available. Contrary to his belief, Clerk Birkhold has not answered this question. The September 20, 2013 order does not address the status of records that may have been destroyed. My misplaced motion shows:

2D11-2127 - attached docket shows case destroyed 07/05/13  
2D10-5529 - attached docket shows case destroyed 05/17/13  
2D10-5197 - attached docket shows case is available  
2D08-2224 - attached docket shows returned records 01/13/10  
2D07-4530 - attached docket shows case destroyed 01/31/2011  
2D06-3803 - attached docket shows case destroyed 01/06/2009

Case 2D08-2224 does not show "destroyed", it only shows returned records 01/13/10. Is that case file, or any other case file available? Clerk Birkhold was understandably busy and not able to respond due to mandatory efilings, so I am bringing this matter to your attention.

Count 2 - Second District Court of Appeal

2. 13 anonymous decisions entered in case 2D10-5197; none carry the name or signature of a judge of the 2dDCA; only the name of Clerk appears;

Section 35.15 requires "... All decisions and opinions delivered by the district courts of appeal or any judge thereof in relation to any action or proceeding pending in said court shall be filed and remain in the office of the clerk..."

F.S. § 35.15 Decisions to be filed; copies to be furnished.—All decisions and opinions delivered by the district courts of appeal or any judge thereof in relation to any action or proceeding pending in said court shall be filed and remain in the office of the clerk, and shall not be taken therefrom except by order of the court; but said clerk shall at all times be required to furnish to any person who may desire the same certified copies of such opinions and decisions, upon receiving his or her fees therefor.

The 2dDCA, in filing 13 anonymous decisions in case 2D10-5197, does not comply section 35.15 because decisions delivered by the Court must carry the name of a judge.

The paragraphs below appear in my Amended Application for Order, 26, 27, 28, 29, 33:

26. The Clerk required, and I paid, \$14 for public records (Appendix) identifying judges who made decisions in thirteen (13) anonymous orders entered in Appeal No. 2D10-5197 that did not carry the name or signature of any judge. The Clerk provided free by email (Exhibit 16),

The following orders were entered by non-judicial personnel: November 1, 2010; November 22, 2010; January 7, 2011; February 3, 2011; February 17, 2011; May 25, 2011; June 23, 2011; June 24, 2011; and July 11, 2011.

The order of March 23, 2011, was entered by Judges Black and Crenshaw.  
The order of April 8, 2011, was entered Judges Wallace and Khouzam.  
The order of May 2, 2011, was entered by Judges Altenbernd and Northcutt.  
The order of July 26, 2011, was entered by Judges Wallace, Black, and LaRose.

Decisions showing less than three judges may violate Rule 2.210(a)(1) Exercise of Powers and Jurisdiction, "Three judges shall constitute a panel for and shall consider each case..."

**RULE 2.210. DISTRICT COURTS OF APPEAL**

(a) Internal Government.

(1) Exercise of Powers and Jurisdiction. Three judges shall constitute a panel for and shall consider each case, and the concurrence of a majority of the panel shall be necessary to a decision.

NOTE: Suggestion here of judicial misconduct is for context only, for showing a possible reason why the 2dDCA failed to comply with section 35.15 by filing anonymous decisions and/or opinions, which ordinarily carry the name of a judge(s).

I understand that complaints against a judge showing the existence of judicial misconduct and disability as defined by the Constitution and the laws of the State of Florida are filed with the Judicial Qualifications Commission. This is not a judicial complaint.

27. The appeals process is oversight for correcting bad orders. But a review of the information provided by the Clerk shows two judges who should have recused: Judge Marva Crenshaw and Judge Anthony Black. Neither judge put their name on Orders in 2D10-5197.

28. Judge Crenshaw entered Order Granting Stay September 9, 2008 in the lower tribunal case, Gillespie v. Barker, Rodems & Cook, 05-CA-7205. Thus it appears the Fla. Code Jud. Conduct Cannon 3E required Disqualification. “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where: (b) the judge...was the lower court judge in the matter in controversy, [the judge participated as a lower court judge in a decision to be reviewed by the judge;]

29. Governor Crist appointed Hillsborough Judge Marva Crenshaw to the Second District Court of Appeal in January 2009, and she began serving February 1, 2009. Governor Crist appointed Hillsborough Judge Anthony Black to the Second District Court of Appeal in 2010. Prior to appointment, Judge Crenshaw and Judge Black were colleagues of Hillsborough Judge Martha Cook in the Thirteenth Judicial Circuit. Therefore, given the proximity of employment with Judge Cook, it appears relative to Judge Crenshaw and Judge Black that the Fla. Code Jud. Conduct Cannon 3E required Disqualification. “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned...

33. Judge Marva Crenshaw and Judge Anthony Black wrongly ruled in two related appeals:

- In appeal 2D10-5529, Civil Prohibition Petition from Hillsborough County for Judge Martha Cook was Denied December 9, 2010. “The petition for writ of prohibition is denied as moot with respect to Judge Martha Cook and is denied in all other respects. The petitioner's motion for order of protection is denied.” LaROSE, KHOUZAM, and CRENSHAW, JJ., Concur.

- In appeal 2D11-2127, Verified Emergency Petition for Writ of Prohibition, Motion for Change of Venue, Petitioner's petition for writ of habeas corpus was denied May 4, 2011. LaROSE, CRENSHAW, and BLACK, JJ., Concur. Petitioner's petition for writ of prohibition was denied May 6, 2011 (amended order), LaROSE, CRENSHAW and BLACK, JJ., Concur.

Count 3 - Second District Court of Appeal

3. \$14 record charge to see who entered anonymous decisions in 2D10-5197;

The \$14 public record charge violates section 35.15 that requires “Decisions to be filed; copies to be furnished.” without charge.

The Florida Constitution, Article V, Judiciary, Section 14. Funding.— (d) “The judiciary shall have no power to fix appropriations.” The 2dDCA, by filing anonymous decisions and opinions delivered by the Court, then charging \$1.00 per page for records that show the judge(s) involved, is appropriating a new tax for itself, when in fact section 35.15 requires “Decisions to be filed; copies to be furnished.” without charge.

Count 4 - Second District Court of Appeal

4. The 2dDCA took “no judicial action” on my notice of appeal December 5, 2013, contrary to Art. V, sec. 2(a), Fla. Const. and Rule 9.040(b)(1), requiring transfer of the cause to an appropriate court, the Florida Supreme Court.

The 2dDCA’s failure to take “judicial action”, and transfer my appeal to the correct court likely violates Art. V, § 2(a), Fla. Const., Administration; practice and procedure. (underline added)

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.

Count 5 - Second District Court of Appeal

5. The 2dDCA failed to take judicial action in case 2D11-2127 as required by the Constitution and laws of Florida, including the Florida Rules of Appellate Procedure, and the Florida Rules of Judicial Administration.

Emergency Petition Writ of Prohibition; Motion Change Venue, 2D11-2127, May 2, 2011  
Remove CIRCUIT COURT JUDGE JAMES D. ARNOLD as trial court judge  
Remove the THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, as venue and jurisdiction in Lower Court Case No. 05-CA-007205  
Motion for a Change of Venue (to another District Court of Appeal)  
Acknowledgment of New Case, FEE WAIVED, May 3, 2011  
Order, DENIED petition for writ of habeas corpus, May 4, 2011  
AMENDED Order, DENIED petition for writ of prohibition, May 6, 2011

The 2dDCA failed to review my writ within its original jurisdiction under Rule 9.030(b)(3), Fla. R.App.Pro., and Rule 2.130, Fla.R.Jud.Admin., and therefore denied my Constitutional rights under the Florida Constitution and the Constitution of the United States.

## **Florida Rules of Appellate Procedure**

### **RULE 9.030. JURISDICTION OF COURTS**

(b) Jurisdiction of District Courts of Appeal.

(3) Original Jurisdiction. District courts of appeal may issue writs of mandamus, prohibition, quo warranto, and common law certiorari, and all writs necessary to the complete exercise of the courts' jurisdiction; or any judge thereof may issue writs of habeas corpus returnable before the court or any judge thereof, or before any circuit judge within the territorial jurisdiction of the court.

## **Florida Rules of Judicial Administration**

### **RULE 2.130. PRIORITY OF FLORIDA RULES OF APPELLATE PROCEDURE**

The Florida Rules of Appellate Procedure shall control all proceedings in the supreme court and the district courts, and all proceedings in which the circuit courts exercise their appellate jurisdiction, notwithstanding any conflicting rules of procedure.

## **The 2dDCA Denied My Rights Protected by the Florida Constitution and the Constitution of the United States**

The Florida Constitution, Article I, Section 21, guarantees every person access to courts for redress of any injury, where justice shall be administered without sale, denial or delay.

SECTION 21. Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Under section 454.18 of the Florida Statutes, “any person, whether an attorney or not . . . may conduct his or her own cause in any court of this state.”

The First Amendment to the Constitution of the United States guarantees every person a right to petition the Government for a redress of grievances.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances

[http://en.wikipedia.org/wiki/First\\_Amendment\\_to\\_the\\_United\\_States\\_Constitution](http://en.wikipedia.org/wiki/First_Amendment_to_the_United_States_Constitution)



The Florida Constitution, Article I, Section 9, guarantees every person due process.

SECTION 9. Due process.—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

Due Process, Legal Information Institute, article written and submitted by Peter Strauss.

“The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures...” Introduction.

[http://www.law.cornell.edu/wex/due\\_process](http://www.law.cornell.edu/wex/due_process)

The Florida Constitution, Article I, Section 2, guarantees every person Basic Rights.

SECTION 2. Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

Definition of a Kangaroo Court, The Free Dictionary

<http://legal-dictionary.thefreedictionary.com/p/Kangaroo%20Court>

[Slang of U.S. origin.] An unfair, biased, or hasty judicial proceeding that ends in a harsh punishment; an unauthorized trial conducted by individuals who have taken the law into their own hands, such as those put on by vigilantes or prison inmates; a proceeding and its leaders who are considered sham, corrupt, and without regard for the law.

The term is still in common usage by defendants, writers, and scholars critical of a court or a trial. The U.S. Supreme Court has also used it. In *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967), a case that established that children in juvenile court have the right to due process, the Court reasoned, "Under our Constitution, the condition of being a boy does not justify a kangaroo court." Associate Justice William O. Douglas once wrote, "[W]here police take matters in their own hands, seize victims, beat and pound them until they confess, there cannot be the slightest doubt that the police have deprived the victim of a right under the Constitution. It is the right of the accused to be tried by a legally constituted court, not by a kangaroo court" (*Williams v. United States*, 341 U.S. 97, 71 S. Ct. 576, 95 L. Ed. 774 [1951]).

Definition of Star Chamber Proceedings, The Free Dictionary  
<http://legal-dictionary.thefreedictionary.com/p/star%20chamber%20proceedings>

star chamber proceedings n. any judicial or quasi-judicial action, trial, or hearing which so grossly violates standards of "due process" that a party appearing in the proceedings (hearing or trial) is denied a fair hearing. The term comes from a large room with a ceiling decorated with stars in which secret hearings of the privy council and judges met to determine punishment for disobedience of the proclamations of King Henry VIII of Great Britain (1509-1547). The high-handed, unfair, predetermined judgments, which sent the accused to The Tower of London or to the chopping block, made "star chamber" synonymous with unfairness and illegality from the bench. In modern American history the best example of star chamber proceedings was the conduct of the House UnAmerican Activities Committee (1938-1975) which used its subpoena power to intimidate citizens by asking them unconstitutional questions about their political beliefs and associations, and then charging them with contempt of Congress for refusing to answer. Another example was the conduct of criminal proceedings against black defendants in some southern states from 1876 until the late 1960s. (See: kangaroo court)

Thank you in advance for the courtesy of a response.

Sincerely,



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

Phone: (352) 854-7807  
Email: [neilgillespie@mfi.net](mailto:neilgillespie@mfi.net)

Enclosures

## **Appendix -December 4, 2014**

### Office of Inspector General, State Courts System Complaint Against Florida Second District Court of Appeal (2dDCA)

- Appendix 1 Amended Application for Order-2D10-5197-Jun-12-2014-corrected (14p)
- Appendix 2 Exh 8, 2013, 12-10-13, Order DENIED appeal to SCOTUS
- Appendix 3 2014, 06-12-14, APPENDIX 2DCA Public Records 18p
- Appendix 4 Exh 10, 2013, 10-07-13 form letter response Clerk Birkhold
- Appendix 5 Exh 11, 2014, 06-12-14, docket 2D08-2224 case destroyed
- Appendix 6 Addendum-Amended Application for Order-2D10-5197-Jun-17-2014-corrected (17p)
- Appendix 7 Separate Appendix, 2013, 10-01-13, letter NJG to Chief Judge Davis-53p
- Appendix 8 Florida Statutes, section 35.15 Decisions to be filed; copies to be furnished
- Appendix 9 2011, 05-02-11, Petition, Writ of Prohibition; Motion Change Venue, 2D11-2127
- Appendix 10 Acknowledgment of New Case, FEE WAIVED, May 3, 2011
- Appendix 11 Order, DENIED petition for writ of habeas corpus, May 4, 2011
- Appendix 12 AMENDED Order, DENIED petition for writ of prohibition, May 6, 2011
- Appendix 13 Kangaroo Court, term used by SCOTUS
- Appendix 14 Star Chamber Proceedings, definition

SECOND DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

NEIL J. GILLESPIE

Plaintiff/Counter Defendant,

Appellate Case: 2D10-5197

Lower Tribunal Case: 05-CA-7205

vs.

BARKER, RODEMS & COOK, P.A. and  
WILLIAM J. COOK,

Defendants/Counter Plaintiffs.

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AMENDED APPLICATION FOR ORDER

1. Applicant Neil J. Gillespie pro se files Amended Application For Order in the first person:
2. This Court's Order entered November 7, 2013 denied Appellant's application for order without due process. *See* the Florida Supreme Court procedure in SC11-1622 and SC11-858.
3. This Court's Order entered December <sup>10</sup>~~5~~, 2013 took "no judicial action" on my notice of appeal, contrary to Art. V, sec. 2(a), Fla. Const. and Rule 9.040(b)(1), requiring transfer of the cause to an appropriate court, the Florida Supreme Court.
4. The case file in appeal 2D08-2224 appears wrongly destroyed April 10, 2014.:

Judge Davis has turned over your lengthy submission to me for a response. 2008-2224 we do not show has been destroyed, although the time has expired to retain the file and it is possible it has been destroyed and a clerical error may lead to the conclusion that we retain it. This file if we have it is stored offsite. On our next trip to that storage area we will check and get back to you on this. The other concerns you express in your submission do not seem to be matters that would invite appropriate comment from the court. - signed James Birkhold, Clerk, October 7, 2013.

Table of Contents

Sect. I.	P.2	Amended Application For Order submitted today, June 12, 2014.
Sect. II.	P.2	Order November 7, 2013 denied relief without due process.
Sect. III.	P.4	Order December 10, 2013 violated Art. V, sec. 2(a), Fla. Const.
Sect. IV.	P.5	Appeal file 2D08-2224 destroyed April 10, 2014; Robert Bauer attorney.
Sect. V.	P.9	\$14 charge for records showing who entered 13 anonymous court orders.

**EXHIBIT**

**Appendix 1**

Section I.      Amended Application For Order submitted today, June 12, 2014.

5.      Applicant Neil J. Gillespie, reluctantly appearing pro se due to indigence and/or insolvency, applies to the Second District Court of Appeal pursuant to Rule 2.430(g), Fla.R.Jud.Admin., for an Order requiring the clerk to deliver to the applicant the court records in Appellate Case No.: 2D10-5197 that are to be destroyed or disposed of.

Rule 2.430(g), Fla.R.Jud.Admin.:

**(g) Disposition Other Than Destruction.** Before destruction or disposition of court records under this rule, any person may apply to the court for an order requiring the clerk to deliver to the applicant the court records that are to be destroyed or disposed of. All parties shall be given notice of the application. The court shall dispose of that court record as appropriate.

All parties shown on the certificate of service were provided a copy of this application.

RESPECTFULLY SUBMITTED June 12, 2014.

6.      The Florida Supreme Court established procedure to grant my application for order in SC11-1622 and SC11-858 that must be followed here under the principal of stare decisis.

Stare decisis (pronunciation omitted) is a legal principle by which judges are obliged to respect the precedent established by prior decisions. The words originate from the phrasing of the principle in the Latin maxim Stare decisis et non quieta movere: "to stand by decisions and not disturb the undisturbed." [2] In a legal context, this is understood to mean that courts should generally abide by precedent and not disturb settled matters. [2] <http://en.wikipedia.org/wiki/Precedent>

Section II.      This Court's Order entered November 7, 2013 denied relief without due process.

Due process, by Peter Strauss [http://www.law.cornell.edu/wex/due\\_process](http://www.law.cornell.edu/wex/due_process)

The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures...

7.      On November 7, 2013, this Court entered the Order appearing at Exhibit 1, holding,

“BY ORDER OF THE COURT: Appellant's application for order is denied.”

The Order does not carry the name of a judge, and me denied due process.

8. On September 27, 2013 I submitted my application for order appearing at Exhibit 2,

Applicant Neil J. Gillespie (hereinafter "Applicant"), reluctantly appearing pro se due to indigence and/or insolvency, applies to the Second District Court of Appeal pursuant to Rule 2.430(g), Fla.R.Jud.Admin., for an Order requiring the clerk to deliver to the applicant the court records in Appellate Case No.: 2D10-5197 that are to be destroyed or disposed of.

Rule 2.430(g), Fla.R.Jud.Admin.:

**(g) Disposition Other Than Destruction.** Before destruction or disposition of court records under this rule, any person may apply to the court for an order requiring the clerk to deliver to the applicant the court records that are to be destroyed or disposed of. All parties shall be given notice of the application. The court shall dispose of that court record as appropriate.

All parties shown on the certificate of service were provided a copy of this application.  
RESPECTFULLY SUBMITTED September 27, 2013.

9. The Florida Supreme Court entered an Order in SC11-1622 February 11, 2014. (Exhibit 3),

Petitioner has filed an Application for Order on September 30, 2013, requesting that the file for this case, in lieu of destruction, be released to him subsequent to the Court's retention timeline requirement, in compliance with Fla. R. Jud. Admin. 2.430(g). Petitioner's request is attached as Appendix A. All parties have twenty days from the date of this order to submit, in writing, any objection to Petitioner's request. Any objection submitted must also be served on all other parties; the parties who are served with objections have fifteen days to respond.

10. The Florida Supreme Court GRANTED my application in SC11-1622 April 16, 2014.

The Order appears at Exhibit 4.

There having been no response to this Court's order dated February 11, 2014, regarding petitioner's request for delivery of the court record, and the court having determined that he has complied with the request provisions of the Florida Rules of Judicial Administration, the court approves his application and will surrender this court's file to him in lieu of its destruction. In compliance with rule 2.430(c)(3)(A) of the Rules of Judicial Administration, petitioner shall make appropriate arrangements with the Office of the Clerk no more than 30 days prior to June 21, 2017, for the transfer of this file.

11. The Florida Supreme Court entered an Order in SC11-858 February 11, 2014. (Exhibit 5),

Petitioner has filed an Application for Order on September 30, 2013, requesting that the file for this case, in lieu of destruction, be released to him subsequent to the Court's retention timeline requirement, in compliance with Fla. R. Jud. Admin. 2.430(g). Petitioner's request is attached as Appendix A. All parties have twenty days from the date of this order to submit, in writing, any objection to Petitioner's request. Any objection submitted must also be served on all other parties; the parties who are served with objections have fifteen days to respond.

12. The Florida Supreme Court GRANTED my application in SC11-858 April 16, 2014. The Order appears at Exhibit 6.

There having been no response to this Court's order dated February 11, 2014, regarding petitioner's request for delivery of the court record, and the court having determined that he has complied with the request provisions of the Florida Rules of Judicial Administration, the court approves his application and will surrender this court's file to him in lieu of its destruction. In compliance with rule 2.430(c)(3)(A) of the Rules of Judicial Administration, petitioner shall make appropriate arrangements with the Office of the Clerk no more than 30 days prior to June 17, 2016, for the transfer of this file.

Section III. This Court's Order entered December 10, 2013 violated Article V, Section 2(a), of the Florida Constitution; and Rule 9.040(b)(1), Florida Rules of Appellate Procedure.

13. On December 5, 2013, I appealed this Court's ruling holding "Appellant's application for order is denied" to the U.S. Supreme Court during pendency of Petition 13-7280. (Exhibit 7).

14. The Court's Order December 10, 2013 (Exhibit 8) held,

On December 6, 2013, appellant submitted to this court a notice of appeal, seeking review in the Supreme Court of the United States of this court's order of November 7, 2013. Review of state court judgments in the Supreme Court is governed by United States Supreme Court Rule 12, and this provision does not provide for the filing of a notice of appeal with the lower tribunal. As such this court is not empowered to transmit appellant's notice to the Supreme Court, and no judicial action will be taken upon the notice by this court.

15. The Order does not carry the name of a judge, and me denied due process by violating Art. V, sec. 2(a), Fla. Const., and Rule 9.040(b)(1), requiring transfer of the cause to an appropriate court, the Florida Supreme Court.

Article V, Section 2(a), of the Florida Constitution

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the

time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought....

Rule 9.040(b)(1), Florida Rules of Appellate Procedure

(b) Forum

(1) If a proceeding is commenced in an inappropriate court, that court shall transfer the cause to an appropriate court.

16. The case docket in 2D10-5197 (Exhibit 9) shows Notice of Appeal February 13, 2014 with a note, “S. Ct. order dated 02/11/14 with attachments”. This may be the same Florida Supreme Court Order that appears at Exhibit 3. I cannot view the document online. Florida citizens are prohibited from viewing online court documents with the Florida Courts E-filing portal, which is limited to lawyers. The Florida Courts E-filing portal is an inferior state rendition of federal PACER, Public Access to Court Electronic Records, that permits public access to United States federal court documents. I have had a PACER account in good standing since 1999.

Section IV. The case file in appeal 2D08-2224 appears wrongly destroyed April 10, 2014.

17. Clerk of Court James Birkhold provided me a form letter dated October 7, 2013 that appears at Exhibit 10. This message appears at the bottom of the form letter,

Judge Davis has turned over your lengthy submission to me for a response. 2008-2224 we do not show has been destroyed, although the time has expired to retain the file and it is possible it has been destroyed and a clerical error may lead to the conclusion that we retain it. This file if we have it is stored offsite. On our next trip to that storage area we will check and get back to you on this. The other concerns you express in your submission do not seem to be matters that would invite appropriate comment from the court. - signed James Birkhold, Clerk, October 7, 2013.

The case docket appears at Exhibit 11 and shows three relevant entries:

- August 23, 2013: Miscellaneous Motion by Neil J. Gillespie “to surrender files”.
- September 20, 2013: Deny Miscellaneous Motion-79a, see order in 11-2127.
- April 10, 2014: Case Destroyed

18. I was represented by attorney Robert W. Bauer in Appeal No. 2D08-2224. The case docket (Exhibit 11) shows Mr. Bauer moved to withdrawal October 16, 2008. I filed an



objection, and the Court DENIED Bauer's motion to withdrawal October 30, 2008. Still, Bauer refused to work on the case, failed to file a reply brief, and abandoned both the ongoing trial court civil case (05-CA-7205) and Appeal No. 2D08-2224. Mr. Bauer was a referral from The Florida Bar Lawyer Referral Service, charged \$31,863 for hourly representation, abandoned the case, and switched sides to join with Mr. Rodems, who represented the Defendants and Counter Plaintiffs Barker, Rodems & Cook, PA, and William J. Cook, who defrauded me of \$7,143 in the settlement of the AMSCOT case, and described in Mr. Bauer's Initial Brief filed on my behalf.

19. Appellant's Initial Brief, 2D08-2224, by Robert W. Bauer, Esq. for Neil Gillespie (Appendix), sought to overturn an \$11,550 debt judgment for attorney fees, that later was the basis of bribery.

20. Robert W. Bauer: STATEMENT OF THE CASE AND FACTS, Initial Brief 2D08-2224.

This is a case of an inexperienced, unknowledgeable pro se litigant who filed a motion which he in good faith believed was supported by material facts being sanctioned because he does not possess the skills and qualities of an attorney. His motion was a carbon copy of a motion filed by the opposing counsel. In his confusion about the proper format of this kind of motion, the pro se appellant used the opposing counsel's motion as an example. He believed that following the example of practiced attorneys would ensure that his motion would be properly styled. As a pro se appellant, he should not be held to the standard of a licensed attorney and should instead be granted leniency by the court.

Barker, Rodems, and Cook represented the appellant in an action against Amscot Corporation, and it was this case that led to the action before this Court. R. at 11. The case ended in a settlement in which each of the three plaintiffs, including the appellant, received \$2,000, and Barker, Rodems, and Cook were awarded \$50,000 for attorney's fees and costs. R. at 12. The appellant became suspicious of his attorneys' motives during the course of settlement discussions because of the attorneys' insistence that the true barrier to settling the case was paying the plaintiffs. R. at 13-14.

The appellant was told that the \$50,000 award of attorney's fees was ordered by the United States Court of Appeals for the 11 th Circuit. R at 8. However, this was not true, as that Court actually dismissed the case with prejudice, and ordered each party to pay their own attorney's fees and costs. R. at 31. Only later did the law firm disclose to the appellant how much was actually expended in legal fees, and the figure was much less than the \$50,000 the firm received in the settlement. R. at 13. This discrepancy in the actual costs and expenses and those awarded led the appellant to file a complaint against his former attorneys for breach of contract and fraud. R. at 8-31.

After the appellant filed his initial complaint, the Defendants responded with a "Motion to Dismiss and Strike." R. at 32-33. Parts of this motion were not successful<sup>1</sup>. R. at 36-37. Later, the Defendants filed their "Answer, Affirmative Defenses and Counterclaim," which made claims against the appellant for libel. R. at 38-48. The appellant responded to this motion with "Plaintiffs Motion to Dismiss and Strike Counterclaim," in which the appellant made claims in paragraphs 3-8 that were almost identical to those made in the Defendants' previous "Motion to Dismiss and Strike." R. at 49-50. This pleading prompted the Defendants to file "Defendants' Motion for Sanctions Pursuant to Section 57.105(1), Florida Statutes," which was later amended. R. at 55-57; 82-105.

Attorney's fees were eventually awarded against the appellant on March 27, 2008. R. at 204-205. On April 25, 2008, the appellant filed his "Notice of Appeal." R. at 206-208. The issue on review for this Court is whether the lower court abused its discretion in awarding attorney's fees against the appellant. The appellant respectfully asks this Court to reverse the trial court's award of attorney's fees against the appellant.

21. Mr. Rodems later represented Mr. Bauer June 21, 2011 against me in the same trial court civil case (05-CA-7205), and bribed Florida judges and others, see my letter to Virilindia A.

Doss, Executive Director, Florida Commission on Ethics, April 23, 2014, beginning at page 3:

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<sup>1</sup> Note: I established a cause of action for fraud and breach of contract against Barker, Rodems & Cook, PA and Mr. Cook, *see* Order On Defendants' Motion To Dismiss And Strike, entered by the Hon. Richard A. Nielsen, January 13, 2006: (Exhibit 14)

THIS CAUSE came on for hearing on September 26, 2005, upon Defendant's Motion to Dismiss and Strike, and counsel for the parties being present and having made arguments and the court having considered the Plaintiffs Rebuttal to Defendant's Motion to Dismiss and Strike.

Defendant's Reply to Plaintiffs Rebuttal to Defendant's Motion to Dismiss and Strike and the Plaintiff's Second Rebuttal to Defendant's Motion to Dismiss and Strike, and the court being advised fully in the premises, it is thereupon,

ADJUDGED as follows:

1. Defendant's Motion to Dismiss and Strike is granted in part and denied in part.
2. Those portions of Defendant's Motion to Dismiss and Strike seeking to dismiss the Complaint are denied. Defendant shall have fifteen days from the date of this order within which to file responsive pleadings.
3. Those portions of Defendant's Motion to Dismiss and Strike seeking to strike portions of the Complaint is granted in the following particulars:
  - a. Paragraphs 47, 48, 49 and 50 of the Complaint are stricken.
  - b. Exhibit 8 to the Complaint is stricken.
  - c. All references to or demands for punitive damages are stricken or failure to comply with §768.72 of the Florida Statutes.

ORDERED in Chambers, at Tampa, Hillsborough County, Florida JAN 13 2006

RICHARD A. NIELSEN CIRCUIT JUDGE

“Public Officers and Employees corruptly violated the public trust to benefit themselves, and state of Florida judges, state of Florida employees, attorney Robert W. Bauer and The Law Office of Robert W. Bauer, P.A., who had corruptly accepted June 21, 2011 a bribe of \$15,870, private legal services, and corrupt settlement benefits, corruptly offered Ryan Christopher Rodems, a Florida lawyer in private practice, benefiting the Defendants in my federal 1983 civil rights and ADA disability lawsuit, case no. 5:10-cv-00503-WTH-(DAB)-TBS, U.S. District Court, Middle District of Florida, Ocala Division, Neil J. Gillespie v Thirteenth Judicial Circuit Florida, et al., Mr. Rodems appeared June 21, 2011 in 5:10-cv-00503 and entered *Notice of Assignment of Claims and Motion for Dismissal of Action with Prejudice* (Doc. 32) benefiting the Defendants to settle the case in exchange for satisfaction of Final Judgment of \$11,550 against me (nominal value \$15,870 at 11% interest on June 21, 2011, or \$1,984 for each of eight (8) defendants).

No. 1 Thirteenth Judicial Circuit FL (Chief Judge) \$1,984+ bribe  
No. 2 Judge Claudia R. Isom, Thirteenth Circuit \$1,984+ bribe (Bar ID: 200042)  
No. 3 Judge James M. Barton II, Thirteenth Circuit \$1,984+ bribe (Bar ID: 189239)  
No. 4 Judge Martha J. Cook, Thirteenth Circuit \$1,984+ bribe (Bar ID: 242640)  
No. 5 David A. Rowland, Gen Counsel 13th Circuit \$1,984+ bribe (Bar ID: 861987)  
No. 6 Gonzalo B. Casares, ADA Coordinator 13th \$1,984+ bribe  
No. 7 Robert W. Bauer, (my counsel, 05-CA-7205) \$1,984+ bribe (Bar ID: 11058)  
No. 8 Law Office RWB PA (counsel, 05-CA-7205) \$1,984+ bribe”

22. My 77 page letter to Virilindia A. Doss appears in a separate appendix.
23. My motion to surrender, submitted August 22, 2013, Exhibit 12, shows,

Appearing pro se Neil J. Gillespie, henceforth in the first person, moves pursuant to Rule 2.430(g), Fla.R.Jud.Admin., for the files in the following cases to be surrendered to me prior to being destroyed in accordance with regular destruction schedules. Some dockets already show the case was destroyed. This request is made to preserve the record, and get records that may still exist contrary to the docket entry showing case destroyed. Dockets are attached for:

2DII-2127 - attached docket shows case destroyed 07/05/13  
2DI0-5529 - attached docket shows case destroyed 05/17/13  
2D10-5197 - attached docket shows case is available  
2D08-2224 - attached docket shows returned records 01/13/10  
2D07-4530 - attached docket shows case destroyed 01/31/2011  
2D06-3803 - attached docket shows case destroyed 01/06/2009

24. The motion was denied by Order September 20, 2013 without prejudice to file a public records request under Chapter 119, Florida Statutes, and appears at Exhibit 13.

Neil Gillespie's motion to surrender files is denied without prejudice to the filing of a public records requests under Chapter 119, Florida Statutes.

The Order does not carry the name of a judge. The Court's provision of public record copies under Chapter 119, at a cost of \$1 per page, is materially different from the delivery of court records that are to be destroyed or disposed of, and is not in any way an appropriate substitution.

25. The Florida Bar informed me May 27, 2014 that it is reviewing the closure of my complaint against John Gardner; RFA# 14-14647 following my letter May 23rd<sup>2</sup>. (Exhibit 15).

Section V. Court required \$14 for records of judges who entered thirteen (13) anonymous orders in Appeal No. 2D10-5197.

26. The Clerk required, and I paid, \$14 for public records (Appendix) identifying judges who made decisions in thirteen (13) anonymous orders entered in Appeal No. 2D10-5197 that did not carry the name or signature of any judge. The Clerk provided free by email (Exhibit 16),

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<sup>2</sup> On information and belief, this is a matter for referral to the Federal Bureau of Investigation.

Mr. Gardner testified as an expert witness for Ryan Christopher Rodems March 20, 2008 and corruptly assisted him get a \$11,550 judgment @11% from Judge James M. Barton, II, during a hearing for attorneys fees in Gillespie v. Barker, Rodems & Cook case no. 05-CA-7205. My attorney Robert W. Bauer refused to let me [Neil J. Gillespie] testify in 05-CA-7280.

I notified Mr. Gardner by certified mail July 26, 2010 that Mr. Rodems corruptly got the \$11,550 debt judgment for attorney fees for responding to disruptions he himself created in violation of the Rules of Professional Conduct, his conflict of interest with me as a former client of Rodems' law firm, and Rodems breach of duty to avoid limitation on independent professional judgment.

On June 21, 2011 Mr. Rodems bribed [F.S. §§ 838.015, 838.016, 838.022] three Florida judges and two state employees who were defendants in my federal civil rights and disability lawsuit. Evidence of the bribe was entered in Gillespie v. Thirteenth Judicial Circuit et al., 5:10-cv-503-WTH-[DAB]-TBS, USDC, MDL, Ocala Div. [See Docs. 32 & 51]. Rodems filed June 21, 2011 Doc. 32, *Notice of Assignment of Claims, Motion for Dismissal with Prejudice*. US Magistrate Judge Thomas B. Smith entered Doc. 51, ORDER October 6, 2011 denied my motion to strike or set aside Doc. 32, and explained [the bribe], the settlement agreement was in exchange for a satisfaction of judgment [\$11,550 @11% interest]. On information and belief, US Magistrate Smith had a duty to report the felony, 18 USC § 4 Misprision of felony, to the US Marshal or a federal investigative law enforcement agency such as the Federal Bureau of Investigation (FBI). US Federal Judge Wm. Terrell Hodges also had a duty to report the felony [18 USC § 4] but he did not. Judge Hodges did not grant Rodems' [Doc. 32] *Motion for Dismissal with Prejudice*. Note: US Magistrate Judge **David A. Baker** presided June 21, 2011 when Rodems filed Doc. 32.

The following orders were entered by non-judicial personnel: November 1, 2010; November 22, 2010; January 7, 2011; February 3, 2011; February 17, 2011; May 25, 2011; June 23, 2011; June 24, 2011; and July 11, 2011.

The order of March 23, 2011, was entered by Judges Black and Crenshaw.  
The order of April 8, 2011, was entered Judges Wallace and Khouzam.  
The order of May 2, 2011, was entered by Judges Altenbernd and Northcutt.  
The order of July 26, 2011, was entered by Judges Wallace, Black, and LaRose.

27. The appeals process is oversight for correcting bad orders. But a review of the information provided by the Clerk shows two judges who should have recused: Judge Marva Crenshaw and Judge Anthony Black. Neither judge put their name on Orders in 2D10-5197 ~~2D10-5179~~.

28. Judge Crenshaw entered Order Granting Stay September 9, 2008 in the lower tribunal case, Gillespie v. Barker, Rodems & Cook, 05-CA-7205. Thus it appears the Fla. Code Jud. Conduct Cannon 3E required Disqualification. “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where: (b) the judge...was the lower court judge in the matter in controversy, [the judge participated as a lower court judge in a decision to be reviewed by the judge;]

29. Governor Crist appointed Hillsborough Judge Marva Crenshaw to the Second District Court of Appeal in January 2009, and she began serving February 1, 2009. Governor Crist appointed Hillsborough Judge Anthony Black to the Second District Court of Appeal in 2010. Prior to appointment, Judge Crenshaw and Judge Black were colleagues of Hillsborough Judge Martha Cook in the Thirteenth Judicial Circuit. Therefore, given the proximity of employment with Judge Cook, it appears relative to Judge Crenshaw and Judge Black that the Fla. Code Jud. Conduct Cannon 3E required Disqualification. “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned...

30. Judicial candidate Martha Cook accepted campaign donations from attorney Ryan C. Rodems, and two of my former lawyers, his partners William J. Cook and Jonathan Alpert.

Judge Cook was expected to act favorably to the donors as opportunities arose. Judge Cook and Mr. Rodems engaged in honest services fraud September 28, 2010 with Judge Cook presiding during an ex parte hearing on final summary judgment in Gillespie v Barker, Rodems & Cook, 05-CA-7205. Judge Cook accepted things of value “in return for” official acts. 18 U.S.C. § 201(b)(2).

31. Judge Cook falsified the record that I “elected to leave” the hearing, in violation of F.S. § 839.13(1) and § 837.06, when in fact she ordered me removed, then ruled favorably for Rodems. Hillsborough Deputy Christopher E. Brown, and Major James Livingston, provided evidence that Judge Cook and Mr. Rodems collaborated and falsified the record of the hearing. Judge Cook and Rodems used the mail to carry out their “scheme or artifice to defraud” me of “the intangible right of honest services.” 18 U.S.C. § 1346. U.S. v. Terry, No. 11-4130, C.A.6.

32. As in Terry, Judge Cook’s collaboration came relatively cheap, \$300 in her initial 2002 bid, \$100 each from Messrs. Rodems, Cook, and Alpert. An honest services fraud agreement need not spell out which payments control which act, just that Judge Cook was expected to act favorably to the donor as opportunities arose. Terry at p. 6. Judge Cook failed to discharge her judicial duties without fraud, concealment, bias, favoritism or conflict of interest, but acted like Mr. Rodems’ “marionette”. Terry at p. 11. See Petition No. 13-7280 SCOTUS, pp. 35-37.

33. Judge Marva Crenshaw and Judge Anthony Black wrongly ruled in two related appeals:

- In appeal 2D10-5529, Civil Prohibition Petition from Hillsborough County for Judge Martha Cook was Denied December 9, 2010. “The petition for writ of prohibition is denied as moot with respect to Judge Martha Cook and is denied in all other respects. The petitioner's motion for order of protection is denied.” LaROSE, KHOUZAM, and CRENSHAW, JJ., Concur.
- In appeal 2D11-2127, Verified Emergency Petition for Writ of Prohibition, Motion for Change of Venue, Petitioner's petition for writ of habeas corpus was denied May 4, 2011. LaROSE, CRENSHAW, and BLACK, JJ., Concur. Petitioner's petition for writ of prohibition was denied May 6, 2011 (amended order), LaROSE, CRENSHAW and BLACK, JJ., Concur.

Conclusion

34. The Florida Supreme Court established procedure to grant my application for order in SC11-1622 and SC11-858 that must be followed here under the principal of stare decisis.

35. Under Article V, sec. 2(c), Fla. Const., Chief Judge Charles A. Davis, Jr. “[S]hall be responsible for the administrative supervision of the court.”

WHEREFORE this Court is required to grant the relief requested.

RESPECTFULLY SUBMITTED June 12, 2014.

A handwritten signature in cursive script, reading "Neil J. Gillespie".

---

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

Certificate of Service

I certify that two previously served pleadings, now corrected by strikeout and text edit box,

1. Amended Application For Order Appellate Case No. 2D10-5197 (served June 12, 2014)
2. Addendum to Amended Application For Order Appellate Case No. 2D10-5197 (served June 17, 2014) were served in corrected paper format June 23, 2014 as indicated below.

All previously served appendices remain unchanged and were not served again today.

Tami McCarroll, Chief Deputy Clerk  
Second District Court of Appeal  
1005 E. Memorial Blvd.  
Lakeland, FL 33801  
Email: mccarrot@flcourts.org  
VIA U.P.S. No. 1Z64589FP296993948

Hon. Pat Frank, Clerk of Circuit Court  
Hillsborough County, Florida  
County Center  
601 E. Kennedy Blvd.  
Tampa, FL 33602-4156  
VIA U.P.S. No. 1Z64589FP297321957

Barker & Cook, P.A.  
501 E Kennedy Blvd. Suite 790  
Tampa, Florida 33602-5258  
VIA U.P.S. No. 1Z64589FP297465963

Ryan Christopher Rodems, Associate  
Morgan & Morgan, P.A.  
20 N Orange Ave.  
Orlando, Florida 32801-2414  
VIA U.P.S. No. 1Z64589FP298025972

RESPECTFULLY SUBMITTED June 23, 2014.



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



APPENDIX - Amended Application for Order, June 12, 2014

Appellate Case: 2D10-5197

Lower Tribunal Case: 05-CA-7205; Gillespie v. Barker, Rodems Cook, PA, William Cook.

- |                   |   |
|-------------------|---|
| <u>Exhibit 1</u>  | Order DENIED application for order, November 7, 2013  |
| <u>Exhibit 2</u>  | Gillespie's Application for order 2D10-5197, September 27, 2013   |
| <u>Exhibit 3</u>  | Florida Supreme Court Order SC11-1622 acknowledgment February 11, 2014                                      |
| <u>Exhibit 4</u>  | Florida Supreme Court Order, GRANTED SC11-1622 surrender file, April 16, 2014                               |
| <u>Exhibit 5</u>  | Florida Supreme Court Order SC11-858 acknowledgment February 11, 2014                                       |
| <u>Exhibit 6</u>  | Florida Supreme Court Order, GRANTED SC11-858 surrender file, April 16, 2014                                |
| <u>Exhibit 7</u>  | Gillespie's appeal of Order denying application to SCOTUS, December 5, 2013                                 |
| <u>Exhibit 8</u>  | Order DENIED appeal to SCOTUS, no further judicial action, December 10, 2013                                |
| <u>Exhibit 9</u>  | Online Court Case Docket in Appeal No. 2D10-5197  |
| <u>Exhibit 10</u> | Clerk of Court James Birkhold, form letter to Gillespie dated October 7, 2013                               |
| <u>Exhibit 11</u> | Online Court Case Docket in Appeal 2D08-2224  |
| <u>Exhibit 12</u> | Gillespie's Motion to Surrender files in six appellate cases, August 22, 2013                               |
| <u>Exhibit 13</u> | Order DENIED without prejudice, may request public records, September 20, 2013                              |
| <u>Exhibit 14</u> | Order On Defendants' Motion To Dismiss And Strike, entered by the Hon. Richard A. Nielsen, January 13, 2006 |
| <u>Exhibit 15</u> | The Florida Bar, re John Gardner RFA 14-14647   |
| <u>Exhibit 16</u> | October 14, 2013, email of Clerk Birkhold   |

Separate Appendix: Appellant's Initial Brief, 2D08-2224, by Robert W. Bauer, Esq. for Neil Gillespie

Separate Appendix: Letter to Virilindia A. Doss, Executive Director, Florida Commission on Ethics

Separate Appendix: Public records, Appeal No. 2D10-5197, October 17, 2013

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327**

December 10, 2013

**CASE NO.: 2D10-5197**  
L.T. No. : 05-CA-7205

Neil J. Gillespie

v.

Barker, Rodems & Cook,  
P. A. & William J. Cook

---

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

On December 6, 2013, appellant submitted to this court a notice of appeal, seeking review in the Supreme Court of the United States of this court's order of November 7, 2013. Review of state court judgments in the Supreme Court is governed by United States Supreme Court Rule 12, and this provision does not provide for the filing of a notice of appeal with the lower tribunal. As such this court is not empowered to transmit appellant's notice to the Supreme Court, and no judicial action will be taken upon the notice by this court.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Neil J. Gillespie

Ryan Christopher Rodems, Esq.

Pat Frank, Clerk

jc

  
James Birkhold  
Clerk



**EXHIBIT**

Appendix 2

**EXHIBIT**

**8**

DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327

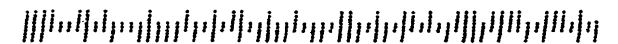


JC

2D10-5197

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

3448133567 R067



APPENDIX - Amended Application for Order, June 12, 2014

Appellate Case: 2D10-5197

Lower Tribunal Case: 05-CA-7205; Gillespie v. Barker, Rodems Cook, PA, William Cook.

Separate Appendix: Public records, Appeal No. 2D10-5197, October 17, 2013

**EXHIBIT**

**Appendix 3**



THE SECOND DISTRICT COURT  
OF APPEAL

P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327  
(941)-499-2290

\*\*\*\*\*  
\*  
\* RECEIPT \*  
\*  
\*\*\*\*\*

**Receipt Number:** R 2013- 1013051

**Issue Date:** 10/17/13

**Form of Payment:** Money Order

**Name:** Neil J. Gillespie

**Check Number:** 205132840891

**Lower Tribunal Case Number:** 05-CA-7205

8092 S W 115th Loop

Ocala , FL  
34481

**Note:**

Service Type	Case Number	Case Style	Amount
Photocopy	2D10-5197	NEIL J. GILLESPIE V. BARKER, RODEMS & COOK,	\$14.00
			<b>Total: \$14.00</b>

VIA U.P.S. No. 1Z64589FP298081189

October 16, 2013

Hon. James R. Birkhold, Clerk of Court  
Second District Court of Appeal  
1005 E. Memorial Blvd.  
Lakeland, FL 33801

RE: \$14 payment enclosed, judicial branch records, Rule 2.420(b)(1)(A), Fla.R.Jud.Admin  
Neil J. Gillespie vs. Barker, Rodems & Cook, PA, et al.  
Appellate Case No.: 2D10-5197; Lower Court Case No. 05-CA-007205

Dear Clerk Birkhold:

Please find enclosed my payment of \$14 by money order payable to the *Second District Court of Appeal* for judicial branch records of \$1 per page as agreed by email today.

Also enclosed is a copy of the cash receipt from Walmart for the purchase of the money order.

You may provide the records in PDF by email if you like to my email address below, to save the time and expense of mailing. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Neil J. Gillespie".

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

Phone: (352) 854-7807  
Email: neilgillespie@mfi.net

Enclosures

Valid Money Order includes: 1. Heat sensitive, red stop sign AND 2. Contains a True Watermark hold up to light to view.



INTERNATIONAL MONEY ORDER

86-186  
1031

10/16/2013

To Validate: Touch the stop sign,  
then watch it fade and reappear



20513284089

MONEY ORDER - WM

MONEY ORDER NUMBER  
R2051 32840891

CALL 1-800-542-3590 TO VERIFY

PAY TO THE  
ORDER OF:  
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ORDEN DE:

Second District Court of Appeal

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PURCHASER, SIGNER FOR DRAWER / COMPRADOR, FIRMA DEL LIBRADOR  
PURCHASER, BY SIGNING YOU AGREE TO THE SERVICE CHARGE AND OTHER TERMS ON THE REVERSE SIDE

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Enid, OK

ISSUER/DRAWER:  
MONEYGRAM PAYMENT SYSTEMS, INC.

PAY EXACTLY

\*\*\*14.00\*\*

FOURTEEN DOLLARS

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9570 SW HIGHWAY 200  
OCALA FL 34481

ST# 5326	OP# 00002650	TE# 93	TR# 01971
MONEY ORDER	060538896309		14.00 0
ORDER FEE	068113163351		0.70 N
	SUBTOTAL		14.70
	TOTAL		14.70
	CASH TEND		20.00
	CHANGE DUE		5.30

MONEY ORDER SERIAL NUMBERS  
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Sept. 13 - Dec. 13

10/16/13 12:01:07

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE

Plaintiff/Appellant,

Case No.: 2D10-5197

Lower Court Case No. 05-CA-007205

vs.

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

Defendants/Appellees.

**VERIFIED MOTION WITH AFFIDAVIT TO PROCEED IN FORMA PAUPERIS**

Plaintiff/Appellant pro se Neil J. Gillespie moves to proceed in forma pauperis pursuant to § 57.081 Florida Statutes, and under oath, testifies as follows:

1. My name is Neil J. Gillespie, and I am over eighteen years of age. This Affidavit is given on personal knowledge unless otherwise expressly stated.
2. I live alone. I am disabled. I have no dependents.
3. I am not employed. My income is Social Security disability benefits.
4. The bank holding the reverse mortgage on the home where I live gave notice of default due to the death of my Mother, Penelope Gillespie, who died September 17, 2009. The existing mortgage of \$103,310 exceeds the value of the home which is \$91,057.
5. I do not have a bank account. I do not have an IRA or other retirement account.
6. The 13th Judicial Circuit is holding \$598.22 wrongfully garnished from my former bank account, as set forth in Motion For Dissolution Of Writ Of Garnishment filed April 28, 2010. (Exhibit 1). The Circuit Court did not hear the motion.



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE

Appellant,

Case No.: 2D10-5197

Lower Court Case No. 05-CA-007205

vs.

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

Appellees.

**APPELLANT'S MOTION TO REINSTATE DISMISSED APPEAL**

Appellant pro se, Neil J. Gillespie ("Gillespie"), moves to reinstate the dismissed appeal,  
and states:

1. Gillespie moves to reinstate this appeal, no. 2D10-5197, dismissed by order of this Court dated June 24, 2011 pursuant to the notice of voluntary dismissal served by Appellees counsel Ryan Christopher Rodems. The notice of voluntary dismissal was unlawfully obtained from Gillespie by Mr. Rodems as part of an unlawful settlement agreement made by Gillespie while in custody of the Hillsborough County Sheriff's Office (HCSO) on civil contempt at the Edgecomb Courthouse in Tampa. The settlement agreement must be set aside, and is void or voidable, for fraud, duress, mistake, undue influence, adhesion, lack of informed consent, disability or incapacity, sleep deprivation, malpractice or negligence by jailers, threats, intimidation, yelling, and other improper conduct by opposing counsel Ryan Christopher Rodems, and breach of duty by Gillespie's former counsel, Eugene P. Castagliuolo.
2. The notice of voluntary dismissal served by Mr. Rodems that this Court relied upon must be struck or set aside as there was no manifestation of mutual assent, a "meeting of the minds",

APPEAL  
SECOND DISTRICT  
JUL 11 PM 4:35

Response

DENY

CAW

7/20/11

AB

7/20/11

[over]

[over]

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE  
Appellant,

Appellant Case No.: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and  
WILLIAM J. COOK,  
Appellees.

ON APPEAL FROM THE CIRCUIT COURT FOR THE  
THIRTEENTH JUDICIAL CIRCUIT OF FLORIDA

APPELLANT'S INITIAL BRIEF

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

February 7, 2011

Sticken  
RDEW  
7/6/11

JT

Please initial and date here:

AB 3/23/11

AD 3/23/11

2

2D10-5197, Gillespie v. Barker, Rodems

The clerk of the circuit court shall respond to the appellant's motion to compel completion of appellate record within 10 days.

The appellant's motion for leave to file an amended initial brief is denied without prejudice to the appellant to refile the motion once the issue surrounding the record is resolved. The refiled motion should specify why an amended brief needs to be filed.

The appellant's motion to compel the thirteenth judicial circuit and Judge Barton to file communication in the case with the clerk of the circuit court is denied.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE  
Appellant,

Case No.: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and WILLIAM J. COOK,  
Appellees.

**APPELLANT'S MOTION FOR LEAVE TO FILE  
AN AMENDED INITIAL BRIEF**

Appellant pro se Neil J. Gillespie moves for leave to file an Amended Initial Brief, and in support thereof states:

1. This Court Ordered, March 23, 2011, that the Clerk of the Circuit Court shall respond to the Appellant's motion to compel completion of appellate record within 10 days. Appellant has received a corrected Index from the Clerk within that time. Appellant received the corrected Index in the mail March 30, 2011 from the Clerk.
2. The Order of March 23, 2011 denied Appellant's Motion for leave to file an Amended Initial Brief without prejudice to the appellant to refile the motion once the issue surrounding the record is resolved. The refiled motion should specify why an amended brief needs to be filed.
3. Appellant therefore refiles the motion for leave to file an Amended Initial Brief. As set forth in paragraph one, the issue surrounding the record has been resolved. Appellant needs to file an Amended Initial Brief as set forth in the following paragraphs.

JT

Please initial and date here:

DAW 4/6/11  
hna 4/6/11

2

2D10-5197, Gillespie v. Barker P.A.

The appellant's motion for leave to file an amended initial brief is granted. The initial brief already filed and its appendix are stricken. The amended brief shall be served within 30 days of this order.

Within 20 days of the service of the amended initial brief, the appellee <sup>may</sup> ~~shall~~ file an amended answer brief.

① The request for limitation on the IB found in the AE's response is denied. However, the amended IB must not exceed 62 pages. See Fla. R. App. P. 9.210(2)(f).

Please initial and date here:

4 27-11 CWA

STN 4 27 11

2

2D10-5197, Gillespie v. Barker, Rodems

The appellant's emergency motion to stay pending appeal is denied.

The appellant's motion for order of protection is denied.

The appellant's motion for extension of time is granted to the extent that the amended initial brief shall be served by May 23, 2011.

**Please initial and date here:**

JJ Wallace and Blade by JT  
(see also signatures in margins of  
orders in ¶ 2.3.1) EAC 7/26/11  
7/22/11



2D10-5197, Gillespie v. Barker, Rodems

The appellant's motion for leave to submit reply to appellee's response is denied.

The appellant's motion to reinstate dismissed appeal is denied.

The appellants motion to amend notice of appeal is denied as moot.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE

Appellant,

Case No.: 2D10-5197

Lower Court Case No. 05-CA-007205

vs.

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

Appellees.

**APPELLANT'S MOTION FOR EXTENSION  
OF TIME TO FILE AMENDED INITIAL BRIEF**

Appellant pro se Neil J. Gillespie hereby files this Motion for Extension of Time to File

Amended Initial Brief and in support thereof states:

1. This Court, by Order dated May 25 2011, granted Appellant's motion for extension of time for the initial brief to be served by June 22, 2011.
2. On June 1, 2011 opposing counsel Ryan Christopher Rodems caused a warrant for Appellant's arrest to be issued on a writ of bodily attachment for civil contempt. Law enforcement is currently pursuing Appellant on an active arrest warrant, no. 22044323.
3. Appellant believes Mr. Rodems obtained the writ of bodily attachment under false pretenses and for untoward purposes, either to intentionally disrupt the appellant process in this appeal 2D10-5197, and/or to force settlement of this lawsuit on terms favorable to Mr. Rodems. Mr. Rodems' exercise of independent professional judgment is materially limited in this case by his interest and conflict representing his firm and law partner against claims by a former client on a matter that is the same or substantially similar as the prior representation.



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE

Appellant,

Case No.: 2D10-5197

Lower Court Case No. 05-CA-007205

vs.

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

Appellees.

**APPELLANT'S MOTION FOR EXTENSION  
OF TIME TO FILE AMENDED INITIAL BRIEF**

Appellant pro se Neil J. Gillespie hereby files this Motion for Extension of Time

to File Amended Initial Brief and in support thereof states:

1. This Court, by Order dated May 2, 2011, partially granted Appellant's motion of April 25, 2011, to the extent that the amended initial brief shall be served by May 23, 2011. This Court denied appellant's emergency motion to stay pending appeal. This Court denied appellant's motion for order of protection. While the Appellant appreciates the extension of time to file his amended brief, the underlying need for an extension remains since the Court denied appellant's emergency motion to stay pending appeal. Appellant has been forced, by Mr. Rodems' intentional disruption of the appellate process, to devote most of his time to an evidentiary hearing to incarcerate him, which continues to prevent Appellant from working on his amended brief.
2. Currently the lower tribunal has set an Order to Show Cause for hearing June 1, 2011 at 11:00 AM. (Exhibit A). This is a contempt hearing on an "Order Adjudging

FILED  
11 MAY 23 AM 10:58  
DISTRICT COURT OF APPEALS  
SECOND DISTRICT

Hills  
TERRY

Grant  
(6/22/11)  
5/23/11

T:\SA\CS Orders - Chris\2D10-5197 Gillespie (issues with record).doc

Please initial and date here:

CMc 2/15/11

This court notes that on February 3, 2011, it issued an order denying as moot the "plaintiff/appellant's motion to prepare and transmit appellant record in 2D10-5197." The order recited that the clerk had informed this court that the index had been prepared and directed the clerk to transmit the record to this court on the date that the reply brief is due, citing Florida Rule of Appellate Procedure 9.110(a).

After that order was entered, the appellant filed, on February 4, 2011, "Appellant's motion for extension of time to prepare record and index." Apparently, the appellant has identified omissions or other issues related to the record as reflected by the index prepared by the clerk. The appellant's motion to extend the time for the preparation of the record is granted for thirty days.

If the appellant deems it necessary to file an amended initial brief, he shall file an appropriate motion to that effect within thirty days.

Hillsborough  
2-28-11  
CME

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE  
Appellant,

Case No.: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and WILLIAM J. COOK,  
Appellees.

---

**APPELLANT'S MOTION FOR EXTENSION  
OF TIME TO PREPARE RECORD AND INDEX**

*Grant (50)  
1/22/11*

Appellant pro se Neil J. Gillespie hereby files this Motion for and Extension of  
Time to Prepare the Record and Index and in support thereof states:

*CME  
2/15/11*

1. The Clerk of the Court of the lower tribunal is cooperating with Appellant to prepare the Record and Index based upon the authority of *G. W v. Karen Rushing, Clerk of Circuit Court*, 22 So.3d 819 (Fla. 2d DCA 2009). (Exhibit A). Appellant received the Index to the Record from the Clerk January 27, 2011. Appellant notified the Clerk's Counsel Dale Bohner of errors, omissions and duplications, etc. in the Record and Index by fax January 31, 2011. (Exhibit B).

2. Mr. Mark Ware, Esq., Hillsborough County Office of the Clerk of Court, Lisa Mann, Associate Director of Appeals Department, and Appellant had a teleconference February 2, 2011 to discuss and resolve errors, omissions, duplications and other issues with the Record and Index to the Record. Mr. Ware said he was referred to Appellant by the Clerk's Counsel Dale Bohner for this purpose.

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

NEIL J. GILLESPIE,

Plaintiff/Appellant,

vs.

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

Defendants/Appellees.

CASE NO.: 05-CA-007205

APPEAL NO.: 2D10-5197

DIVISION: J

FILED  
CIRCUIT CIVIL  
2011 JAN 21 PM 3:30  
HILLSBOROUGH CO., FL.

FILED COURT  
BW

**PLAINTIFF/APPELLANT'S MOTION TO PREPARE AND TRANSMIT  
APPELLANT RECORD IN 2D10-5197**

1. Plaintiff/Appellant Neil J. Gillespie, pursuant to Rule 9.200(d), Fla. R. App. P., moves the Clerk of the lower tribunal to prepare, certify and transmit the record in this action in the lower tribunal, Neil J. Gillespie v. Barker, Rodems & Cook, PA and William J. Cook, case no. 05-CA-007205, Hillsborough County, to the Second District Court of Appeal, Appeal No. 2D10-5197.
2. The Second District Court of Appeal declared Plaintiff/Appellant Gillespie insolvent within the meaning of chapter 57, Florida Statutes (2009) and notified the Clerk November 22, 2010.
3. Pursuant to Rule 9.200(d)(2), Fla. R. App. P., the Clerk of the lower tribunal shall prepare a complete index to the record and shall attach a copy of the progress docket to the index. Plaintiff/Appellant Gillespie requests a copy of the complete index as soon as possible in order to properly cite to the record in the brief in compliance with Fla. R. App. P. 9.200. Plaintiff/Appellant Gillespie requests an estimate of time needed by the

✓  
Denied as moot, as the clerk has informed this court that she sent out the index to the parties on 1/25/11.  
According to Florida Rule of Appellate Procedure 9.110(a), the clerk is to transmit the record to this court on the date that the reply brief is due to be served.  
CME 2/1/11

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

NEIL J. GILLESPIE  
Appellant,

Case No.: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and WILLIAM J. COOK,  
Appellees.

**APPELLANT'S MOTION FOR EXTENSION  
OF TIME TO FILE INITIAL BRIEF**

Appellant pro se Neil J. Gillespie hereby files this Motion for Extension of Time  
to File Initial Brief and in support thereof states:

1. On October 22, 2010, the Appellant filed a Notice of Appeal with the Hillsborough County Circuit Court.
2. Pursuant to Fla. R. App. P. 9.110(f), the initial brief of the appellant is to be served within 70 days of filing of the Notice of Appeal, which is December 31, 2010, a court holiday. Pursuant to Fla. R. App. P. 9.420(f), in computing any period of time prescribed or allowed by these rules the last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a holiday in which event, the period shall run until the end of the next day that is neither a Saturday, Sunday, nor holiday, in this case that day is January 3, 2011.
3. In order to draft the Appellant's initial brief, Appellant must receive the record to be compiled by the clerk of the lower court in order to properly cite to the record in the brief in compliance with Fla. R. App. P. 9.200. However Appellant has been prevented

**DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327  
(863) 499-2290  
Date: October 7, 2013  
re: Case Number:**

In response to your recent communication, please see the paragraph(s) marked below.

\_\_\_ There appears to be no proceeding pending in the court similar to the one you describe.

\_\_\_ I am not authorized to provide the legal advice that would provide answers to your inquiry.

\_\_\_ This case is pending in this court and you (or your attorney if you are represented) will be notified by mail when a decision is reached.

\_\_\_ The court's mandate was issued on \_\_\_\_\_. It signifies that the appeal is now closed in this court. Only the original mandate, which is sent to the clerk of the lower court, is accompanied by the opinion issued earlier, which was provided at that time to the parties.

\_\_\_ The panel assigned to this appeal has given no reason for its ruling and is not required to do so.

\_\_\_ Canon 3 of the Code of Judicial Conduct prohibits judges from reading or considering your letter.

\_\_\_ This court cannot act on your request to prompt action by the circuit court unless jurisdiction is conferred upon it by the filing of an original proceeding in mandamus in this court.

\_\_\_ This court has not yet received the appeal of which you speak. The brief/motion you filed will be linked up to that appeal when it arrives from the circuit court.

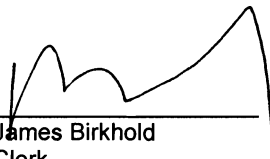
\_\_\_ Your filing will not be considered by the court because you have an attorney representing you and the filing is not authorized.

\_\_\_ Action will not be taken upon your request, nor will it be docketed. Judicial action results only if a formal motion that includes a certificate of service on the opposing party or counsel is filed.

\_\_\_ Copies from this court's file are available at \$1 per page. If you are still interested in obtaining copies from this court, please advise and by return mail we will indicate the number of pages involved. Alternatively, you may wish to contact your appellate attorney if you have one regarding this request.

\_\_\_ The name and address of your current attorney is:

Other: **Judge Davis has turned over your lengthy submission to me for a response. 2D08-2224 we do not show has been destroyed, although the time has expired to retain the file and it is possible it has been destroyed and a clerical error may lead to the conclusion that we retain it. This file if we have it is stored offsite. On our next trip to that storage area we will check and get back to you on this. The other concerns you express in your submission do not seem to be matters that would invite appropriate comment from the court.**

  
James Birkhold  
Clerk  
w:\document\gillespie

**EXHIBIT**

**Appendix 4**

**EXHIBIT**

**10**

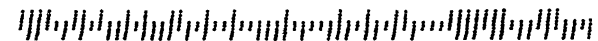
DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327



EC  
Neil J. Gillespie  
8092 S W 115th Loop  
Ocala, FL 34481

2D10-5197

3448133567 R067



# ***Second District Court of Appeal Case Docket***

**Case Number: 2D08-2224**

**Final Civil Other Notice from Hillsborough County**

**NEIL J. GILLESPIE vs. BARKER, RODEMS & COOK, P. A. & WILLIAM J. COOK**

**Lower Tribunal Case(s): 05-CA-7205**

06/12/2014 04:53

<b>Date Docketed</b>	<b>Description</b>	<b>Date Due</b>	<b>Filed By</b>	<b>Notes</b>
05/02/2008	Notice of Appeal Filed		Neil J. Gillespie	
05/06/2008	Case Filing Fee			
05/06/2008	order appealed			
06/10/2008	Mot. for Extension of time to file Initial Brief		Tanya M. Uhl, Esq. 052924	
06/10/2008	Notice of Filing		Tanya M. Uhl, Esq. 052924	TRANSCRIPTS OF COURT PROCEEDINGS
06/11/2008	ORDER GRANTING EOT FOR INITIAL BRIEF	07/07/2008		
07/07/2008	Initial Appellant Brief on Merits		Robert W. Bauer, Esq.	E-FILED 07/03/08
07/22/2008	Motion to Supplement		Ryan Christopher Rodems, Esq. 947652	W/ATTACHED
08/07/2008	ORD-TO FILE RESPONSE	08/17/2008		Tic Cab/CM
08/28/2008	grant supp/long/return materials	09/22/2008		(wall/CM)
08/28/2008	Received Records			3 VOLUMES BARTON CC COPIES
09/12/2008	Supplemental Records			1 SUPPLEMENTAL VOLUME
09/16/2008	Appellee Answer Brief		Ryan Christopher Rodems, Esq. 947652	e-filed 09/16/08
09/16/2008	Motion For Attorney's Fees		Ryan Christopher Rodems, Esq. 947652	
10/16/2008	Motion To Withdraw as Counsel		Robert W. Bauer, Esq.	
10/17/2008	OBJECTION		Neil J. Gillespie	Objection to motion for w/d of counsel.
10/30/2008	Order Denying Withdraw as Counsel			(wall/WW)

**EXHIBIT**

**Appendix 5**

**EXHIBIT**

**11**



<b>Date Docketed</b>	<b>Description</b>	<b>Date Due</b>	<b>Filed By</b>	<b>Notes</b>
01/21/2009	Miscellaneous Motion		Neil J. Gillespie	FOR LEAVE TO SUBMIT REPLY BRIEF W/EXHIBITS
01/26/2009	Motion To Strike		Ryan Christopher Rodems, Esq. 947652	AA'S PRO SE MOTION FOR LEAVE TO SUBMIT REPLY BRIEF
01/27/2009	Deny Miscellaneous Motion-79a			
01/29/2009	Miscellaneous Motion		Neil J. Gillespie	TO SHOW CAUSE WHY ROBERT W. BAUER SHOULD NOT BE HELD IN CONTEMPT OF COURT
02/05/2009	Deny Miscellaneous Motion-79a			(wall/WW) for leave to submit motion to show cause, etc.
10/09/2009	Attorneys Fees/Deny /Appellee			
10/09/2009	Affirmed - Per Curiam Affirmed			
10/28/2009	Mandate			
11/09/2009	Motion For Rehearing		Neil J. Gillespie	BELATED
11/17/2009	Motion For Rehearing		Neil J. Gillespie	AMENDED BELATED
12/04/2009	ORD-DENYING REHEARING			
12/04/2009	ORD-DENYING REHEARING			amended
01/13/2010	Returned Records			SET VIA AUTO RECORD RETURN APPLICATION
08/23/2013	Miscellaneous Motion		Neil J. Gillespie	to surrender files
09/20/2013	Deny Miscellaneous Motion-79a			see order in 11-2127
04/10/2014	Case Destroyed			

SECOND DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

NEIL J. GILLESPIE

Plaintiff/Counter Defendant,

Appellate Case: 2D10-5197

Lower Tribunal Case: 05-CA-7205

vs.

BARKER, RODEMS & COOK, P.A. and  
WILLIAM J. COOK,

Defendants/Counter Plaintiffs.

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ADDENDUM TO  
AMENDED APPLICATION FOR ORDER

1. Applicant Neil J. Gillespie pro se files this Addendum in support of his Amended Application For Order submitted June 12, 2014, and henceforth in the first person states:
2. My letter October 1, 2013 to The Hon. Charles A. Davis, Jr. Chief Judge appears in a separate appendix, and is referenced in a form letter from the Clerk October 7, 2013: (Exhibit 1)

Judge Davis has turned over your lengthy submission to me for a response. 2008-2224 we do not show has been destroyed, although the time has expired to retain the file and it is possible it has been destroyed and a clerical error may lead to the conclusion that we retain it. This file if we have it is stored offsite. On our next trip to that storage area we will check and get back to you on this. The other concerns you express in your submission do not seem to be matters that would invite appropriate comment from the court. - signed James Birkhold, Clerk, October 7, 2013.

3. My 8 page letter with 45 pages of attachments to the Chief Judge shows on page 1,

Please advise if any other appellate case shown in the motion has not been destroyed or is otherwise available. Contrary to his belief, Clerk Birkhold has not answered this question. The September 20, 2013 order does not address the status of records that may have been destroyed. My misplaced motion shows:

2D11-2127 - attached docket shows case destroyed 07/05/13  
2D10-5529 - attached docket shows case destroyed 05/17/13  
2D10-5197 - attached docket shows case is available  
2D08-2224 - attached docket shows returned records 01/13/10  
2D07-4530 - attached docket shows case destroyed 01/31/2011

**EXHIBIT**

**Appendix 6**

2D06-3803 - attached docket shows case destroyed 01/06/2009

Case 2D08-2224 does not show "destroyed", it only shows returned records 01/13/10. Is that case file, or any other case file available? Clerk Birkhold was understandably busy and not able to respond due to mandatory efilings, so I am bringing this matter to your attention.

4. Under Article V, sec. 2(c), Fla. Const., Chief Judge Charles A. Davis, Jr. "[S]hall be responsible for the administrative supervision of the court."

5. Appearing at Exhibit 2 is the Order Granting Stay entered by Circuit Judge Marva L. Crenshaw September 9, 2008 in the lower trial captioned in this pleading, 05-CA-7205, while Circuit Judge Crenshaw presided over this case August 14, 2008 during an emergency hearing on Plaintiff's Motion To Stay filed by Mr. Bauer June 9, 2008 on my behalf, appearing at Exhibit 3,

Plaintiff, NEIL J. GILLESPIE, by and through his undersigned attorney, files this Motion to Stay Order of Final Judgment, and states in support thereof:

1. This Motion to Stay is filed pursuant to FLA. R. APP. P. 9.310.
2. The Court rendered an a Final Judgment on March 27, 2008 which contained an order that the Plaintiff pay the sum of \$11,550 and shall complete and submit Florida Rules of Procedure Form 1.977 ( Fact Information Sheet ).
3. Defendant has filed a timely Notice of Appeal with this Court and shall submit an appeal to the 2nd District Court of Appeal.
4. Defendant will not be prejudiced by the granting of this motion to stay.
5. There are current claims in the still pending in the above styled action which may serve to off set the damages awarded in the Partial Judgment.

WHEREFORE the Plaintiff/Appellant mover this court to grant this Motion to Stay for Final Judgment.

Law Office of Robert W. Bauer, PA.  
By: Robert W. Bauer, Esq. (signed)

6. The Order Granting Stay set forth conditions impossible for me to meet due to indigence:

shall  
ORDERED that(1) Plaintiff's ~~shall~~ post a good and sufficient bond in the amount required by Fla. R. App. P. 9.310(b)(1) or deposit an equivalent sum of money with a third-party escrow agent mutually acceptable to Defendants on or before the end of the business day on August 21, 2008; and (2) the Final Judgment entered March 27, 2008 is stayed.

IT IS FURTHER ORDERED that the stay of the Final Judgment entered March 27, 2008 shall expire at 5:00 p.m. on August 21, 2008 unless Plaintiff posts a good and sufficient

bond in the amount required by Fla. R. App. P. 9.310(b)(1) or deposits an equivalent sum of money with a third-party escrow agent mutually acceptable to Defendants.

7. Appearing at Exhibit 4 is Claim of Exemption and Request for hearing, filed by Mr. Bauer on my behalf August 14, 2008:

Plaintiff, Neil J. Gillespie, by and through his undersigned attorneys files this CLAIM OF EXEMPTION AND REQUEST FOR HEARING, and states in support thereof:  
The following exemptions from garnishment apply to the Plaintiff, Neil Gillespie, herein as stated:

1. Head of family wages.
  - a. Plaintiff provides more than one-half of the support for a child or other dependent and have net earnings of \$500 or less per week.
2. Social Security benefits.
3. Disability income benefits.

WHEREFORE, Neil Gillespie, requests a hearing to decide the validity of these claims.

Law Office of Robert W. Bauer, PA.  
By: Robert W. Bauer, Esq. (signed)

8. Appearing at Exhibit 5 is Emergency Request for a Hearing on Plaintiff's Motion for Stay, filed August <sup>11</sup>~~22~~, 2008 by Mr. Bauer on my behalf, with Notice of Hearing, and Amended Notice:

Plaintiff Neil J. Gillespie, by and through his undersigned attorneys files this Emergency Request and states in support thereof:

1. On March 27, 2008, the Court entered a Final Judgment on the above styled case.
2. On or about March 25, 2008, Plaintiff filed a Notice of Appeal of said judgment.
3. On or about June 9, 2008, Plaintiff filed a Motion to Stay the Final Judgment entered by the Court on March 27, 2008 containing an order that the Plaintiff pay the sum of \$11,550.
4. On or about August 11, 2008, Plaintiff was informed by his bank that a Writ of Garnishment has been served against his accounts.
5. Plaintiff's bank accounts have been frozen.
6. The inability to access funds from his bank account has placed an undue burden on the Plaintiff.
7. Due to the Plaintiff's filing of a timely Notice of Appeal with this Court and a Motion to Stay Plaintiff requests an emergency hearing to regain access to his bank accounts.

WHEREFORE, Plaintiff requests this Emergency Request for a hearing on Plaintiff's Motion to Stay for Final Judgment be granted.

Law Office of Robert W. Bauer, PA.  
By: Robert W. Bauer, Esq. (signed)

9. A Transcript of Emergency Hearing appears in a Separate Appendix.

BEFORE: HONORABLE MARVA CRENSHAW, Circuit Judge  
TAKEN AT: Courtroom 502, George E. Edgecomb Courthouse, Tampa, Florida  
DATE & TIME: 14 August 2008  
TRANSCRIBED BY: Michael J. Borseth, Court Reporter, Notary Public

10. Mr. Bauer ~~appeared~~ appeared telephonically for me before Judge Crenshaw August 14, 2008, and complained in open court about Mr. Rodems' "full nuclear blast approach instead of us trying to work this out in a professional manner."

Transcript, August 14, 2008, pages 16-17

22 [MR. BAUER] Unfortunately, there has been recently do to  
23 apparently some rulings that we have received,  
24 Mr. Rodems has, you know, decided to take a full  
25 nuclear blast approach instead of us trying to work  
1 this out in a professional manner. It is my  
2 mistake for sitting back and giving him the  
3 opportunity to take this full blast attack.

11. The paragraphs below appear in my Amended Application for Order, 26, 27, 28, 29, 33:

26. The Clerk required, and I paid, \$14 for public records (Appendix) identifying judges who made decisions in thirteen (13) anonymous orders entered in Appeal No. 2D10-5197 that did not carry the name or signature of any judge. The Clerk provided free by email (Exhibit 16),

The following orders were entered by non-judicial personnel: November 1, 2010; November 22, 2010; January 7, 2011; February 3, 2011; February 17, 2011; May 25, 2011; June 23, 2011; June 24, 2011; and July 11, 2011.

The order of March 23, 2011, was entered by Judges Black and Crenshaw.  
The order of April 8, 2011, was entered Judges Wallace and Khouzam.  
The order of May 2, 2011, was entered by Judges Altenbernd and Northcutt.  
The order of July 26, 2011, was entered by Judges Wallace, Black, and LaRose.

27. The appeals process is oversight for correcting bad orders. But a review of the information provided by the Clerk shows two judges who should have recused: Judge Marva Crenshaw and Judge Anthony Black. Neither judge put their name on Orders in ~~2D10-5179~~. 2D10-5197

28. Judge Crenshaw entered Order Granting Stay September 9, 2008 in the lower tribunal case, Gillespie v. Barker, Rodems & Cook, 05-CA-7205. Thus it appears the Fla.

Code Jud. Conduct Cannon 3E required Disqualification. “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where: (b) the judge...was the lower court judge in the matter in controversy, [the judge participated as a lower court judge in a decision to be reviewed by the judge;]

29. Governor Crist appointed Hillsborough Judge Marva Crenshaw to the Second District Court of Appeal in January 2009, and she began serving February 1, 2009. Governor Crist appointed Hillsborough Judge Anthony Black to the Second District Court of Appeal in 2010. Prior to appointment, Judge Crenshaw and Judge Black were colleagues of Hillsborough Judge Martha Cook in the Thirteenth Judicial Circuit. Therefore, given the proximity of employment with Judge Cook, it appears relative to Judge Crenshaw and Judge Black that the Fla. Code Jud. Conduct Cannon 3E required Disqualification. “(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned...

33. Judge Marva Crenshaw and Judge Anthony Black wrongly ruled in two related appeals:

- In appeal 2D10-5529, Civil Prohibition Petition from Hillsborough County for Judge Martha Cook was Denied December 9, 2010. “The petition for writ of prohibition is denied as moot with respect to Judge Martha Cook and is denied in all other respects. The petitioner's motion for order of protection is denied.” LaROSE, KHOUZAM, and CRENSHAW, JJ., Concur.
- In appeal 2D11-2127, Verified Emergency Petition for Writ of Prohibition, Motion for Change of Venue, Petitioner's petition for writ of habeas corpus was denied May 4, 2011. LaROSE, CRENSHAW, and BLACK, JJ., Concur. Petitioner's petition for writ of prohibition was denied May 6, 2011 (amended order), LaROSE, CRENSHAW and BLACK, JJ., Concur.

12. Unfortunately Chief Judge Davis did not respond to my letter October 1, 2013, or issues,

On December 10, 2012 I timely filed a petition for writ of certiorari to the U.S. Supreme Court, No. 12-7747. The petition was denied February 19, 2013, and rehearing denied...  
<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>  
<http://nosueorg.blogspot.com/2012/12/petition-for-writ-of-certiorari-to.html>

In May 2013 Chief Assistant Attorney General Diana R. Esposito provided me public records that show Thirteenth Circuit General Counsel David Rowland concocted with others a scheme to falsely portray to Kenneth Wilson, Fla. Asst. Attorney General, that I did not serve Rowland my petition per Supreme Court Rule 29. Mr. Wilson claims he relied on Rowland’s ruse, and did not submit a brief in opposition due the Court January 14, 2013. See my blog page “David Rowland misled Florida AG, SCOTUS Petition” with a PDF of my letter at the bottom of the page.  
<http://nosueorg.blogspot.com/2013/06/david-rowland-misled-florida-ag-scotus.html>

13. Paragraph 25 below appears in my Amended Application for Order,

25. The Florida Bar informed me May 27, 2014 that it is reviewing the closure of my complaint against John Gardner; RFA# 14-14647 following my letter May 23rd<sup>1</sup>. (Exhibit 15).

Appearing as a Separate Appendix to this Addendum, is the Separate Appendix updated June <sup>5</sup>7, 2014 in re: John Gardner; RFA# 14-14647, containing 119 pages, showing,

Appendix 1 Doc. 32, *Notice of Assignment of Claims, Motion for Dismissal with Prejudice*  
Appendix 2 Doc. 51, **ORDER**, October 6, 2011, by **US Magistrate Judge Thomas B. Smith**  
Appendix 3 Doc. 43, assigned **US Magistrate Judge David A. Baker** left Ocala July 29, 2011  
Appendix 4 Public record of satisfaction of the \$11,500 judgment to Barker, Rodems & Cook, appears on my consumer credit report May 1, 2014 affecting interstate commerce.  
Appendix 5 Letter of dismissal February 28, 2014 by Bar Counsel Theodore P. Littlewood Jr.  
Appendix 6 Complaint submitted February 25, 2014 by Neil J. Gillespie to John F. Harkness, Executive Director & John T. Berry, Legal Director, The Florida Bar. (35 pages)  
Appendix 7 TRANSCRIPT, March 20, 2008 hearing, Judge James M. Barton, II. (71 pages)

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<sup>1</sup> On information and belief, this is a matter for referral to the Federal Bureau of Investigation.

Mr. Gardner testified as an expert witness for Ryan Christopher Rodems March 20, 2008 and corruptly assisted him get a \$11,550 judgment @11% from Judge James M. Barton, II, during a hearing for attorneys fees in Gillespie v. Barker, Rodems & Cook case no. 05-CA-7205. My attorney Robert W. Bauer refused to let me [Neil J. Gillespie] testify in 05-CA-7280.

I notified Mr. Gardner by certified mail July 26, 2010 that Mr. Rodems corruptly got the \$11,550 debt judgment for attorney fees for responding to disruptions he himself created in violation of the Rules of Professional Conduct, his conflict of interest with me as a former client of Rodems' law firm, and Rodems breach of duty to avoid limitation on independent professional judgment.

On June 21, 2011 Mr. Rodems bribed [F.S. §§ 838.015, 838.016, 838.022] three Florida judges and two state employees who were defendants in my federal civil rights and disability lawsuit. Evidence of the bribe was entered in Gillespie v. Thirteenth Judicial Circuit et al., 5:10-cv-503-WTH-[DAB]-TBS, USDC, MDL, Ocala Div. [See Docs. 32 & 51]. Rodems filed June 21, 2011 Doc. 32, *Notice of Assignment of Claims, Motion for Dismissal with Prejudice*. US Magistrate Judge Thomas B. Smith entered Doc. 51, **ORDER** October 6, 2011 denied my motion to strike or set aside Doc. 32, and explained [the bribe], the settlement agreement was in exchange for a satisfaction of judgment [\$11,550 @11% interest]. On information and belief, US Magistrate Smith had a duty to report the felony, 18 USC § 4 Misprision of felony, to the US Marshal or a federal investigative law enforcement agency such as the Federal Bureau of Investigation (FBI). US Federal Judge Wm. Terrell Hodges also had a duty to report the felony [18 USC § 4] but he did not. Judge Hodges did not grant Rodems' [Doc. 32] *Motion for Dismissal with Prejudice*. Note: US Magistrate Judge **David A. Baker** presided June 21, 2011 when Rodems filed Doc. 32.

14. Appearing as Exhibit 6 is the Affidavit of Neil J. Gillespie, September 17, 2010, which is part of the Separate Appendix updated June <sup>5</sup>~~7~~, 2014 in re: John Gardner; RFA# 14-14647 submitted to The Florida Bar, and filed in Hillsborough case 05-CA-7205. My Affidavit shows that my attorney, Robert W. Bauer, refused to allow me to attend hearings in my case due to harassment and unprofessional behavior of Ryan Christopher Rodems:

**AFFIDAVIT OF NEIL J. GILLESPIE**

Neil J. Gillespie, under oath, testifies as follows:

1. My name is Neil J. Gillespie, and I am over eighteen years of age. This affidavit is given on personal knowledge unless otherwise expressly stated.
2. Attorney Robert W. Bauer, Florida Bar ID No. 11058, formerly represented me in the above captioned lawsuit. While representing me, Mr. Bauer sent me an email on July 8, 2008, a paper copy of which is attached as Exhibit A.

From Exhibit A, in relevant part:

From: "Robert W. Bauer, Esq." <rw@bauerlegal.com>  
To: "Neil Gillespie" <neilgillespie@mfi.net>  
Sent: Tuesday, July 08, 2008 6:05 PM  
Subject: RE: attached, Notice of Filing Fact Information Sheet

It was my understanding that my office did contact you. I have already apologized and have stated that I will correct the error with the court. I can do nothing more.

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. You have had a very adversarial relationship with him and it has made it much more difficult to deal with your case. I don't not wish to add to the problems if it can be avoided....

3. In his email Mr. Bauer wrote he does not wish for me to attend hearings because he is concerned that Mr. Rodems' comments to me will enflame the situation. Mr. Bauer wrote the following about Mr. Rodems' comments: "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..."

4. Upon information and belief, the behavior Mr. Bauer has attributed to Defendants counsel Mr. Rodems, comments made "for no better purposes than to anger



you", is unlawful harassment and a violation of section 784.048, Florida Statutes. As used in section 784.048(1)(a) "Harass" means to engage in a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose. As used in section 784.048(1)(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. (relevant portion). As used in section 784.048(2) Any person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

5. Since March 3, 2006, Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward me that has aggravated my disability, caused substantial emotional distress, and serves no legitimate purpose, as further described in the following pleadings and documents:

- a. Plaintiffs Accommodation Request Americans with Disabilities Act (ADA), February 20, 2007
- b. Plaintiffs Amended Accommodation Request Americans with Disabilities Act (ADA), March 5, 2007
- c. ADA Assessment and Report by Ms. Karin Huffer, MS, MFT, February 17, 2010.
- d. Americans With Disabilities Act (ADA) Accommodation Request of Neil J. Gillespie, February 19, 2010
- e. Notice of Americans with Disability Act (ADA) Accommodation Request of Neil J. Gillespie, February 19, 2010
- f. Request For Accommodations By Persons With Disabilities And Order, 13th Judicial Circuit, February 18, 2010. Note item 6, Special requests or anticipated problems (specify): "I am harassed by Mr. Rodems in violation of Fla. Stat. section 784.048". Copy attached to this Affidavit as Exhibit B
- g. Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA July 9, 2010
- h. Numerous other pleadings and documents, see the case file.

6. Mr. Rodems set a level of animosity in this lawsuit described by Mr. Bauer on the record: " ...Mr. Rodems has, you know, decided to take a full nuclear blast approach instead of us trying to work this out in a professional manner. It is my mistake for sitting back and giving him the opportunity to take this full blast attack." (Transcript, August 14, 2008, Emergency Hearing, the Honorable Marva Crenshaw, p. 16, line 24).

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 17th day of September 2010.

NEIL J. GILLESPIE (sworn to and signed before notary public Cecilia Rosenberger)

15. I provided The Florida Bar notice of my disability February 20, 2007 in Complaint No. 11,162(13D) against Mr. Rodems, Exhibit H. (received February 22, 2007), Separate Appendix.

16. Bar counsel Troy Matthew Lovell wrongly closed the complaint May 15, 2007 contrary to Bar Rule 3-7.3(a) because bar counsel determined the alleged conduct, if proven, would constitute a violation of the Rules Regulating The Florida Bar warranting the imposition of discipline, and Mr. Lovell opened TFB No. 11,162(13D) against Mr. Rodems.

17. Mr. Lovell knew that Judge Richard Nielsen ruled against Rodems's motion to dismiss and strike January 13, 2006, see exhibit C to the bar complaint, Order on Defendants' Motion to Dismiss and Strike. The Order established a cause of action for fraud and breach of contract for me against Mr. Rodems, Defendants William Cook (partner) and Barker, Rodems & Cook, PA.

18. Mr. Rodems at this point also had personal responsibility, because partners engaged in the practice of law are each responsible for the fraud or negligence of another partner when the later acts within the scope of the ordinary business of an attorney. Smyrna Developers, Inc. v. Bornstein, 177 So.2d 16 (2dDCA, 1965).

19. Mr. Lovell personally knew Judge Nielsen, and worked for the judge in private practice as an associate at Salem, Saxon & Nielsen, PA, June 1998 - August 1992, according to Lovell's application to the JNC February 5, 2013. Mr. Lovell could have called Judge Nielsen if he had questions, or referred to 356 pages of exhibits I provided in Complaint TFB No. 11,162(13D). Mr. Lovell did not even request a response from Mr. Rodems, contrary to Bar Rules.

20. On March 3, 2006 Mr. Rodems telephoned me ~~telephoned~~ at home, as counsel for his firm in 05-CA-7205, harassing me about "dental work", providing unwelcome commentary on how I speak, and a misplaced lecture for me to "study the rules and regulations of the Florida Bar". (attached)

21. Rodems then filed a false affidavit March 6, 2006 in 05-CA-7205 to disrupt the tribunal for strategic advantage. An investigation by Tampa Police lawyer Kirby Rainesburger concluded:

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.

22. My Amended Disability Motion, U.S. Eleventh Circuit (Separate Appendix), in full at the link, shows the Americans With Disabilities Act required disqualification of Rodems as counsel.  
<http://www.scribd.com/doc/102585752/Amended-Disability-Motion-12-11213-C-C-A-11>

### Conclusion

23. The Second District Court of Appeal for the state of Florida was created by the Constitution and the Florida Statutes to administer, apply, and interpret the laws of the state of Florida in a fair and unbiased manner without favoritism, extortion, improper influence, personal self-enrichment, self-dealing, concealment, and conflict of interest.

24. The Florida Supreme Court established procedure to grant my application for order in SC11-1622 and SC11-858 that must be followed here under the principal of stare decisis.

25. Under Article V, sec. 2(c), Fla. Const., Chief Judge Charles A. Davis, Jr. "[S]hall be responsible for the administrative supervision of the court."

WHEREFORE this Court is required to follow the procedure in SC11-1622 and SC11-858 under the principal of stare decisis.

RESPECTFULLY SUBMITTED June 17, 2014.



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



UF could not maintain  
my speech obturator



Dr. Kusiak's photo of my  
oral-nasal fistula, 1985



CPCF Journal, unoperated adult  
July 1992, Vol. 29 No.4, page 371



Mr. Rodems' breached his duty to avoid a limitation on independent professional judgment, violated Rules 4-1.7, 4-1.9, 4-1.10; McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995

Transcript, March 3, 2006, page 6

4 MR. GILLESPIE: Now, you call here and just  
5 marched into a tirade of insults.  
6 MR. RODEMS: No, actually I haven't insulted  
7 you at all. I've never said anything about you. I  
8 just said that you don't really know the law  
9 because you don't know how to practice law.

Transcript, March 3, 2006, page 7

24 MR. RODEMS: Didn't you at one time purchase a  
25 car so that you could get the cash rebate to get

Transcript, March 3, 2006, page 8

1 some dental work done? We're going to get to the  
2 discovery, anyhow, so just tell me, did that really  
3 happen?  
4 MR. GILLESPIE: What?  
5 MR. RODEMS: Did you purchase a car so that  
6 you could get the cash rebate to get some dental  
7 work done?  
8 MR. GILLESPIE: Listen, this is why you need  
9 to be disqualified.  
10 MR. RODEMS: No, I mean, that's -- because I  
11 know that? Because I know that to be a fact?  
12 MR. GILLESPIE: You know it to be a fact from  
13 your previous representation of me.  
14 MR. RODEMS: Well, you know, see that's --  
15 MR. GILLESPIE: If it is -- if it's a fact,  
16 anyway.  
17 MR. RODEMS: You need to study the rules and  
18 regulations of the Florida Bar because when you  
19 make --  
20 MR. GILLESPIE: I think, I think I bought a  
21 car so I would have something to drive. I don't  
22 know why you buy cars, but that's why I bought it.

Transcript, March 3, 2006, page 9

MR. RODEMS: Okay. Well, I just want to be  
20 clear because I understand that in talking with you  
21 it's very important to be precise because you don't  
22 really have a good command of the language that,  
23 you know, lawyers speak.

## AMERICAN ONCOLOGIC HOSPITAL

## PROGRESS REPORT

Note progress of case, complications, changes in diagnosis  
condition on discharge, instructions to patient

CHART COPY

GILLESPIE, Neil #74123

7/22/85

The patient is a 29 year old white male referred by Dr. Carver who is status post left unilateral Class IV lip and palate repair at approximately age two years old. He is unclear about the details of the degree of his defects, the surgical procedures, who performed this, or exactly where it was done. Apparently, after the initial bout of surgeries to repair the lip and hard and soft palate, he had no further surgical intervention. He had no ongoing follow-up for this problem. At approximately age 13 to 14 years old, he underwent orthodontic treatment at Temple University Hospital's Dental School and this ultimately resulted in the placement of a retainer with a prosthetic left lateral incisor. He has worn this since that time. He notices drainage of food into the left nasal floor. His left and right nostrils are opened, although the left is somewhat stuffy and occluded.

His main concerns upon presentation are related to the persistent cleft in the left alveolus, the draining fistula, and the possibility of foregoing the need for a prosthetic device. In addition, however, it is obvious on confronting the patient that he has a moderate amount of nasal deformity, flattening of the left side in the premaxillary region, and lip distortion, particularly at the vermilion. In addition, the patient has a significantly hypernasal speech pattern with obvious velopharyngeal incompetence.

On physical examination beginning externally, the patient has a slightly large nose with a small dorsal hump. The size of the nose is slightly larger than proportional to his face, although not exaggeratedly so. The right alar dome is full. The left alar cartilage is posteriorly and laterally displaced and somewhat hypoplastic compared to the left side. The left alar base is also laterally displaced. The nostril sill is flattened, and there is an obvious fistula between the distal nasal floor and the oral cavity. The left columella, likewise, is somewhat hypoplastic and twisted. The upper lip scar is well healed and appears to be a LeMesurier or Tennison-Randall type repair. The upper lip tubercle is preserved, but the vermilion border is somewhat irregular. Length appears, however, to be satisfactory. There is a lateral orbicularis bulge of the left upper lip. Internally, there is a wide cleft of the left alveolar ridge at the level of the lateral incisor with a fistula into the nasal floor. This runs posteriorly and nearly to the end of the secondary palate. The soft palate has a linear scar. It is very short, and there is lateral movement but no central movement of note.

continued....

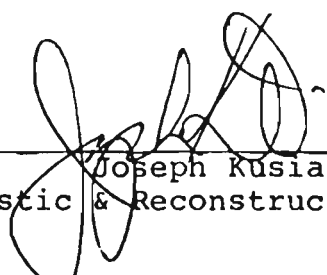
GILLESPIE, Neil  
Page Two  
7/22/85

My impression and recommendation to the patient generated three specific areas of interest. One relates to the scar revision of his upper nose and the relationships of his nasal tip, nose, and secondary deformities in this area. The second area of interest in importance is the alveolar cleft with the naso-oral fistula. The third area is the palate with obvious velopharyngeal incompetence and a foreshort and scarred palate.

My initial recommendations will be that the patient undergo orthodontic evaluation. I will arrange for him to see Dr. Rosario Mayro for evaluation as well as x-rays to assess his occlusal relationships. It also should be noted that he, in general, had a fairly satisfactory occlusal relationship with some lateral collapse and crossbite on the minor segment on the left and evaluate his adequacy as a candidate for bone grafting, which I think he would qualify. Subsequent to this, I will have him see Dr. Harvey Rosen concerning the actual surgical procedure and also he will be seen by Miss Marilyn Cohen, a speech pathologist with special interest in patients having cleft lip and palate for an evaluation concerning feasibility of posteropharyngeal flap in a patient of this age group. Concerning the external revisions, this can be accomplished concerning the upper lip, possibly at the same time as the fistula closure with orbicularis redirection, a revision of the nostril sill and the lateral alar base, and also possibly tip rhinoplasty or this can be accomplished at a later date with a formal rhinoplasty in concert with other procedures. In addition, the vermilion border should be repaired. This can be done by Z-plasty technique.

The patient, therefore, will be seen by the consultants and a general plan with timing for surgery, etc., will be made. We will arrange to make these arrangements and follow-up with the patient. No letter.

5861 AUG 1 1985

  
\_\_\_\_\_  
Joseph Kusiak, M.D.  
Plastic & Reconstructive Surgery

JK:bsm  
T--8/1/85  
D--7/23/85

# BARKER, RODEMS & COOK

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

300 West Platt Street, Suite 150  
Tampa, Florida 33606

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

March 27, 2001

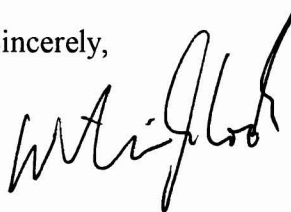
Neil J. Gillespie  
Apartment C-2  
1121 Beach Drive NE  
St. Petersburg, Florida 33701-1434

**Re: Vocational Rehabilitation**

Dear Neil:

I am enclosing the material you provided to us. We have reviewed them and, unfortunately, we are not in a position to represent you for any claims you may have. Please understand that our decision does not mean that your claims lack merit, and another attorney might wish to represent you. If you wish to consult with another attorney, we recommend that you do so immediately as a statute of limitations will apply to any claims you may have. As you know, a statute of limitations is a legal deadline for filing a lawsuit. Thank you for the opportunity to review your materials.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. J. Cook', written in a cursive style.

William J. Cook

WJC/mss

Enclosures

**Neil J. Gillespie**  
1121 Beach Drive NE, Apt. C-2  
St. Petersburg, Florida 33701-1434

Telephone and Fax: (727) 823-2390

March 22, 2001

William J. Cook, Attorney at Law  
Barker, Rodems & Cook, PA  
300 West Platt Street, Suite 150  
Tampa, Florida 33606

Dear Bill,

Thank you for agreeing to consider my claim of discrimination/negligence against the State of Florida and its Vocational Rehabilitation Program. Enclosed please find the following:

1. My *Second and Third (final) Amended Petitions for Administrative Hearing*. These documents set forth much of my claim.
2. My *Motion for Summary Final Order*. The Administrative Law Judge (Johnston) failed to rule on my motion. The state's response was to try and expand the issues and compel another psychiatric exam. Seeing this was going nowhere, I motioned to withdrawal the request. (See my motion, the order and final order, enclosed).
3. October 5, 1998 letter from Douglas Ligibel, Fla. DVR. This "addendum" letter sets forth the state's claim that I was not cooperative as a reason to deny services.
4. Binder with the Fla. Vocational Rehabilitation web site printed out. (not current)
5. Photo of me taken June 6, 1994 (at 150 pounds) before afflicted with depression (current weight 290 pounds).
6. A brief medical history relevant to VR.

In essence, the state discriminated against me based on disability and refused services as set forth in the petitions. As a result I became severely depressed. The state is negligent because its own psychologist (Dr. Justice) warned of my depression risk, a warning the state ignored. The state also misdiagnosed my condition(s). There may be a breach of privacy relevant to my file. During the time referenced by Mr. Ligibel in his October 5, 1998 letter (item 3, above) my contact with the state was monitored by a private lawyer, Mark Kamleiter, who disputes the allegations contained therein.

Sincerely,

  
Neil J. Gillespie  
enclosures

Ps. Bill, these are mostly original documents, please copy and return if needed. Thanks.



Certificate of Service

I certify that two previously served pleadings, now corrected by strikeout and text edit box,

1. Amended Application For Order Appellate Case No. 2D10-5197 (served June 12, 2014)
2. Addendum to Amended Application For Order Appellate Case No. 2D10-5197 (served June 17, 2014) were served in corrected paper format June 23, 2014 as indicated below.

All previously served appendices remain unchanged and were not served again today.

Tami McCarroll, Chief Deputy Clerk  
Second District Court of Appeal  
1005 E. Memorial Blvd.  
Lakeland, FL 33801  
Email: mccarrot@flcourts.org  
VIA U.P.S. No. 1Z64589FP296993948

Hon. Pat Frank, Clerk of Circuit Court  
Hillsborough County, Florida  
County Center  
601 E. Kennedy Blvd.  
Tampa, FL 33602-4156  
VIA U.P.S. No. 1Z64589FP297321957

Barker & Cook, P.A.  
501 E Kennedy Blvd. Suite 790  
Tampa, Florida 33602-5258  
VIA U.P.S. No. 1Z64589FP297465963

Ryan Christopher Rodems, Associate  
Morgan & Morgan, P.A.  
20 N Orange Ave.  
Orlando, Florida 32801-2414  
VIA U.P.S. No. 1Z64589FP298025972

RESPECTFULLY SUBMITTED June 23, 2014.



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

APPENDIX - Addendum

Amended Application for Order, June 17, 2014

Appellate Case: 2D10-5197

Lower Tribunal Case: 05-CA-7205; Gillespie v. Barker, Rodems Cook, PA, William Cook.

- Exhibit 1      Clerk of Court James Birkhold, form letter to Gillespie dated October 7, 2013
- Exhibit 2      ORDER granting stay, Hillsborough Circuit Judge Marva Crenshaw, September 9, 2008
- Exhibit 3      Plaintiff's Motion for Stay, Mr. Bauer for Gillespie, June 6, 2008
- Exhibit 4      Plaintiff's Claim of Exemption and Request for Hearing, Mr. Bauer for Gillespie Aug-14-2008
- Exhibit 5      Emergency Request for Hearing, Mr. Bauer for Gillespie, August 11, 2008
- Exhibit 6      Affidavit of Neil J. Gillespie, Mr. Bauer prohibited Gillespie from attending hearings

Separate Appendix: Bar Complaint, Ryan Christopher Rodems, 2007-11,162(13D) Feb-20-2007

Separate Appendix: TRANSCRIPT, Circuit Judge Crenshaw, emergency hearing, August 14, 2008

Separate Appendix: Gillespie's letter October 1, 2013 to The Hon. Charles A. Davis, Jr. Chief Judge

Separate Appendix: John Gardner RFA No. 14-14647 separate appendix, update June 5, 2014

Separate Appendix, UPL Complaint against Mr. Rodems, unlawfully represented the state of Florida in a federal court action; Accompanied the Notice of Appeal, December 5, 2013 to the 2dDCA.

Separate Appendix: Amended Disability Motion, U.S. Eleventh Circuit, 43 page motion only; 251 page motion and exhibits on Scribd at the link below.

<http://www.scribd.com/doc/102585752/Amended-Disability-Motion-12-11213-C-C-A-11>

Motion shows the Americans With Disabilities Act required disqualification of Mr. Rodems as counsel.

October 1, 2013

The Hon. Charles A. Davis, Jr. Chief Judge  
The Second District Court of Appeal  
1005 E. Memorial Blvd.  
Lakeland, FL 33801

RE: **Application For Order** - Rule 2.430(g), Fla.R.Jud.Admin.  
Neil J. Gillespie vs. Barker, Rodems & Cook, PA, et al.  
Appellate Case No.: 2D10-5197; Lower Court Case No. 05-CA-007205

Dear Chief Judge Davis:

This letter concerns my Application for Order. I am in receipt of this Court's order dated September 20, 2013 stating in part:

Neil Gillespie's motion to surrender files is denied without prejudice to the filing of a public records requests under Chapter 119, Florida Statutes.

I now believe my motion to surrender files was not the correct pleading under Rule 2.430(g). Instead the proper pleading is an Application for Order which I filed September 27, 2013, and is directed only to Appellate Case No. 2D10-5197.

Please advise if any other appellate case shown in the motion has not been destroyed or is otherwise available. Contrary to his belief, Clerk Birkhold has not answered this question. The September 20, 2013 order does not address the status of records that may have been destroyed. My misplaced motion shows:

2D11-2127 - attached docket shows case destroyed 07/05/13  
2D10-5529 - attached docket shows case destroyed 05/17/13  
2D10-5197 - attached docket shows case is available  
2D08-2224 - attached docket shows returned records 01/13/10  
2D07-4530 - attached docket shows case destroyed 01/31/2011  
2D06-3803 - attached docket shows case destroyed 01/06/2009

Case 2D08-2224 does not show "destroyed", it only shows returned records 01/13/10. Is that case file, or any other case file available? Clerk Birkhold was understandably busy and not able to respond due to mandatory efilings, so I am bringing this matter to your attention. Enclosed is a paper copy of my email with Clerk Birkhold, and response Tuesday, October 01, 2013 2:05 PM:

We are extremely overtaxed as today begins mandatory efilings by attorneys and lots of difficulties for all in this domain. I don't have the time to study your email, and may not. If you have any further specific questions for me, please keep it short and I will endeavor to answer them to the best of my ability.

Rule 2.430(g), Fla.R.Jud.Admin., does not require the applicant to state a reason for wanting the file, so I did not do so. But the Court should be aware of certain issues.

On December 10, 2012 I timely filed a petition for writ of certiorari to the U.S. Supreme Court, No. 12-7747. The petition was denied February 19, 2013, and rehearing denied April 15, 2013. Below is a link to the U.S. Supreme Court docket page.

<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>

This is a link to my blog page showing the Reasons for Granting the Petition, with an embedded PDF of the petition at the bottom of the page.

<http://nosueorg.blogspot.com/2012/12/petition-for-writ-of-certiorari-to.html>

In May 2013 Chief Assistant Attorney General Diana R. Esposito provided me public records that show Thirteenth Circuit General Counsel David Rowland concocted with others a scheme to falsely portray to Kenneth Wilson, Fla. Asst. Attorney General, that I did not serve Rowland my petition per Supreme Court Rule 29. Mr. Wilson claims he relied on Rowland's ruse, and did not submit a brief in opposition due the Court January 14, 2013. See my blog page "David Rowland misled Florida AG, SCOTUS Petition" with a PDF of my letter at the bottom of the page.

<http://nosueorg.blogspot.com/2013/06/david-rowland-misled-florida-ag-scotus.html>

Without a response by Attorney General Pam Bondi for the State of Florida, my petition was denied due process under the Fifth and Fourteenth Amendments. The Supreme Court relies on briefs in opposition as part of its adversarial process to properly litigate and decide a petition. Florida's opposition brief was due January 14, 2013. Attorney General Bondi did not submit a response for Florida, and therefore no opposition brief was distributed for the Conference of February 15, 2013. It is a crime to engaged in fraud or impairment of a legitimate government activity, 18 U.S.C. § 371, a conspiracy against rights, 18 USC § 241, and a deprivation of rights under color of law, 18 USC § 242.

I suppose one could opine that the Florida Attorney General was part of this scheme, but I rather leave that accusation to others.

Also in May 2013 Mr. Rodems filed a UPL complaint against me, for appearing pro se for my own interests, which The Florida Bar opened the Unlicensed Practice of Law Investigation of Neil J. Gillespie; Case No. 20133090(5). In turn I contacted federal and international authorities seeking political refugee status for protection from political persecution by The Florida Bar.

The UPL complaint against me is without merit. Unfortunately lying is a habit for Mr. Rodems. He lied so much about The Gillespie Family Living Trust Agreement Dated February 10, 1997 ("Trust") that I made the Trust public. The Trust appears at Doc. 3 in case no. 5:11-cv-00539. Doc. 4 is my mother Penelope Gillespie's *Last Will and Testament* naming my bother personal representative, and naming me as an alternative.

Mr. Rodems falsely told The Florida Bar that I “represented a Trust in state and federal court litigation”. Mr. Rodems is wrong. I only represent my personal interest in the trust as permitted by law. I appear *pro se* because I am indigent and financially unable to obtain adequate representation. My brother Mark Gillespie has an interest in the trust. He and wife Joetta Gillespie are represented by the law firm Kaufman, Englett and Lynd, PLLC, Orlando Florida, by and through attorneys Tiffany Caparas and Ryan Ghantous.

Mr. Rodems also falsely told The Florida Bar that I represented as a “personal representative” of the “Estate of Penelope Gillespie” in another case. Mr. Rodems is wrong. I was not appointed personal representative by court order, and never claimed I was so appointed. Fla. Prob. R., Rule 5.030(a) Exception, allows me to represent my sole interest in matters of estate. No one has petitioned for formal administration of the Estate of Penelope Gillespie. There are no assets. A summary administration may be done at some point. Also see Lituchy v. Estate of Lituchy.

Lituchy v. Estate of Lituchy, - So.3d -, 2011 WL 2135597 (Fla. 4th DCA Jun 01, 2011)  
The trial court denied the *pro se* petition for formal administration of the estate of the appellant's wife, because the appellant was not represented by an attorney. We reverse, because the petition states that the appellant is his wife's sole beneficiary. Thus, he is entitled to file the petition without the necessity of an attorney. See Fla. Prob. R. 5.030(a) (“Every guardian and every personal representative, unless the personal representative remains the sole interested person, shall be represented by an attorney admitted to practice in Florida.”) (emphasis added); Benedetto v. Columbia Park Healthcare Sys., 922 So.2d 416 (Fla. 5th DCA 2006).

<http://www.scribd.com/doc/90008415/FL-Rule-5-030-a-Pro-Se-Estate>

UPL is defined by Rule 10-1.2(a):

#### RULE 10-2.1 GENERALLY

Whenever used in these rules the following words or terms shall have the meaning herein set forth unless the use thereof shall clearly indicate a different meaning:

(a) Unlicensed Practice of Law. The unlicensed practice of law shall mean the practice of law, as prohibited by statute, court rule, and case law of the state of Florida.

Rule 10-1.2(a) shows Mr. Rodems engaged in UPL by representing the state of Florida in my federal court action. I was unaware of Rule 10-1.2(a) until the UPL complaint brought this to my attention. UPL is also a criminal offense. F.S. § 454.23 provides up to 5 years incarceration.

A licensed attorney and member of The Florida Bar can engage in the unlicensed practice of law if the law practice is prohibited, *see* Rule 10–1.2(a). Only the Florida Attorney General may represent the state in a federal court action. Fla Const Art IV § 4, and FS § 16.01. State ex rel.

Shevin v. Weinstein 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).

Since Mr. Rodems is not the Florida Attorney General, he committed UPL by representing the state in my federal court action.

In the past Mr. Rodems unlawfully represented his firm, Barker, Rodems & Cook, P.A., and partner, William J. Cook, against me in six appeals in the Second District Court of Appeal: 2D11-2127, 2D10-5529, 2D10-5197, 2D08-2224, 2D07-4530, 2D06-3803. Mr. Rodems also unlawfully represented his firm and client as a counter-party against me. Mr. Rodems' self-representation and litigation against me, a former client on the substantially same matter as the prior litigation, was unlawful as provided by Florida Bar Rules and case law:

Rule 4-1.7 Conflict of Interest; Current Clients

Rule 4-1.9 Conflict of Interest; Former Client

Rule 4-1.10 Imputation of Conflicts of Interest

McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995, and other cases.

Rule 4-1.7 Conflict of Interest; Current Clients. Mr. Rodems representation of his firm and partner against me, a former client violated (a) Representing Adverse Interests (2) substantial risk that the representation of his firm and partner materially limited the lawyer's responsibilities to me, a former client, by a personal interest of Mr. Rodems. See Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, July 9, 2010, 05-CA-7205, 190 pages and posted on Scribd.  
<http://www.scribd.com/doc/55960451/Emergency-Motion-to-Disqualify-Ryan-Christopher-Rodems-Barker-Rodems-Cook-05-CA-7205-July-09-2010>

Rule 4-1.9 Conflict of Interest; Former Client. A lawyer shall not (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client. (b) use information relating to the representation to the disadvantage of the former client. (c) reveal information relating to the representation about the client. Mr. Rodems' firm and law partner represented me the Amscot and ACE lawsuits, and consulted with me on disability matters with Florida DVR in DLES case no: 98-066-DVR, and other matters. Id. at *Emergency Motion to Disqualify Ryan Christopher Rodems* July 9, 2010.

Rule 4-1.10 Imputation of Conflicts of Interest (a) Imputed Disqualification of All Lawyers in Firm. While lawyers are associated in a firm, none of them shall knowingly represent a client when any 1 of them practicing alone would be prohibited from doing so. Mr. Rodems has an imputed disqualification because his law firm and partner William Cook previously represented me. Id. at *Emergency Motion to Disqualify Ryan Christopher Rodems* July 9, 2010.

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

[1] Under Florida law, attorneys must avoid appearance of professional impropriety, and any doubt is to be resolved in favor of disqualification. [2] To prevail on motion to disqualify counsel, movant must show existence of prior attorney-client relationship and that the matters in pending suit are substantially related to the previous matter or cause of action. [3] In determining whether attorney-client relationship existed, for purposes of disqualification of counsel from later representing opposing party, a long-term or complicated relationship is not required, and court must focus on subjective expectation of client that he is seeking legal advice. [5] For matters in prior representation to be "substantially related" to present representation for purposes of motion to disqualify counsel, matters need only be akin to present action in way reasonable persons would understand as important to the issues involved. [7] Substantial relationship between instant case in which law firm represented defendant and issues in which firm had previously represented plaintiffs created irrebuttable presumption under Florida law that confidential information was disclosed to firm, requiring disqualification. [8] Disqualification of even one attorney from law firm on basis of prior representation of opposing party necessitates disqualification of firm as a whole, under Florida law.

So I do not know how this Court justifies its past rulings favoring Mr. Rodems, or the Court's failure to disqualify Mr. Rodems. The Second District Court of Appeal for the state of Florida was created by the Constitution and the Florida Statutes to administer, apply, and interpret the laws of the state of Florida in a fair and unbiased manner without favoritism, extortion, improper influence, personal self-enrichment, self-dealing, concealment, and conflict of interest.

As shown in the attached letters to Messrs. Harkness and Berry, The Florida Bar (Aug-07-13 and Aug-15-13), Mr. Rodems improperly represented his partner and firm in 52 cases against me, UPL with up to 260 years imprisonment when counted consecutively. Also, my former counsel Mr. Bauer should be permanently disbarred. On June 21, 2011 I was represented by Eugene P. Castagliuolo. His failures to me as a client, and to the legal system, shows he likely committed Misprision of Felony, 18 USC § 4, engaged in a conspiracy against rights, 18 U.S.C. § 241, and deprivation of rights under color of law, 18 U.S.C. § 242.

Unfortunately the fraud or impairment of my Petition No. 12-7747, a legitimate government activity [18 U.S.C. § 371], is not limited to Mr. Rowland. Evidence shows involvement of the U.S. Eleventh Circuit, and Jeffery Atkins, Supervisor of New Cases at the U.S. Supreme Court, and perhaps others. I have no evidence, at this time, that any Justice or the Chief Justice is involved. To the contrary, Justice Thomas granted my Rule 13.5 application September 13, 2012. Below is the docket link for 12A215 on the U.S. Supreme Court website.

<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12a215.htm>

As for the appointment of counsel, including as a disability accommodation, The U.S. Eleventh Circuit adopted provisions for furnishing representation for persons financially unable to obtain adequate representation in cases and situations which do not fall within the scope of 18 U.S.C. §

3006A, as amended -- but in which the court believes that the interests of justice will be served by the presence of counsel. Addenda Five, 11th Cir. R., Non-Criminal Justice Act Counsel Appointment, (b)(2) shows cause for appointment of counsel by U.S. Judge Hodges in my district court cases [5:10-cv-503 and 5:11-cv-539] because I sought relief under 42 U.S.C. § 1983, the interest of justice would be served by the presence of counsel, and on the basis of disability and mental impairment. Unfortunately Judge Hodges failed to do so.

In addition, both the American Bar Association (ABA), and the U.N. Special Rapporteur, Independence of Judges and Lawyers, are calling for a right to counsel for indigent civil litigants like me. See “Legal aid, a right in itself” – UN Special Rapporteur, May 30, 2013,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13382&LangID=E>

and the ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings.

[http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/civil\\_right\\_to\\_counsel.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/civil_right_to_counsel.html)

U.S. Supreme Court noted in Powell v. Alabama, 287 U.S. 45, 68-69 (1932):

The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. . . .He lacks both the skill and knowledge adequately to prepare his defense, even though he had a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him.

International law. Article VI of the U.S. Constitution provides in part, “...all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” I believe the following Treaties of the United States support appointment of counsel. Otherwise there is no way a nonlawyer can be assured of the rights, immunities and privileges of the Treaties. See Powell V. Alabama.

- The International Covenant on Civil and Political Rights (ICCPR). Signed by President Carter October 5, 1977, Ratified by the United States June 8, 1992. The United States declares that it accepts the competence of the Human Rights Committee to receive and consider communications under article 41 in which a State Party claims that another State Party is not fulfilling its obligations under the Covenant.
- The United Nations Convention against Corruption (UNCAC). Signed by the United States December 9, 2003, and ratified by the United States October 30, 2006.
- Convention on the Rights of Persons with Disabilities. Signed by the United States July 30, 2009, but not yet ratified by the United States.



- Universal Declaration of Human Rights (UDHR). Resolution 217(A)(III) of the United Nations General Assembly, December 10, 1948.
- The 1967 Protocol relating to the Status of Refugees.

Finally, I believe Tennessee v. Lane supports counsel for mental impairment disabilities when considered with Powell v. Alabama and my right to fundamental access to courts.

The U.S. Supreme Court in Tennessee v. Lane, 541 U.S. 509 (2004) held “As it applies to the class of cases implicating the fundamental right of access to the courts, Title II constitutes a valid exercise of Congress’ authority under §5 of the Fourteenth Amendment to enforce that Amendment’s substantive guarantees. Pp. 4–23.”

<http://www.law.cornell.edu/supct/html/02-1667.ZS.html>

Justice Stevens delivered the opinion of the Court. “Title II of the Americans with Disabilities Act of 1990 (ADA or Act), 104 Stat. 337, 42 U. S. C. §§12131–12165, provides that “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.” §12132. The question presented in this case is whether Title II exceeds Congress’ power under §5 of the Fourteenth Amendment...”

The ADA was passed by large majorities in both Houses of Congress after decades of deliberation and investigation into the need for comprehensive legislation to address discrimination against persons with disabilities. In the years immediately preceding the ADA’s enactment, Congress held 13 hearings and created a special task force that gathered evidence from every State in the Union. The conclusions Congress drew from this evidence are set forth in the task force and Committee Reports, described in lengthy legislative hearings, and summarized in the preamble to the statute. 2 Central among these conclusions was Congress’ finding that

“individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.” 42 U. S. C. §12101(a)(7).

The Eleventh Amendment renders the States immune from “any suit in law or equity, commenced or prosecuted ... by Citizens of another State, or by Citizens or Subjects of any Foreign State.” Even though the Amendment “by its terms ... applies only to suits against a State by citizens of another State,” our cases have repeatedly held that this immunity also applies to unconsented suits brought by a State’s own citizens. *Garrett*, 531 U. S., at 363; *Kimel v. Florida Bd. of Regents*, 528 U. S. 62, 72–73 (2000). Our cases have also held that Congress may abrogate the State’s Eleventh Amendment immunity. To determine whether it has done so in any given case, we “must resolve two predicate questions: first, whether Congress unequivocally

expressed its intent to abrogate that immunity; and second, if it did, whether Congress acted pursuant to a valid grant of constitutional authority.” Id ., at 73.

My ability to function in real-time is severely impaired, making court appearances without counsel impossible. In the past Florida and federal courts, judges, judicial officers and court employees have abused their power by using a position of dominance for advantage over me knowing I am especially vulnerable because I am disabled with mental and physical impairments. It has taken me a long time to unravel the confusion caused by this abuse of power.

Thank you in advance for the courtesy of a response.

Sincerely,

A handwritten signature in cursive script that reads "Neil J. Gillespie". The signature is written in black ink and is positioned above the printed name and address.

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

Telephone: (352) 854-7807  
Email: [neilgillespie@mfi.net](mailto:neilgillespie@mfi.net)

## Neil Gillespie

---

**From:** "Jim Birkhold, Clerk" <Birkholj@flcourts.org>  
**To:** "Neil Gillespie" <neilgillespie@mfi.net>  
**Sent:** Tuesday, October 01, 2013 2:05 PM  
**Subject:** RE: Please find attached a courtesy copy of an Application for Order and cover letter delivered today to the Court. This is not e-service.

We are extremely overtaxed as today begins mandatory e-filing by attorneys and lots of difficulties for all in this domain. I don't have the time to study your email, and may not. If you have any further specific questions for me, please keep it short and I will endeavor to answer them to the best of my ability.

---

**From:** Neil Gillespie [mailto:neilgillespie@mfi.net]  
**Sent:** Tuesday, October 01, 2013 1:48 PM  
**To:** Jim Birkhold, Clerk  
**Cc:** Jo Haynes  
**Subject:** Re: Please find attached a courtesy copy of an Application for Order and cover letter delivered today to the Court. This is not e-service.

Hon. James Birkhold, Clerk of Court  
 Second District Court of Appeal Florida

Dear Clerk Birkhold:

Thank you for this information. Okay, so the paper of September 20, 2013 is an order but does not show the names of the judges who denied the motion. I was confused and thought you may have made the decision administratively. But in fact this is a judicial decision. Since my motion was misplaced I will not seek any appeal of its denial.

I show two emails from you below, but no response concerning the status of the other files. Other than 2D10-5197, the other files show "destroyed" except 2D08-2224, it shows returned records 01/13/10 but not destroyed.

I show the following two emails responses from you, if I am missing something please advise. Recently my email provider changed how messages are screened, so I may have missed your email.

Thursday, August 22, 2013 2:55 PM: You are welcome to submit such a motion but it may be stricken if it does not carry a certificate of service. If you do send it off please alert me so that I can be sure it is sent to the proper piece of the court for consideration, thanks.

Thursday, August 22, 2013 4:48 PM: It is not for me to judge the acceptability of a submission. Send it along if you choose and confirm that you have, thanks.

Rule 2.430(g), Fla.R.Jud.Admin., does not require the applicant to state a reason for wanting the file, so I did not do so. But the Court should be aware of certain issues. You may be aware of this already, if so please excuse the redundancy.

On December 10, 2012 I timely filed a petition for writ of certiorari to the U.S. Supreme Court, No. 12-7747. The petition was denied February 19, 2013 and rehearing denied April 15, 2013. This is a link to the U.S. Supreme Court docket page <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>

This is a link to my blog page showing the Reasons for Granting the Petition, with an embedded PDF of the petition at the bottom of the page. <http://nosueorg.blogspot.com/2012/12/petition-for-writ-of-certiorari-to.html>

In May 2013 Chief Assistant Attorney General Diana R. Esposito provided me public records that show Thirteenth Circuit General Counsel David Rowland concocted with others a scheme to falsely portray to Kenneth Wilson, Fla. Asst. Attorney General, that I did not serve Rowland my petition per Supreme Court Rule 29. Mr. Wilson claims he relied on Rowland's ruse, and did not submit a brief in opposition due the Court January 14, 2013. See my blog page "David Rowland misled Florida AG, SCOTUS Petition" with an embedded PDF of my letter at the bottom of the page. <http://nosueorg.blogspot.com/2013/06/david-rowland-misled-florida-ag-scotus.html>

Without a response by Attorney General Pam Bondi for the State of Florida, my petition was denied due process under the Fifth and Fourteenth Amendments. The Supreme Court relies on briefs in opposition as part of its adversarial process to properly litigate and decide a petition. Florida's opposition brief was due January 14, 2013. Attorney General Bondi did not submit a response for Florida, and therefore no opposition brief was distributed for the Conference of February 15, 2013. It is a crime to engaged in fraud or impairment of a legitimate government activity, 18 U.S.C. § 371, a conspiracy against rights, 18 USC § 241, and a deprivation of rights under color of law, 18 USC § 242.

I suppose one could opine that the Florida Attorney General was part of this scheme, but I rather leave that accusation to others.

Also in May 2013 Mr. Rodems filed a UPL complaint against me, for appearing pro se for my own interests, which the Florida Bar opened the Unlicensed Practice of Law Investigation of Neil J. Gillespie; Case No. 20133090(5). In turn I contacted federal and international authorities seeking political refugee status for protection. UPL is defined by Rule 10-1.2(a)

#### RULE 10-2.1 GENERALLY

Whenever used in these rules the following words or terms shall have the meaning herein set forth unless the use thereof shall clearly indicate a different meaning:

(a) Unlicensed Practice of Law. The unlicensed practice of law shall mean the practice of law, as prohibited by statute, court rule, and case law of the state of Florida.

The UPL complaint against me is without merit. However Rule 10-1.2(a) shows Mr. Rodems engaged in UPL by representing the state of Florida in my federal court action. I was unaware of Rule 10-1.2(a) until the UPL complaint brought this to my attention. UPL is also a criminal offense, F.S. § 454.23, which provides up to 5 years incarceration.

A licensed attorney and member of The Florida Bar can engage in the unlicensed practice of law if the law practice is prohibited, *see* Rule 10-1.2(a). Only the Florida Attorney General may represent the state in a federal court action. Fla Const Art IV § 4, and FS § 16.01. State ex rel. Shevin v. Weinstein 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).

Since Mr. Rodems is not the Florida Attorney General, he committed UPL representing the state in my federal court action.

In the past Mr. Rodems unlawfully represented his firm, Barker, Rodems & Cook, P.A., and partner, William J. Cook, against me in six appeals in the Second District Court of Appeal: 2D11-2127, 2D10-5529, 2D10-5197, 2D08-2224, 2D07-4530, 2D06-3803. Mr. Rodems also unlawfully represented his firm and client as a counter-party against me. Mr. Rodems' self-representation and litigation against me, a former client on the substantially same matter as the prior litigation, was unlawful as provided by Florida Bar Rules and case law:

Rule 4-1.7 Conflict of Interest; Current Clients

Rule 4-1.9 Conflict of Interest; Former Client

Rule 4-1.10 Imputation of Conflicts of Interest

McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995, and other cases.

Rule 4-1.7 Conflict of Interest; Current Clients. Mr. Rodems representation of his firm and partner against me, a former client violated (a) Representing Adverse Interests (2) substantial risk that the representation of his firm and partner materially limited the lawyer's responsibilities to me, a former client, by a personal interest of Mr. Rodems. See Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, July 9, 2010, 05-CA-7205, 190 pages and posted on Scribd. <http://www.scribd.com/doc/55960451/Emergency-Motion-to-Disqualify-Ryan-Christopher-Rodems-Barker-Rodems-Cook-05-CA-7205-July-09-2010>

Rule 4-1.9 Conflict of Interest; Former Client. A lawyer shall not (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client. (b) use information relating to the representation to the disadvantage of the former client. (c) reveal information relating to the representation about the client. Mr. Rodems' firm and law partner represented me the Amscot and ACE lawsuits, and consulted with me on disability matters with Florida DVR in DLES case no: 98-066-DVR, and other matters. Id. at *Emergency Motion to Disqualify Ryan Christopher Rodems* July 9, 2010.

Rule 4-1.10 Imputation of Conflicts of Interest (a) Imputed Disqualification of All Lawyers in Firm. While lawyers are associated in a firm, none of them shall knowingly represent a client when any 1 of them practicing alone would be prohibited from doing so. Mr. Rodems has an imputed disqualification because his law firm and partner William Cook previously represented me. Id. at *Emergency Motion to Disqualify Ryan Christopher Rodems* July 9, 2010.

McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. [1] Under Florida law, attorneys must avoid appearance of professional impropriety, and any doubt is to be resolved in favor of disqualification. [2] To prevail on motion to disqualify counsel, movant must show existence of prior attorney-client relationship and that the matters in pending suit are substantially related to the previous matter or cause of action. [3] In determining whether attorney-client relationship existed, for purposes of disqualification of counsel from later representing opposing party, a long-term or complicated relationship is not required, and court must focus on subjective expectation of client that he is seeking legal advice. [5] For matters in prior representation to be "substantially related" to present representation for purposes of motion to disqualify counsel, matters need only be akin to present action in way reasonable persons would understand as important to the issues involved. [7] Substantial relationship between instant case in which law firm represented defendant and issues in which firm had previously

represented plaintiffs created irrebuttable presumption under Florida law that confidential information was disclosed to firm, requiring disqualification. [8] Disqualification of even one attorney from law firm on basis of prior representation of opposing party necessitates disqualification of firm as a whole, under Florida law.

So I do not know how the Court justifies its past rulings favoring Mr. Rodems, or what explains the Court's failure to disqualify Mr. Rodems. The Second District Court of Appeal for the state of Florida was created by the Constitution and the Florida Statutes to administer, apply, and interpret the laws of the state of Florida in a fair and unbiased manner without favoritism, extortion, improper influence, personal self-enrichment, self-dealing, concealment, and conflict of interest.

As shown in the attached letters to Messrs. Harkness and Berry, The Florida Bar (Aug-07-13 and Aug-15-13), Mr. Rodems improperly represented his partner and firm in 52 cases against me, UPL with up to 260 years imprisonment when counted consecutively. Also, my former counsel Mr. Bauer should be should be permanently disbarred. On June 21, 2011 I was represented by Eugene P. Castagliuolo. His failures to me as a client, and to the legal system, shows he likely committed Misprision of Felony, 18 USC § 4, engaged in a conspiracy against rights, 18 U.S.C. § 241, and deprivation of rights under color of law, 18 U.S.C. § 242.

The fraud or impairment of my Petition No. 12-7747, a legitimate government activity [18 U.S.C. § 371], is not limited to Mr. Rowland. Evidence shows involvement of the U.S. Eleventh Circuit, and Jeffery Atkins, Supervisor of New Cases at the U.S. Supreme Court, and perhaps others. I have no evidence, at this time, that any Justice or the Chief Justice is involved. To the contrary, Justice Thomas granted my Rule 13.5 application September 13, 2012. Below is the docket for 12A215 U.S. Supreme Court.

<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12a215.htm>

As for the appointment of counsel, including as a disability accommodation, The U.S. Eleventh Circuit adopted provisions for furnishing representation for persons financially unable to obtain adequate representation in cases and situations which do not fall within the scope of 18 U.S.C. § 3006A, as amended -- but in which the court believes that the interests of justice will be served by the presence of counsel.

Addenda Five, 11th Cir. R., Non-Criminal Justice Act Counsel Appointment, (b)(2) shows cause for appointment of counsel by U.S. Judge Hodges in my district court cases because I sought relief under 42 U.S.C. § 1983, the interest of justice would be served by the presence of counsel, and on the basis of disability and mental impairment. Unfortunately Judge Hodges failed to do so.

In addition, Both the American Bar Association (ABA), and the U.N. Special Rapporteur, Independence of Judges and Lawyers, are calling for a right to counsel for indigent civil litigants like me. See "Legal aid, a right in itself" – UN Special Rapporteur, May 30, 2013,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13382&LangID=E>

and ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings.

[http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/civil\\_right\\_to\\_counsel.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/civil_right_to_counsel.html)

U.S. Supreme Court noted in *Powell v. Alabama*, 287 U.S. 45, 68-69 (1932):

The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. . . .He lacks both the skill and knowledge adequately to prepare his defense, even though he had a perfect one. He requires the

guiding hand of counsel at every step in the proceedings against him.

International law. Article VI of the U.S. Constitution provides in part, "...all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." I believe the following Treaties of the United States support appointment of counsel.

The International Covenant on Civil and Political Rights (ICCPR). Signed by President Carter October 5, 1977, Ratified by the United States June 8, 1992. The United States declares that it accepts the competence of the Human Rights Committee to receive and consider communications under article 41 in which a State Party claims that another State Party is not fulfilling its obligations under the Covenant.

The United Nations Convention against Corruption (UNCAC). Signed by the United States December 9, 2003, and ratified by the United States October 30, 2006.

Convention on the Rights of Persons with Disabilities. Signed by the United States July 30, 2009, but not yet ratified by the United States.

Universal Declaration of Human Rights (UDHR). Resolution 217(A)(III) of the United Nations General Assembly, December 10, 1948.

The 1967 Protocol relating to the Status of Refugees.

Finally, I believe Tennessee v. Lane supports counsel for mental impairment disabilities when considered with Powell v. Alabama.

The U.S. Supreme Court in Tennessee v. Lane, 541 U.S. 509 (2004) held "As it applies to the class of cases implicating the fundamental right of access to the courts, Title II constitutes a valid exercise of Congress' authority under §5 of the Fourteenth Amendment to enforce that Amendment's substantive guarantees. Pp. 4–23." <http://www.law.cornell.edu/supct/html/02-1667.ZS.html>

Justice Stevens delivered the opinion of the Court. "Title II of the Americans with Disabilities Act of 1990 (ADA or Act), 104 Stat. 337, 42 U. S. C. §§12131–12165, provides that "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." §12132. The question presented in this case is whether Title II exceeds Congress' power under §5 of the Fourteenth Amendment..."

The ADA was passed by large majorities in both Houses of Congress after decades of deliberation and investigation into the need for comprehensive legislation to address discrimination against persons with disabilities. In the years immediately preceding the ADA's enactment, Congress held 13 hearings and created a special task force that gathered evidence from every State in the Union. The conclusions Congress drew from this evidence are set forth in the task force and Committee Reports, described in lengthy legislative hearings, and summarized in the preamble to the statute. 2 Central among these conclusions was Congress' finding that

"individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society." 42 U. S. C. §12101(a)(7).



The Eleventh Amendment renders the States immune from "any suit in law or equity, commenced or prosecuted ... by Citizens of another State, or by Citizens or Subjects of any Foreign State." Even though the Amendment "by its terms ... applies only to suits against a State by citizens of another State," our cases have repeatedly held that this immunity also applies to unconsented suits brought by a State's own citizens. *Garrett*, 531 U. S., at 363; *Kimel v. Florida Bd. of Regents*, 528 U. S. 62, 72–73 (2000). Our cases have also held that Congress may abrogate the State's Eleventh Amendment immunity. To determine whether it has done so in any given case, we "must resolve two predicate questions: first, whether Congress unequivocally expressed its intent to abrogate that immunity; and second, if it did, whether Congress acted pursuant to a valid grant of constitutional authority." *Id.*, at 73.

My ability to function in real-time is severely impaired, making court appearances without counsel impossible. In the past Florida and federal courts, judges, judicial officers and court employees have abused their power by using a position of dominance for advantage over me knowing I am especially vulnerable because I am disabled with mental and physical impairments. It has taken me a long time to unravel the confusion caused by this abuse of power.

In the past Mr. Birkhold I found you to be an exception to the above abuse of power issue. I appreciate your professionalism, and trust it sees us through the ultimate resolution of this injustice. Thank you.

Sincerely,

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

----- Original Message -----

**From:** [Jim Birkhold, Clerk](#)

**To:** ['Neil Gillespie'](#)

**Cc:** [Jo Haynes](#)

**Sent:** Tuesday, October 01, 2013 8:47 AM

**Subject:** FW: Please find attached a courtesy copy of an Application for Order and cover letter delivered today to the Court. This is not e-service.

In response to your inquiry/cover letter, see responses that follow:

The order of September 20, 2013, does not carry the names of the judges ruling on your motion, which is this court's policy on all but dispositional orders that conclude the consideration of a proceeding.

Reasons are frequently not explained in orders and opinions.

The allusion to section 119 Florida Statutes is technically not correct I suppose, because as you point out access to judicial records is addressed in the rules of judicial administration. That said, public records requests made per section 119 are received and considered here. This is a minor misstatement of the correct authority but does not in my view undermine the ruling itself.

The order does not address the status of records that have been destroyed, but I believe I shared that information with you earlier.



The cost associated with judicial records requested is \$1 a page. There is no provision for waiving the fees for indigent applicants.

I am the custodian of records associated with proceedings in this court.

At some point if you believe you are entitled to ADA accommodations, I refer you to this court's marshal, Jo Haynes. If there comes a time that you believe you are entitled to the appointment of a guardian ad litem I suggest you address that by motion, as that is something beyond the authority of the marshal or clerk.

Your "application for order" has been docketed and will be sent to the court for its consideration.

James Birkhold, Clerk, 2d DCA

---

**From:** Neil Gillespie [mailto:neilgillespie@mfi.net]

**Sent:** Monday, September 30, 2013 5:43 PM

**To:** Jim Birkhold, Clerk

**Subject:** Please find attached a courtesy copy of an Application for Order and cover letter delivered today to the Court. This is not e-service.

Hon. James R. Birkhold, Clerk of Court  
Second District Court of Appeal Florida

Dear Clerk Birkhold:

Please find attached a courtesy copy of an Application for Order and cover letter delivered today to the Court. This is not e-service. The documents were served by UPS Ground and delivered today. Thank you.

Sincerely,

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

**DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327  
(863) 499-2290  
Date: October 7, 2013  
re: Case Number:**

In response to your recent communication, please see the paragraph(s) marked below.

\_\_\_ There appears to be no proceeding pending in the court similar to the one you describe.

\_\_\_ I am not authorized to provide the legal advice that would provide answers to your inquiry.

\_\_\_ This case is pending in this court and you (or your attorney if you are represented) will be notified by mail when a decision is reached.

\_\_\_ The court's mandate was issued on \_\_\_\_\_. It signifies that the appeal is now closed in this court. Only the original mandate, which is sent to the clerk of the lower court, is accompanied by the opinion issued earlier, which was provided at that time to the parties.

\_\_\_ The panel assigned to this appeal has given no reason for its ruling and is not required to do so.

\_\_\_ Canon 3 of the Code of Judicial Conduct prohibits judges from reading or considering your letter.

\_\_\_ This court cannot act on your request to prompt action by the circuit court unless jurisdiction is conferred upon it by the filing of an original proceeding in mandamus in this court.

\_\_\_ This court has not yet received the appeal of which you speak. The brief/motion you filed will be linked up to that appeal when it arrives from the circuit court.

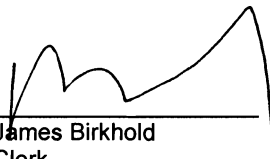
\_\_\_ Your filing will not be considered by the court because you have an attorney representing you and the filing is not authorized.

\_\_\_ Action will not be taken upon your request, nor will it be docketed. Judicial action results only if a formal motion that includes a certificate of service on the opposing party or counsel is filed.

\_\_\_ Copies from this court's file are available at \$1 per page. If you are still interested in obtaining copies from this court, please advise and by return mail we will indicate the number of pages involved. Alternatively, you may wish to contact your appellate attorney if you have one regarding this request.

\_\_\_ The name and address of your current attorney is:

**Other: Judge Davis has turned over your lengthy submission to me for a response. 2D08-2224 we do not show has been destroyed, although the time has expired to retain the file and it is possible it has been destroyed and a clerical error may lead to the conclusion that we retain it. This file if we have it is stored offsite. On our next trip to that storage area we will check and get back to you on this. The other concerns you express in your submission do not seem to be matters that would invite appropriate comment from the court.**

  
James Birkhold  
Clerk  
w:\document\gillespie

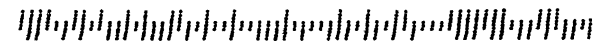
DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327



EC  
Neil J. Gillespie  
8092 S W 115th Loop  
Ocala, FL 34481

2D10-5197

3448133567 R067



VIA United Parcel Service (U.P.S.)

August 7, 2013

John F. Harkness, Executive Director  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
Email to: [jharkness@flabar.org](mailto:jharkness@flabar.org)  
VIA U.P.S. No. 1Z64589FP294298711

John T. Berry, Legal Director  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
Email to: [jberry@flabar.org](mailto:jberry@flabar.org)  
VIA U.P.S. No. 1Z64589FP290482724

RE: Letter July 17, 2013 of Ms. Craft closing Complaint by Neil J. Gillespie  
against Robert W. Bauer The Florida Bar File No. 2013-00,540 (8B)

Dear Messrs. Harkness and Berry:

This is a request to review the closure by Ms. Craft of my complaint against Robert W. Bauer. Ms. Craft's letter July 17, 2013 closing my complaint is enclosed. The letter reached me after I sent my letter of July 19, 2013. Still, I show no response from Linda Calvert-Hanson, Director, Center for Professionalism.

I do not believe a review by Shanell M. Schuyler will be sufficient. Therefore I am requesting an in-person review with John T. Berry, or his designee, to review my complaint. I would like the review video recorded and transcribed.

Ms. Craft's letter, a report of her purported "investigation" of my complaint, is evidence of incompetence by The Florida Bar and its complaint process. It should embarrass The Bar.

I request The Florida Bar immediately adopt in its entirety the recommendations of the American Bar Association (ABA) published in the Report of the Commission on Evaluation of Disciplinary Enforcement by the ABA Commission on Evaluation of Disciplinary Enforcement (1989-1992), also known as the 1992 ABA McKay Report.

Mr. Berry was a member of the ABA Commission that issued the 1992 ABA McKay Report.

Ms. Craft's review of my complaint was so incompetent that I call into question her fitness and qualifications as Bar Counsel.

The Florida Bar also has a conflict of interest reviewing my complaint because The Bar's Lawyer Referral Service provided Mr. Bauer as a referral to me February 26, 2007. Exhibit 1. I retained Mr. Bauer as a result of the referral. The conflict includes LRS fees of twelve percent (12%) calculated on billing, which I determine amount to \$2,305.49 on \$19,212.44 I paid Bauer to represent me. A conflict of interest is defined by Black's Law Dictionary, Sixth Edition, copy of which appears at Exhibit 2: (underline added)

**Conflict of interest.** Term used in connection with public officials and fiduciaries and their relationship to matters of private interest or gain to them. Ethical problems connected therewith are covered by statutes in most jurisdictions and by federal statutes on the federal level. The Code of Professional Responsibility and Model Rules of Professional Conduct set forth standards for actual or potential conflicts of interest

between attorney and client. Generally, when used to suggest disqualification of a public official from performing his sworn duty, term "conflict of interest" refers to a clash between public interest and the private pecuniary interest of the individual concerned. Gardner v. Nashville Housing Authority of Metropolitan Government of Nashville and Davison County, Tenn., C.A.Tenn., 514 F.2d 38, 41. A situation in which regard for one duty tends to lead to disregard of another. U.S. v. Miller, C.A.Mass., 463 F.2d 600, 602.

A conflict of interest arises when a government employee's personal or financial interest conflicts or appears to conflict with his official responsibility. 18 U.S.C.A. § 203 et seq.

In the past I unsuccessfully requested in my complaint against Mr. Rodems, TFB No. 2013-10,271 (13E), a Rule 3-3.4(b) Special Grievance Committee to review the closure, because, *Local components, such as local bar investigative committees, foster cronyism as well as prejudice against unpopular respondents.* - ABA McKay Report.

There is a conflict in a profession investigating itself. "A conflict of interest (COI) occurs when an individual or organization is involved in multiple interests, one of which could possibly corrupt the motivation for an act in another." [http://en.wikipedia.org/wiki/Conflict\\_of\\_interest](http://en.wikipedia.org/wiki/Conflict_of_interest)

The conflict of interest in the legal profession investigating a member is especially problematic. One such conflict of interest between The Florida Bar and Scott W. Rothstein prevented The Bar from seeing a problem with Rothstein until it was too late:

A pamphlet [fn1] 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 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.

[fn1] Hiring the Right Person to Help Me With My Legal Problems

The above quote is from my Petition No. 12-7747 for writ of certiorari to the U.S. Supreme Court, which itself was compromised by David Rowland, Court Counsel for the Thirteenth Judicial Circuit, and the Florida Attorney General, see my letter May 16, 2013 to Kenneth Wilson, Asst. Attorney General (Exhibit 3) and Gov. Scott and AG Bondi. Exhibit 4.

Unfortunately, the legal profession is unable to honestly and competently regulate itself.

My complaint against Mr. Bauer shows he should be disbarred as provided by The Florida Bar's Florida Standards For Imposing Lawyer Sanctions, Approved November 1986 by The Florida Bar's Board of Governors, and updated November 2000.

The Florida Bar's slogan - "Protecting Rights, Pursuing Justice, Promoting Professionalism" - is undercut by The Bar's own survey found in the *Hawkins Commission on Review of the Discipline System*, completed May 2012. The 2012 Hawkins report shows the lawyer discipline system in Florida is catastrophically broken.

The survey in Appendix E shows responses from Florida Judges in Circuit, County, and District Courts of Appeal who have filed bar complaints against lawyers. Within the state judge survey is Appendix A, Responses to Open-ended Questions. The survey in Appendix F shows responses from U.S. District Court and Bankruptcy Judges who have filed bar complaints against lawyers. The survey results show statistical proof of government ineptitude:

"Nearly three-fifths (58%) of judge respondents say they are dissatisfied" with the disciplinary job The Bar has done. A staggering 82% of all county, circuit, and appellate judges in the most populous District (the Third DCA) are "dissatisfied" with the job The Florida Bar is doing.

In Broward County the level of judicial dissatisfaction is an appalling 65%. This is the county in which Scott Rothstein served on a Florida Bar grievance committee, and was a Commissioner on the Fourth Appellate District Judicial Nomination Commission, while operating a \$1.2 billion Ponzi scheme from the law offices of Rothstein Rosenfeldt Adler P.A. right under the Bar's nose, to which he plead guilty and on June 9, 2010 received a 50-year prison sentence.

Incompetent review by Annemarie Craft of complaint by Neil J. Gillespie  
against Robert W. Bauer The Florida Bar File No. 2013-00,540 (8B)

Ms. Craft's letter did not address the substance of my complaint. Ms. Craft wrote "All correspondence and documents submitted in this matter have been carefully reviewed." Not true. My initial complaint was limited to 25 pages. As indicated in the complaint, Exhibits 1-25 are available, an additional 182 pages of evidence. Ms. Craft did not request, allow, or consider 182 pages of available documents.

Enclosed in my letter to Mr. Harkness, please find enclosed a paper copy of Exhibits 1-25, as returned to me by the Supreme Court of the United States. Kindly consider these 182 pages in the review.

Ms. Craft wrote "There appears to be some overlap in the issues between the first and second complaint." What "overlap" does Ms. Craft refer to? Unfortunately Ms. Craft does not say.

First, my 2010 complaint sought a refund of fees, so that I could pay replacement counsel. This complaint does not seek a refund of fees. Second, Mr. Watson's Letter Report of March 18, 2011 closing the complaint in compliance with Rule 3-7.4(k) shows no consideration or adjudication of any violation of the Rules of Professional Conduct.

My 2010 complaint did not allege Rule violations. Mr. Watson's Letter Report was clear: "Because the Bar only has the authority to address questions of ethics, the committee could not address any legal issues about which you may feel concerned." Thus, this complaint alleges "questions of ethics" by Mr. Bauer not previously submitted to The Florida Bar or yet considered by a grievance committee:

Breach of Rule 4-1.1. Mr. Bauer is not competent.

Breach of Rule 4-1.3. Mr. Bauer is not diligent.

Breach of Rule 4-8.4(c). Mr. Bauer engaged in dishonesty, fraud, deceit, and misrepresentation.

Breach of Rule 4-8.4(d). Mr. Bauer engaged in conduct prejudicial to the administration of justice.

Breach of Rule 4-8.3(a). Mr. Bauer failed to report misconduct of other lawyers, Mr. Rodems.

Mr. Bauer failed to file an amended complaint as agreed. Bauer wrote September 7, 2007 he planned to draft an amended complaint. Exhibit 5. Bauer failed to amended complaint. Bauer's letter misstates "we prevailed in our motion and your cause of action has been reinstated." That assertion is false. Judge Barton's order shows my pro se motion was argued; my voluntary dismissal was not effective. The case was not dismissed; thus it was not "reinstated". See Exhibit 6, text below.

This action, having come before the Court on Plaintiffs Pro Se Motion to Withdraw Plaintiffs Notice of Voluntary Dismissal, and the Court, having reviewed the file and having heard oral argument from counsel for both sides, finds:

1. The Pro Se Plaintiff filed his Notice of Voluntary Dismissal on February 7, 2007 prior to retaining his current counsel.

2. Notices of Voluntary Dismissal cannot be filed pursuant to Rule 1.420 when a counter-claim is pending without first receiving leave of court. Rogers v. Publix Super Markets, Inc., 575 So.2d 214 (Fla. 5th DCA, 1990)

3. Therefore, the Notice of Voluntary Dismissal was not effective to dismiss the Plaintiffs cause of action.

4. The Pro Se Plaintiff filed a Motion for an Order of Voluntary Dismissal prior to retaining his current counsel pursuant to Rule 1.420 on February 7, 2007 and such motion required a court order for it to be effective.

5. On February 15, 2007 the Pro Se Plaintiff filed a Notice of Withdrawal of Voluntary Dismissal.

6. Plaintiffs Motion for an Order of Voluntary Dismissal was ineffective to dismiss the Plaintiffs case.

7. It is further determined that as a matter of law that Plaintiff is not entitled to file a counter counter-complaint<sup>1</sup> in response to Defendant's Counter-Complaint absent a modification of the current rules of civil procedure.

ORDERED: Plaintiffs Notice of Voluntary Dismissal is hereby withdrawn.

Mr. Rodems appealed Judge Barton's ruling to the 2dDCA and lost. This is in my complaint.

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<sup>1</sup> The incompetent "counter-counter complaint" was drafted by and submitted by Mr. Bauer.

Unfortunately Mr. Bauer failed to seek attorney's fees under F.S. § 57.105 for Rodems frivolous appeal. Mr. Rodems appealed Judge Barton's Order Granting Plaintiff's Motion To Withdrawal Plaintiff's Notice of Voluntary Dismissal. Rodems lost. The 2dDCA held in 2D07-4530 that my claims were not dismissed, citing Fla.R.Civ.P. 1.420(a)(2), and Rogers v. Publix Super Markets, Inc., 575 So. 2d 214, 215-16 (Fla. 5th DCA 1991) (holding that when counterclaim is pending, plaintiff cannot unilaterally dismiss complaint without order of court). (Exhibit 23 in the enclosed separate volume appendix from the U.S. Supreme Court)

The foregoing is one of many examples of Mr. Bauer's incompetence. Bar complaint No. 2013-00,540 (8B) alleged not competent [Rule 4-1.1], not diligent [Rule 4-1.3].

Mr. Bauer angered Judge Barton - Not Competent - Not Diligent

Mr. Bauer angered Judge Barton because Bauer was not competent [Rule 4-1.1], not diligent [Rule 4-1.3]. From page 14 of the complaint:

Mr. Bauer was not competent and not diligent when he angered Judge Barton again March 20, 2008 when he repeatedly moved to continue a hearing because he was unprepared and failed to have an expert witness appear. (Page 5).

5 THE COURT: So, I mean, we're way down the  
6 line here. It's been continued once and if we  
7 continue it again, for what, a couple of years?  
8 Would that be enough time?

Perhaps Ms. Craft does not understand, but when a judge asks if a lawyer if he needs "a couple of years? Would that be enough time?", that is angry sarcasm by the judge, not an actual offer to continue the matter for a couple of years. And Ms. Craft should understand that it is never, ever, under any circumstance, helpful to make a judge angry. That is prejudicial to the client.

Unfortunately a judge may become easily angered by an incompetent lawyer like Bauer, and it is very difficult, sometimes impossible, to fix that broken relationship with the judge.

Mr. Bauer angered Judge Barton time, and time again

Mr. Bauer was not competent and not diligent when he angered Judge Barton by failing to amend the complaint. A transcript of a hearing October 30, 2007 on Defendants' motion for judgment on the pleadings shows Judge Barton understood the importance of amending the complaint, since this was a hearing for judgment on the pleadings. The record shows several exchanges like this with the Judge: (Transcript, October 30, 2007, pp. 14 & 19 respectively).

8 THE COURT: So are we on the pro se version of  
9 the complaint?  
10 MR. BAUER: Yes, Your Honor.  
11 THE COURT: How do you feel about that?  
12 MR. BAUER: I'd like to amend it and make it



4 [MR. BAUER] I don't see that -- I have been on this case  
5 for a whole of six months. I don't think my failure  
6 to have amended the complaint in six months is  
7 overly egregious considering we have had multiple  
8 issues to deal with, the hearings that have been  
9 required to come down here, the writ of certiorari  
10 that has been filed. I don't think there's been any  
11 delay on my part or on the part of my firm.

During a hearing on Mr. Bauer's motion to withdrawal October 1, 2009, Judge Barton agreed with me that it was "outrageous" to be using a pro se Complaint after 4 years: (Page 5).

16 MR. GILLESPIE: The thing is we're into our fourth  
17 year on this case.  
18 THE COURT: I understand.  
19 MR. GILLESPIE: And we still are working on the  
20 Plaintiff's pro se complaint  
21 THE COURT: Right.  
22 MR. GILLESPIE: which is really sort of  
23 outrageous.  
24 THE COURT: Right....

Florida Standards For Applying Lawyer Discipline, Standard 6.11

Mr. Bauer lied to the Bar in my prior complaint [Rule 4-8.4(c)], conduct involving dishonesty, fraud, deceit, and misrepresentation, and [Rule 4-8.4(d)] engaged in conduct prejudicial to the administration of justice. Florida Standards For Applying Lawyer Discipline, Standard 6.11

6.11 Disbarment is appropriate when a lawyer: (a) with the intent to deceive the court, knowingly makes a false statement or submits a false document; or it is clear that Respondent (b) improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding"

Unfortunately, Robert W. Bauer should be permanently disbarred.

Tellingly Ms. Craft wrote: "Mr. Bauer denies lying or misleading the Bar in any way." Apparently this was the extent of Craft's "investigation", and mirrors a response by a Florida judge respondent to The Bar's survey reported in the 2012 Hawkins Commission on Review of Discipline:

"I conducted an evidentiary hearing over three or four days and was regrettably required to find a lawyer had suborned perjury. After finding the lawyer guilty of contempt, I referred this matter to the Bar. I used to Chair a Grievance Committee when I practiced law, so I am very familiar with the process. The grievance committee assigned a lawyer/member to investigate. This lawyer failed to investigate properly. She never spoke to me, she never spoke to any of the other lawyers in the case, and she never reviewed any transcripts. She merely called the lawyer whom I found in contempt; he denied suborning perjury and that's all she did. She recommended a finding of no probable cause. Her investigation was a joke and embarrassed the legal system and The Florida Bar."

Found in Appendix A, Responses to Open-ended Questions [by Florida judges], page 24 (102) under survey question 10: Were you satisfied with the disposition of the referred case(s)? If dissatisfied, please explain: (OPEN-ENDED QUESTION RESPONSES).

Mr. Harkness, can you identify the judge who made the above comment, as a records request? If Ms. Craft was the Bar Counsel involved, this shows she is incompetent and should be fired.

Personally, I agree with that judge. Ms. Craft's investigation was a joke, and embarrassed the legal system and The Florida Bar.

Mr. Bauer failed to report misconduct<sup>2</sup> [Rule 4-8.3(a)] of Ryan C. Rodems, a Florida licensed attorney in private practice who engaged in UPL [Rule 10-2.1(a)] by representing the state of Florida in my federal court action - section 1983 civil rights and disability ADA [5:10-cv-503]. Only the Florida Attorney General may represent the state of Florida in a federal court action. Fla. Const. Art IV § 4, and FS § 16.01, and State ex rel. Shevin v. Weinstein.

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 Disl. 1978).

Mr. Rodems is not the Florida Attorney General, and therefore the settlement agreement and assignment of claims he concocted June 21, 2011 is void. Mr. Rodems entered this settlement agreement in my federal lawsuit, 5:10-cv-503 (Doc. 21), and sought assignment of my claims to him and his firm, and dismissal with prejudice of the federal court action. UPL is also a felony crime, *see* F.S. § 454.23, which provides for five (5) years incarceration and fines.

This settlement agreement includes Mr. Bauer and his firm, Mr. Rodems and his firm, and six (6) state of Florida defendant parties. The settlement agreement with Mr. Bauer and his firm failed to resolve \$12,650 owing in fees to Bauer and thus is a one-sided agreement favoring Bauer and prejudicial me. Depending on the timing of events and Mr. Bauer's role, he may have committed Misprision of Felony, 18 USC § 4. Mr. Bauer appears to have engaged in a conspiracy against rights, 18 U.S.C. § 241, and deprivation of rights under color of law, 18 U.S.C. § 242.

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<sup>2</sup> Mr. Rodems committed multiple violations of the Rules of Professional Conduct in this matter, *see* my complaint, Ryan Christopher Rodems, File No. 2013-10,271 (13E). Below are Bar Rules Mr. Rodems violated, which I believe Mr. Bauer should have reported.

Rule 4-3.1, Meritorious Claims and Contentions  
Rule 4-3.3, Candor Toward the Tribunal  
Rule 4-8.4(c), conduct involving dishonesty, fraud, deceit, misrepresentation  
Rule 4-8.4(d), conduct prejudicial to the administration of justice  
Rule 4-1.7 Conflict of Interest; Current Clients.  
Rule 4-1.9 Conflict of Interest; Former Client  
Rule 4-1.10 Imputation of Conflicts of Interest

That was the point of discussing Bauer holding my file, not the reason Ms. Craft cited.

Mr. Craft wrote, "...an attorney's obligation to report another attorney arises in circumstances where there is a "substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer" Rule 4-8.3(a) The comment to the rule notes: "This rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this rule."

What "measure of judgment is required" when a lawyer in private practice wrongly represents the state of Florida in a federal court action? What "measure of judgment" is required when a lawyer does not submit an amended complaint after charging \$31,000? What "measure of judgment" is required when the lawyer angers the judge over and over again? It appears Ms. Craft is working very hard to cover-up misconduct, and not get to the essence of my complaint.

Mr. Bauer refused to permit me to attend or testify at hearings in my case because Mr. Rodems would knowingly make comments to prod me "for no better purpose than to anger you". Bauer wrote me this email July 8, 2008 at 6.05 p.m. stating in part:

"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."

An attorney who knowingly prods me with comments to anger and inflame me, and deny me access to court in my case, is not an "honorable and professional" attorney suitable for judge as Mr. Bauer recommended to Gov. Crist. Mr. Bauer's inability to fashion a way for me to testify shows he is not competent (Rule 4-1.1) and not diligent (Rule 4-1.3).

Messrs. Harkness and Berry, you do not know me, but I am a law-abiding, 57 year-old man, a graduate of both a non-traditional college on the West Coast, The Evergreen State College, and well known Ivy League business school, The Wharton School, Evening Division, University of Pennsylvania, and operated a successful business in Pennsylvania. If Mr. Bauer could not control the bestial Ryan Christopher Rodems long enough for me to testify, something is terribly wrong.

Kim Pruett-Barry and Ms. Craft

It appears Kim Pruett-Barry and Ms. Craft may have cooperated to undermine my complaint. In return Ms. Pruett-Barry may have received a favorable settlement in her case allegedly abandoned by Mr. Bauer, Barry vs. McGrath case no. 2012-CA-009323-O, Orange County, Florida.

Notice of Service of Proposal for Settlement, Peter R McGrath and Peter R McGrath PA, July 27, 2013, appears on the case docket, the online "Register of Actions".

On Tuesday, May 21, 2013 3:07 PM Ms. Craft emailed me:

I apologize for not getting back to you sooner. I was out of the office last week and am just catching up on emails. I will be glad to grant you an extension. I know you had requested until 5/22/13. Since there was a delay in my responding I am willing to grant you a few more days. The new due date for your rebuttal is May 28, 2013. Please keep in mind that the your rebuttal and any enclosures together cannot exceed 25 pages.

On Tuesday, May 21, 2013 3:25 PM Kim Pruett-Barry emailed me:

Hey Neil,

Just wanted you to know that we FIRED Bauer, he is a SCUMBAG, charged us for stuff he never did, lied to us, never carried through with anything.

Just got off the phone with Ms. Craft and went into detail about some of the stuff he did, she told me, actually BEGGED me to file a complaint.

I am filing the complaint first thing tomorrow.

Sincerely,  
Kim Pruett

Mr. Craft claims Pruett-Barry did not make a complaint against Mr. Bauer. Ms. Craft's letter commented on other Bauer clients unhappy with him, names of clients and matters provided as witnesses, but had no actual involvement in my case. Mr. Craft said some did not make a complaint; why would they? Other Bauer clients made complaints that were dismissed.

Unfortunately Bar complaints are generally a waste of time. The available remedies seldom offer redress of the client's grievances against the lawyer. Not only is The Florida Bar complaint process broken, even if the complaint process worked efficiently, the outcome does not really benefit the client. Really, what client cares if a lawyer gets discipline years after the fact? A public admonishment or suspension does not fix the damage done, or return money.

Ms. Craft also accepted without investigation this claim by Mr. Bauer: "He points out that many of the issues discussed were the subject of civil litigation and are not matters for the Bar to handle." Really? What "many issues" were subject of civil litigation? What civil litigation does Bauer refer? Does he mean the Supreme Court case undermined by David Rowland of the Thirteenth Judicial Circuit, and undermined by the Attorney General? Is that litigation, or a further denial of rights under the color of law?

It appears Ms. Craft did not inquire further, but simply accepted Mr. Bauer as the final authority on The Florida Bar. Bauer decided, not Ms. Craft, that "...many of the issues discussed were the subject of civil litigation and are not matters for the Bar to handle." Does Mr. Bauer set other Bar policy too? Yes, through the lawyer-elected bar governors that are part of the catastrophically-broken Florida Bar discipline system, a practice condemned by the 1992 ABA McKay Report.

Ms. Craft determined on or about January 7, 2013 that the alleged conduct, if proven, would constitute a violation of the Rules Regulating The Florida Bar warranting the imposition of discipline [Rule 3-7.3(a)] and opened disciplinary No. 2013-00,540 (8B) against Bauer.

Realistically, if the intake investigation concluded the complaint warranted further consideration [Rule 3-7.3(b)] and was sent ultimately to a local grievance committee, it would be dismissed then, as was my 2010 complaint, because The Bar's catastrophically broken discipline system relies on crony "local discipline components" and supervision by lawyer-elected bar governors, both practices condemned by the 1992 ABA McKay Report.

Ms. Craft also wrote "There is insufficient evidence from the materials provided that Mr. Bauer has violated any of the rules adopted by the Supreme Court of Florida which govern attorney discipline." Again, this is standard Bar practice intended to conceal misconduct. Ms. Craft closed my complaint without ever requesting documents precluded by the Bar's 25 page limit. My complaint indicated that Exhibits 1-25 were available, an additional 182 pages of evidence. Ms. Craft did not request, allow, or consider 182 pages of available documents, Exhibits 1-25.

Ms. Craft: "Accordingly, continued disciplinary proceedings in this matter are inappropriate and our file has been closed. Pursuant to the Bar's records retention schedule, the computer record and file will be disposed of one year from the date of closing."

Tellingly, The Florida Bar disposes of the computer record and file one year from the date of closing, which practice and retention schedule serves to cover-up a pattern of misconduct by a lawyer, and is prejudicial to justice.

#### Ryan Christopher Rodems - Conflict of Interest

We all know that the problems in this case were caused by Mr. Rodems's conflict of interest representing his firm against me, a former client. Even Judge Barton came to this conclusion.

Judge Baron agreed with Judge Nielsen's Order, and suggested during a hearing January 26, 2010 that I make a "renewed motion to disqualify" Mr. Rodems, whose misconduct was the central obstacle in resolving this case. Transcript, January 26, 2010, page 31:

1 [MR. GILLESPIE]...This is what the Judge wrote: "This  
2 motion to disqualify is denied with prejudice  
3 except as to the basis that Counsel may be a  
4 witness and on that basis the motion is denied  
5 without prejudice." Now, for Mr. Rodems being a  
6 witness, the nature of this case is essentially he  
7 is a perpetual witness. The transcripts show that  
8 his representation is essentially on going  
9 testimony about factual matters. Many times in the  
10 transcripts he is confused. He is saying, Judge,  
11 we -- Oh, I don't mean we, I mean I as my attorney  
12 for the firm think this about my client, which is  
13 actually myself. That confusion is evident in the  
14 transcripts over and over again. I really believe  
15 he needs to be disqualified because of his ongoing

16 testimony in this matter.  
17 THE COURT: All right. Well, I assume there  
18 will be a renewed motion to disqualify that will be  
19 filed and then again set for a hearing once we  
20 establish our procedure, but we can't do that until  
21 we get what I directed you to produce within ten  
22 days from Ms. Huffer.

Mr. Bauer also misled the Bar with this statement: "Mr. Gillespie made a motion for rehearing in December of 2006 which was also denied." No. The motion for rehearing was tabled by Judge Isom with a referral to law enforcement to investigate Mr. Rodems' false affidavit to the Court. So Bauer simply lied to the Bar when he wrote the motion for rehearing Dec-2006 was "denied".

Mr. Bauer further misled the Bar in his statement about allegations in my Bar complaint showing the disqualification of Rodems was required: "These are the same arguments that were made in support of the February 2006 motion and denied." Mr. Bauer knows this is a false statement, as set forth in ¶¶ 60-61, Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, July 9, 2010:

60. A hearing on Plaintiff's Motion to Disqualify Counsel was held April 25, 2006. Mr. Rodems presented the following case law in support of his position. The cases are largely irrelevant to this matter and set of facts. Rodems failed to disclose to the court legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel....

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

Closing Statement Fraud - Barker, Rodems & Cook, PA  
Clement, Blomefield, and Gillespie v. AMSCOT Corporation

William J. Cook and his two partners Ryan Christopher Rodems and Chris A. Baker concocted a closing statement fraud when they represented me in the Amscot<sup>3</sup> case by asserting a phony "claim" of \$50,000 in "court-awarded fees and costs". However the district court did not award

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<sup>3</sup> Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie v. AMSCOT Corporation, Case No. 01-14761-AA, U.S. 11th Circuit Court of Appeals.

any fees. The district court dismissed the action with prejudice, and the matter settled for the business reasons of Amscot while on appeal to the U.S. Eleventh Circuit, no. 01-14761-AA.

Mr. Cook and his partners took a 90% fee of a \$56,000 total recovery, instead of a 45% fee permitted by Florida Bar Rule 4-1.5(f)(5), which denied me and two other clients \$9,143 each, our lawful share of the \$56,000 total recovery. This resulted in an unjust enrichment of \$21,431 for Barker, Rodems & Cook, P.A., who paid me and the other two clients \$2,000 each instead of \$9,143 each, causing each client a loss of \$7,143. The preceding figures are not mine, but determined in 2009 by Florida attorney Seldon J. Childers for me.

Mr. Cook claimed he was not required to disclose or itemize under Rule 4-1.5(f)(5) costs of \$3,580.67, or show \$2,544.79 paid to Mr. Alpert, because "AMSCOT Corporation separately paid my attorneys \$50,000.00 to compensate my attorneys for their claim against AMSCOT for court-awarded fees and costs." But the "claim" to \$50,000.00 for "court-awarded fees and costs" was later determined false. There were no court-awarded fees of \$50,000. Mr. Cook's *Closing Statement Fraud* was a trick to evade the terms of the contingent fee agreement, and payment to me of \$9,143, my lawful share of the \$56,000 total recovery. The closing statement is attached.

Prior to litigation I complained to The Florida Bar. In 2003 I called ACAP, RFA 03-18867. In response Barker, Rodems & Cook accused me of criminal extortion. On June 7, 2004 I made a written complaint to The Bar's Tampa Branch Office. Asst. Staff Counsel William L. Thompson, opened TFB No. 2004-11,734(13C). Six months later Thompson was gone. Susan Bloemendaal was then, and is today, Tampa Chief Branch Discipline Counsel. Ms. Bloemendaal closed the file by letter February 9, 2005 without a finding of misconduct.

Neil J. Gillespie v. Barker, Rodems & Cook, PA, et al.  
Case no. 05-CA-7205, Hillsborough County, Florida

I am a consumer of legal and court services affecting interstate commerce in this case.

I commenced this lawsuit, 05-CA-7205, August 11, 2005 by filing the Complaint and paying a \$255 filing fee, in cash, to the Clerk of the Court. I paid an additional \$40 cash August 11, 2005 to the Hillsborough County Sheriff to serve the Complaint on the Defendants.

I sued pro se the Defendants, my former lawyers, to recover the above described loss in Clement, Blomefield, and Gillespie v. AMSCOT Corporation, no. 01-14761-AA, U.S. Eleventh Circuit.

The Circuit Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, is a court created by statute to administer, apply, and interpret the laws of the state of Florida in a fair and unbiased manner without favoritism, extortion, improper influence, personal self-enrichment, self-dealing, concealment, and conflict of interest.

James M. Barton, II, Martha Jean Cook, and Claudia Rickert Isom, were all elected judges for the Thirteenth Judicial Circuit, and were by virtue of that position of trust, an officer and employee of state government, responsible for lawfully performing and discharging her duties

without bias, favoritism, extortion, improper influence, personal self enrichment, self-dealing, concealment, and conflict of interest.

Barker, Rodems & Cook's Former Representation of Client Neil J. Gillespie

Barker, Rodems & Cook, PA is a successor firm to Alpert, Barker, Rodems, Ferrentino & Cook, P.A. that formerly represented me in some of the same matters.

Barker, Rodems & Cook, PA ("BRC") is a small, three partner law firm and Florida professional service corporation formed August 4, 2000 with corporate officers, partners and key employee:

- a. Chris A. Barker, Florida Bar ID no. 885568, president of BRC. ("Barker")
- b. Ryan Christopher Rodems, Florida Bar ID no. 947652, vice president of BRC. ("Rodems")
- c. William J. Cook, Florida Bar ID no. 986194, secretary/treasurer of BRC. ("Cook")
- d. Lynne Anne Spina, notary public and legal assistant. ("Spina")

Prior to BRC, Messrs. Barker, Rodems, Cook and Ms. Spina were employed by Alpert, Barker, Rodems, Ferrentino & Cook, P.A., a law firm led by Jonathan Alpert.

Alpert, Barker, Rodems, Ferrentino & Cook, P.A. ("Alpert firm") was a law firm and Florida professional service corporation that ended on or about December 8, 2000. The Alpert firm had the following partners, associate, and key employee:

- a. Jonathan Louis Alpert, Florida Bar ID no. 121970 (partner)
- b. Chris A. Barker, Florida Bar ID no. 885568 (partner)
- c. Ryan Christopher Rodems, Florida Bar ID no. 947652 (partner)
- d. David Dominick Ferrentino, Florida Bar ID no. 908754 (partner)
- c. William J. Cook, Florida Bar ID no. 986194 (partner)
- d. Scott James Flint, Florida Bar ID no. 85073 (associate)
- e. Lynne Anne Spina, notary public and legal assistant

The Alpert firm is not a party to this action. BRC and the Alpert firm coexisted for a period of four (4) months, August 4, 2000 through December 8, 2000.

The Alpert firm formerly represented me as a client in the AMSCOT case, and ACE Cash Express case. I do not have a dispute with the Alpert firm. The Alpert firm is not part of this litigation. I did not make complaints against the Alpert firm.

In addition to the loss sued for in Clement, Blomefield, and Gillespie v. AMSCOT Corporation, no. 01-14761-AA, U.S. Eleventh Circuit, William J. Cook and Barker, Rodems & Cook, P.A. (BRC) represented or consulted with me on other payday loan cases where I did not waive conflict, did not initiate civil litigation against BRC, and did not make Bar complaints against lawyers at Barker, Rodems & Cook, P.A:



Neil Gillespie v. ACE Cash Express, Inc., case no. 8:00-CV-723-T-23B, in United States District Court, Middle District of Florida, Tampa Division. (Circuit Court, Hillsborough Consolidated Case No. 99-9730). This was a “payday loan” case like AMSCOT.

Other Matters Where BRC Formerly Represented Gillespie

William Cook and Barker, Rodems & Cook, PA consulted with me on disability and employment matters where I did not waive conflict, did not initiate civil litigation against BRC, and did not make Bar complaints against the lawyers at Barker, Rodems & Cook, P.A.:

EZ Check Cashing of Clearwater, National Cash Advance, Florida Division of Vocational Rehabilitation (DVR) and St. Petersburg Junior College. The payday loan matters with EZ Check Cashing of Clearwater and National Cash Advance began as Alpert firm matters. The matters with the Florida DVR and St. Pete Junior College were brought to the Alpert firm during the period of coexistence of the Alpert firm and BRC, but put on hold until BRC was in full operation.

Documentary evidence that BRC formerly represented me, for the purpose of disqualification:

- January 16, 2001 letter from BRC/Mr. Cook to Neil Gillespie about lawsuit EZ Check Cashing of Clearwater. (Exhibit 7)
- March 27, 2001 letter from BRC/Mr. Cook to Neil Gillespie about matter with the Florida Div. of Vocational Rehabilitation. (Exhibit 8)
- May 25, 2001 letter from BRC/Mr. Cook to Neil Gillespie about matter with St. Petersburg Junior College. (Exhibit 9)
- May 30, 2001 letter from BRC/Mr. Cook to Kelly Peterson, branch manager of National Cash Advance, “This firm represents Neil Gillespie” (Exhibit 10)

Rule 4-1.7 Conflict of Interest; Current Clients. Mr. Rodems representation of his firm and partner against me, a former client violated (a) Representing Adverse Interests (2) substantial risk that the representation of his firm and partner materially limited the lawyer's responsibilities to me, a former client, by a personal interest of Mr. Rodems. See Emergency Motion to Disqualify Defendants’ Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA, July 9, 2010, 05-CA-7205, 190 pages and posted on Scribd. <http://www.scribd.com/doc/55960451/Emergency-Motion-to-Disqualify-Ryan-Christopher-Rodems-Barker-Rodems-Cook-05-CA-7205-July-09-2010>

Rule 4-1.9 Conflict of Interest; Former Client. A lawyer shall not (a) represent another person in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client. (b) use information relating to the representation to the disadvantage of the former client. (c) reveal information relating to the representation about the client. Mr. Rodems’ firm and law partner represented me the Amscot and ACE lawsuits, and consulted with me on disability matters with Florida

DVR in DLES case no: 98-066-DVR, and other matters. Id. at *Emergency Motion to Disqualify Ryan Christopher Rodems* July 9, 2010.

Rule 4-1.10 Imputation of Conflicts of Interest (a) Imputed Disqualification of All Lawyers in Firm. While lawyers are associated in a firm, none of them shall knowingly represent a client when any 1 of them practicing alone would be prohibited from doing so. Mr. Rodems has an imputed disqualification because his law firm and partner William Cook previously represented me. Id. at *Emergency Motion to Disqualify Ryan Christopher Rodems* July 9, 2010.

McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995, see Exhibit 3.

[1] Under Florida law, attorneys must avoid appearance of professional impropriety, and any doubt is to be resolved in favor of disqualification. [2] To prevail on motion to disqualify counsel, movant must show existence of prior attorney-client relationship and that the matters in pending suit are substantially related to the previous matter or cause of action. [3] In determining whether attorney-client relationship existed, for purposes of disqualification of counsel from later representing opposing party, a long-term or complicated relationship is not required, and court must focus on subjective expectation of client that he is seeking legal advice. [5] For matters in prior representation to be "substantially related" to present representation for purposes of motion to disqualify counsel, matters need only be akin to present action in way reasonable persons would understand as important to the issues involved. [7] Substantial relationship between instant case in which law firm represented defendant and issues in which firm had previously represented plaintiffs created irrebuttable presumption under Florida law that confidential information was disclosed to firm, requiring disqualification. [8] Disqualification of even one attorney from law firm on basis of prior representation of opposing party necessitates disqualification of firm as a whole, under Florida law.

Mr. Bauer violated RULE 4-8.3 - REPORTING PROFESSIONAL MISCONDUCT

Rule 4-8.3(a) Reporting Misconduct of Other Lawyers. A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate professional authority.

#### Rule 4-8.3 Comment

Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

This is a lot more to discuss. Lets plan for a full day to go through this complaint for a real investigation, not another white-wash. Thank you, I appreciate your time and consideration.

John F. Harkness, Executive Director, The Florida Bar  
John T. Berry, Legal Director, The Florida Bar

August 7, 2013  
Page - 16

Sincerely,

A handwritten signature in cursive script that reads "Neil J. Gillespie". The signature is written in black ink and is positioned above the printed name and address.

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

Enclosures, Separate Volume Appendix, Exhibits 1-25 to the Bauer complaint, 182 pages of evidence not considered by Mr. Craft. Provided to Mr. Harkness only.

Original to John F. Harkness, Executive Director, and John T. Berry, each signed in wet-ink.

Cc: Florida Bar email service list - August 7, 2013

Florida Bar email service list - August 7, 2013

Eugene K. Pettis, President, The Florida Bar  
epettis@hpslegal.com

Gregory William Coleman, President-elect 2013-14, The Florida Bar  
gcoleman@bclclaw.com

John F. Harkness, jharkness@flabar.org, an officer of The Florida Bar (Rule 1-5.1), the Executive Director, with duties prescribed in Chapter 2 (Rule 1-5.2 Duties); and the Records Custodian for The Florida Bar, Rule 2.420(b)(3), Fla. R. Jud. Admin.

Paul F. Hill, phill@flabar.org, General Counsel, The Florida Bar; and the Americans with Disabilities Act (ADA) Coordinator for The Florida Bar.

John Thomas Berry, Director, Legal Division, The Florida Bar  
jberry@flabar.org

Kenneth Lawrence Marvin, Director of Lawyer Regulation, The Florida Bar  
kmarvin@flabar.org

Linda Calvert-Hanson, Director of the Center for Professionalism  
lcalvert@flabar.org

David Hallman, Chair, TFB Standing Committee on Professionalism  
dhallman@nassaucountyfl.com

Mary Ellen Bateman, Division Director, Ethics & Advertising, UPL and Special Projects  
mbateman@flabar.org

Annemarie Craft, ACAP Bar Counsel  
ACraft@flabar.org



## THE FLORIDA BAR

651 EAST JEFFERSON STREET  
TALLAHASSEE, FL 32399-2300

JOHN F. HARKNESS, JR.  
EXECUTIVE DIRECTOR

850/561/5600  
WWW.FLORIDABAR.ORG

July 17, 2013

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

Re: Complaint by Neil J. Gillespie against Robert W. Bauer  
The Florida Bar File No. 2013-00,540 (8B)

Dear Mr. Gillespie:

All correspondence and documents submitted in this matter have been carefully reviewed. This is the second complaint you have filed against Mr. Bauer. There appears to be some overlap in the issues between the first and second complaint. I will not revisit issues addressed in the first complaint. The new issues you have raised can be distilled down to Mr. Bauer's refusal to return your case file, his failure to report other members of The Florida Bar for misconduct, his lack of diligence and lack of competence. You also have argued that Mr. Bauer has a pattern or practice of taking cases not pursuing them diligently and then withdrawing once the client can no longer afford the attorneys fees.

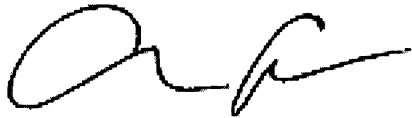
Mr. Bauer has responded to the new complaint. He claims that in both your case and Dr. Woodhull's case his liens are valid. Under Florida law Mr. Bauer was not required to turn over the file while there was a valid lien that remained unresolved. Mr. Bauer denies lying or misleading the Bar in any way. He points out that many of the issues discussed were the subject of civil litigation and are not matters for the Bar to handle.

With regard to the pattern or practice you mentioned five clients of Mr. Bauer. While Ms. Pruett-Barry has expressed dissatisfaction with Mr. Bauer as of this date I have not received a written complaint from her. The Bar investigated complaints filed against Mr. Bauer by Mr. Strauss and the DeCourseys and closed those investigations. Mr. Bauer briefly outlined what was done in Dr. Woodhull's case. He stated that Dr. Woodhull terminated him because she could no longer afford his services. There is nothing currently in the ACAP system regarding Ms. Hodges filing a complaint against Mr. Bauer. There is not enough evidence to establish any pattern or practices of "churning" files. Finally an attorney's obligation to report another attorney arises in circumstances where there is a "...substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer..." Rule 4-8.3(a) The comment to the rule notes: "This rule limits the reporting obligation to those offenses that a self-regulating profession must

vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this rule.”

There is insufficient evidence from the materials provided that Mr. Bauer has violated any of the rules adopted by the Supreme Court of Florida which govern attorney discipline. Accordingly, continued disciplinary proceedings in this matter are inappropriate and our file has been closed. Pursuant to the Bar’s records retention schedule, the computer record and file will be disposed of one year from the date of closing.

Sincerely,

A handwritten signature in black ink, appearing to be 'AC', written over a horizontal line.

Annemarie Craft, Bar Counsel  
Attorney Consumer Assistance Program  
ACAP Hotline 866-352-0707

cc: Mr. Robert W. Bauer

➡ **Lawyer Referral Service**

**Referral Confirmation**

**PLEASE PRINT AND BRING THIS CONFIRMATION FORM WITH YOU TO THE LAWYER'S OFFICE.**

**You have been referred to:**

**Robert W. Bauer  
2815 NW 13th St Ste 200E  
Gainesville FL 32609-2865  
PH: (352) 3755960**

**FOR THE FOLLOWING AREAS OF LAW: *Libel & Slander***

**THE LAWYERS ON THE FLORIDA BAR LAWYER REFERRAL SERVICE HAVE AGREED TO PROVIDE A HALF-HOUR OFFICE CONSULTATION FOR NO MORE THAN \$25.00. PLEASE CALL THE LAWYER'S OFFICE TO MAKE AN APPOINTMENT. THE LAWYER WILL NOT CONTACT YOU. PLEASE REMEMBER TO INFORM THE OFFICE THAT YOU WERE REFERRED BY THE FLORIDA BAR LAWYER REFERRAL SERVICE.**

**TO HELP YOU PREPARE FOR YOUR CONSULTATION, PLEASE CONSIDER READING THE FOLLOWING FLORIDA BAR CONSUMER PAMPHLETS:**

**A Consumer's Guide to Clients' Rights    Attorneys' Fees**

**YOU ARE UNDER NO OBLIGATION TO HIRE THE LAWYER.**

**THE LAWYER IS UNDER NO OBLIGATION TO TAKE YOUR CASE.**

**YOU MUST CONTACT THE REFERRED LAWYER BEFORE MAKING ANOTHER REFERRAL REQUEST.**

**Your lawyer was selected based on the information provided below:**

**You requested a lawyer who is licensed in: Florida and willing to work in, but not located in a specific county**

**What county: Marion**

**We have several attorney panels, please select the panel you need: Regular**

**What area of law do you need an attorney for? Libel & Slander**

**Do you have a special language requirement?**

**Must the attorney be willing to make a Jail call? No**

**Personal Information: Neil Gillespie  
8092 SW 115th Loop**

**Ocala FL 34481  
352/8547807**



confirmation document is originally sent by the auditor to the customer.

In bankruptcy, refers to a judicial approval of a Bankruptcy Code Chapter 11, 12, or 13 plan.

**Confirmation of sale.** The confirmation of a judicial sale by the court which ordered it is a signification in some way (usually by the entry of an order) or the court's approval of the terms, price, and conditions of the sale.

**Confirmatio omnes supplet defectus, licet id quod actum est ab initio non valuit** /kɒnfərméyʃh(iy)ow ómniy sáplət dəfékʔəs, lisət id kwòd áktəm èst əb ənɪʃh(iy)ow nòn vályuwət/. Confirmation supplies all defects, though that which had been done was not valid at the beginning.

**Confirmatio perficiens** /kɒnfərméyʃh(iy)ow pəfɪʃhɪyenz/. A confirmation which makes valid a wrongful and defeasible title, or makes a conditional estate absolute.

**Confirmat usum qui tollit abusum** /kɒnfərmət yúwzəm kwáy tólət əbyúwzəm/. He confirms the use [of a thing] who removes the abuse [of it].

**Confirmavi** /kɒnfərméyvi/. Lat. I have confirmed. The emphatic word in the ancient deeds of confirmation.

**Confirmed credit.** In commercial law, means that the credit must carry the direct obligation of an agency which does business in the seller's financial market. U.C.C. § 2-325.

**Confirmee** /kɒnfərmíy/. The grantee in a deed of confirmation.

**Confirming bank.** A bank which engages either that it will itself honor a credit already issued by another bank or that such a credit will be honored by the issuer or a third bank. U.C.C. § 5-103.

**Confirmor** /kɒnfírmər/. The grantor in a deed of confirmation.

**Confiscable** /kɒnfɪskəbəl/kənfɪskəbəl/. Capable of being confiscated or suitable for confiscation; liable to forfeiture.

**Confiscare** /kɒnfəskəriy/. In civil and old English law, to confiscate; to claim for or bring into the fisc, or treasury.

**Confiscate** /kɒnfəskeɪt/. To appropriate property to the use of the government. To adjudge property to be forfeited to the public; to seize and condemn private forfeited property to public use. To take property from enemy in time of war. *See also* Confiscation; Forfeiture.

**Confiscation** /kɒnfəskéyʃən/. Act of confiscating. The seizure of private property by the government without compensation to the owner, often as a consequence of conviction for crime, or because possession or use of the property was contrary to law. The provisions of due process prohibit the confiscation of property without compensation except where the property is taken in the valid execution of the police power. *See also* Condemna-

tion; Confiscate; Eminent domain; Expropriation; Forfeiture; Seizure.

**Confiscation acts.** Certain acts of congress enacted during the process of the civil war (1861 and 1862) in the exercise of the war powers of the government and meant to strengthen its hands and aid in suppressing the rebellion, which authorized the seizure, condemnation, and forfeiture of "property used for insurrectionary purposes".

**Confiscation cases.** The name given to a group of fifteen cases decided by the United States supreme court in 1868, on the validity and construction of the confiscation acts of congress. Reported in 7 Wall. 454, 19 L.Ed. 196.

**Confiscatory rates.** With respect to utilities, are rates which do not afford a reasonable return on value of property at time it is used in public service; rates which do not afford net return sufficient to preserve utility's property and to attract capital necessary to enable utility to discharge its public duties.

**Confisk.** An old form of *confiscate*.

**Confitens reus** /kɒnfətenz ríyəs/. An accused person who admits his guilt.

**Conflicting evidence.** Evidence offered by plaintiff and defendant, or prosecutor and defendant which is inconsistent and cannot be reconciled.

**Conflict of authority.** A division between two or more courts (generally courts of last resort) on some legal principal or application of law. May also refer to disparity between authorities on a subject. *See also* Choice of law; Conflict of laws.

**Conflict of interest.** Term used in connection with public officials and fiduciaries and their relationship to matters of private interest or gain to them. Ethical problems connected therewith are covered by statutes in most jurisdictions and by federal statutes on the federal level. The Code of Professional Responsibility and Model Rules of Professional Conduct set forth standards for actual or potential conflicts of interest between attorney and client. Generally, when used to suggest disqualification of a public official from performing his sworn duty, term "conflict of interest" refers to a clash between public interest and the private pecuniary interest of the individual concerned. *Gardner v. Nashville Housing Authority of Metropolitan Government of Nashville and Davidson County, Tenn., C.A.Tenn., 514 F.2d 38, 41.* A situation in which regard for one duty tends to lead to disregard of another. *U.S. v. Miller, C.A.Mass., 463 F.2d 600, 602.*

A conflict of interest arises when a government employee's personal or financial interest conflicts or appears to conflict with his official responsibility. 18 U.S.C.A. § 203 et seq.

**Conflict of laws.** Inconsistency or difference between the laws of different states or countries, arising in the case of persons who have acquired rights, incurred obligations, injuries or damages, or made contracts, within



VIA U.P.S. No. 1Z64589FP294626428  
and kenneth.wilson@myfloridalegal.com

May 16, 2013

Kenneth V. Wilson, Assistant Attorney General  
Civil Litigation Bureau -Tampa  
Office of the Attorney General  
501 E Kennedy Blvd., Suite 1100  
Tampa, Florida 33602

RE: Missing Public Records, Gillespie v. Thirteenth Judicial Circuit, Florida, et al.  
Petition No. 12-7747 for Writ of Certiorari, Supreme Court of the United States

Dear Mr. Wilson:

So sorry to see you got duped by court counsel David Rowland and paralegal Sandra Burge, who misrepresented to you that I did not provide Mr. Rowland a copy of Petition No. 12-7747. That must explain why the petition was not among the 323 pages of public records provided by your office that arrived here in Ocala May 9, 2013 in response to my records request.

An email (Exhibit 1) from Mr. Rowland's paralegal Sandra Burge to Chief Assistant Attorney General Diana R. Esposito 12/20/2012 at 12:51 PM, Cc to David Rowland and Chris Nauman, advanced this material falsehood, which Ms. Esposito sent to you, Cc to Amanda Cavanaugh:

The Plaintiff's Notice of Filing the petition for writ of certiorari was received in the Legal Department's Office on 12/18/12 is attached as well as the Court's docket indicating a response is due, if needed, by January 14, 2013. Neither a copy of the petition nor "separate Volume Appendices" accompanied the Notice.

A letter (Exhibit 2) emailed by you January 8, 2013 repeated the falsehood back to Mr. Rowland:

While Plaintiff did not provide a copy of his Petition....

On December 10, 2012 I served Mr. Rowland per Rule 29, proof of service, the following:

1. Petition for writ of certiorari to the Supreme Court of the United States,
2. Rule 39 motion for leave to proceed in forma pauperis
3. Rule 29 proof of service, December 10, 2012
4. Compact Disk (CD) containing PDF files of the separate volume appendices.
5. My cover letter to the Clerk of the U.S. Supreme Court, December 10, 2012

United Parcel Service (UPS) tracking 1Z64589FP297520287 shows delivery December 11, 2012 at 10:55 AM to the Thirteenth Judicial Circuit, 800 E. Twiggs Street, Tampa, Florida 34481. FYI, all UPS ground shipping within Florida is delivered next day, unless shipped on Friday.

The UPS proof of delivery for 1Z64589FP297520287 December 11, 2012 shows "DAVIS" at the front desk signed for the delivery, and shows an image of the signature "D. Davis". A seven (7) page composite of the UPS proof of delivery and tracking documents is enclosed. (Exhibit 3).

**EXHIBIT**

**3**

The document referred to by Ms. Burge in her deceptive email to Ms. Esposito was a Rule 12.3 notice, and notice of waiver to file a response, delivered December 18, 2012 at 10:44 AM to the Thirteenth Judicial Circuit. Unfortunately Ms. Burge, Mr. Rowland, and Mr. Nauman failed to inform you that my petition was delivered a week earlier, December 11, 2012 at 10:55 AM.

The Thirteenth Circuit gang further mislead you by providing you my December 10, 2012 cover letter to the Clerk of the Supreme Court which they date-stamped December 18, 2012, when this letter was in fact a second courtesy copy of the one received by Rowland December 11, 2012 but does not appear date-stamped as such in the records your office provided me May 9, 2013.

Enclosed you will find evidence showing I served by UPS the Rule 12.3 notice, and notice of waiver to Mr. Rowland December 17, 2012 tracking no. 1Z64589FP291778029, which was delivered December 18, 2012 at 10:44 AM, to the Court's address, 800 E. Twiggs Street, Tampa, Florida. The UPS proof of delivery shows "DAVIS" at the front desk signed for the delivery. A composite of the UPS proof of delivery and tracking documents is enclosed. (Exhibit 4).

The Supreme Court sent me three (s) sets of Rule 12.3 notices, and notices of waiver to file a response, December 14, 2013 after my petition was docketed, with instructions for notifying opposing counsel(s) that the case was docketed. (Exhibit 5).

You have my sympathy for any embarrassment caused by the deception of Mr. Rowland and his accomplices, that caused an inaccurate letter to issue from the Office of the Attorney General falsely implying I did not provide a copy of my petition to Mr. Rowland. (Exhibit 2).

Enclosed you will find my records request to Mr. Rowland intended to correct the record. If and when I get an accurate response back, I will provide you the correct date-stamped petition for inclusion in the record showing it was received by Mr. Rowland December 11, 2012.

Until then you can find Petition No. 12-7747 online at the link below. Thank you.  
<http://nosueorg.blogspot.com/2012/12/petition-for-writ-of-certiorari-to.html>

Sincerely,



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

cc: Gov. Rick Scott, via U.P.S. No. 1Z64589FP290544836  
cc: Attorney General Pam Bondi, via U.P.S. No. 1Z64589FP294245643

Email to: Gov. Scott, AG Bondi, AAG Esposito, ABA service list; Florida Bar service list; Mr. Anderson, Chair, Thirteenth Circuit JNC; Sixth Circuit Grievance Committee "D", Thirteenth Circuit BOG, David Rowland, K. Christopher Nauman, Sandra Burge.

VIA U.P.S. No. 1Z64589FP297024724 (Gov. Scott)  
VIA U.P.S. No. 1Z64589FP296600737 (AG Bondi)

May 24, 2013

Governor Rick Scott  
Office of Governor Rick Scott  
State of Florida, The Capitol  
400 S. Monroe St.  
Tallahassee, FL 32399-0001

Attorney General Pam Bondi  
Office of Attorney General  
State of Florida  
The Capitol PL-01  
Tallahassee, FL 32399-1050

RE: Missing Public Records, Gillespie v. Thirteenth Judicial Circuit, Florida, et al.  
Petition No. 12-7747 for Writ of Certiorari, Supreme Court of the United States

Dear Governor Scott and Attorney General Bondi:

Please find enclosed copies of Petition No. 12-7747. Unfortunately David Rowland, General Counsel for the Thirteenth Judicial Circuit, Florida, et al., mislead Kenneth V. Wilson, Assistant Attorney General, when Mr. Rowland misrepresented that I did not provide him a copy of Petition No. 12-7747. Enclosed is a copy of my letter (only) to Mr. Wilson of May 16, 2013.

Also enclosed is my public records request (only) to Mr. Rowland, which so far he has not responded to, or acknowledged. In lieu of the date-stamped petition from Mr. Rowland, I have provided separately to each of you a computer copy of Petition No. 12-7747. If Mr. Rowland ever provides the date-stamped petition I requested from him, I will provide you each a copy.

Unfortunately the Attorney General's *Synopsis of Major Issues* in Petition No. 12-7747, found in the enclosed two-page "AG Case #Tampa Monitor", is not factually accurate. I attribute the errors to Mr. Rowland's falsehoods to Ms. Esposito and Mr. Wilson about the petition.

I will respond directly to Ms. Esposito about the *Synopsis of Major Issues* in the AG Case #Tampa Monitor, to accurately inform and correct the record in Petition No. 12-7747.

Thank you for considering this matter affecting Florida's consumers of legal and court services.

Sincerely,



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

Enclosures

Cc: Diana R. Esposito, Chief-Assistant Attorney General, 501 East Kennedy Blvd., Suite 1100  
Tampa, FL 33602, via U.P.S. No. 1Z64589FP297792743; and email.

Cc email: ABA service list; the Florida Bar service list; Mr. Anderson, Chair, Thirteenth Circuit JNC; Sixth Circuit Grievance Committee "D", Thirteenth Circuit BOG; David Roland, et al.

EXHIBIT

4

September 5, 2007

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

Ref: Case Status

Dear Mr. Gillespie,

This letter is to provide you with a brief description of what occurred at last month's hearing on your motion to withdraw voluntary dismissal. As I indicated in my telephone messages after the hearing, we prevailed in our motion and your cause of action has been reinstated.

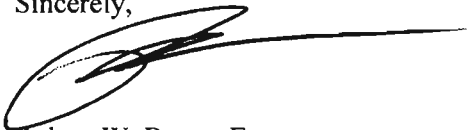
I believe it is necessary at this time to reevaluate the initial complaint and draft an amended complaint to include allegations of malpractice and breach of fiduciary duty. I believe that it is likely from the comments of opposing counsel that at this time, they are going to attempt to seek an interlocutory appeal in regards to the issue of jurisdiction over this case.

The issue of jurisdiction is more clearly stated in that they believe the court no longer has jurisdiction to hear your causes of action after the voluntary dismissal. I, of course, am willing to handle any appeal that is filed in this action and will advise you as soon as possible for a need to respond to this. However, I must advise you that the defendant seeking interlocutory appeal while the case is pending is going to cause us to have two cases to focus our attention on at one time. This is going to cause a significant amount of work on the part of our office. I only advise you of this so that you will not be surprised when the monthly attorney's bills increase significantly over the coming months.

I do not anticipate any problems from you in regard to the payment of your bills as you have been most courteous and prompt in your responses and payments to bills that have been forwarded. I simply advise you of this to give you advance warning of what might be a financial difficulty for you.

If you have any questions or concerns regarding this, please contact me.

Sincerely,



Robert W. Bauer, Esq.

RWB/kam

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

NEIL J. GILLESPIE,

Plaintiff,

CASE NO.: 05-CA-7205

vs.

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

Defendants.

---

**ORDER GRANTING PLAINTIFF'S MOTION TO WITHDRAW PLAINTIFF'S  
NOTICE OF VOLUNTARY DISMISSAL**

This action, having come before the Court on Plaintiff's Pro Se Motion to Withdraw Plaintiff's Notice of Voluntary Dismissal, and the Court, having reviewed the file and having heard oral argument from counsel for both sides, finds:

1. The Pro Se Plaintiff filed his Notice of Voluntary Dismissal on February 7, 2007 prior to retaining his current counsel.
2. Notices of Voluntary Dismissal cannot be filed pursuant to Rule 1.420 when a counter-claim is pending without first receiving leave of court. Rogers v. Publix Super Markets, Inc., 575 So.2d 214 (Fla. 5<sup>th</sup> DCA, 1990)
3. Therefore, the Notice of Voluntary Dismissal was not effective to dismiss the Plaintiff's cause of action.
4. The Pro Se Plaintiff filed a Motion for an Order of Voluntary Dismissal prior to retaining his current counsel pursuant to Rule 1.420 on February 7, 2007 and such motion required a court order for it to be effective.
5. On February 15, 2007 the Pro Se Plaintiff filed a Notice of Withdrawal of Voluntary Dismissal.
6. Plaintiff's Motion for an Order of Voluntary Dismissal was ineffective to dismiss the Plaintiff's case.
7. It is further determined that as a matter of law that Plaintiff is not entitled to file a

**EXHIBIT**

**6**

counter counter-complaint in response to Defendant's Counter-Complaint absent  
a modification of the current rules of civil procedure.

ORDERED:

Plaintiff's Notice of Voluntary Dismissal is hereby withdrawn.

**ORIGINAL SIGNED**

**AUG 31 2007**

**JAMES M. BARTON, II**  
**CIRCUIT JUDGE**

\_\_\_\_\_  
The Honorable James M. Barton, II  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER  
GRANTING PLAINTIFF'S MOTION TO WITHDRAW PLAINTIFF'S NOTICE OF  
VOLUNTARY DISMISSAL was served to the following by U.S. Mail this \_\_\_\_ day of  
\_\_\_\_\_ 2007:

Ryan C. Rodems, Esq.  
400 N Ashley Dr., Ste 2100  
Tampa, FL 33602

Robert W. Bauer, Esq.  
2815 NW 13<sup>th</sup> St., Ste 200E  
Gainesville, FL 32609

\_\_\_\_\_  
Judicial Assistant

# BARKER, RODEMS & COOK, P.A.

A PROFESSIONAL CORPORATION

300 WEST PLATT STREET, SUITE 150

TAMPA, FLORIDA 33606

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

TEL: 813/489-1001

FAX: 813/489-1008

January 16, 2001

Neil J. Gillespie  
1121 Beach Drive NE, Apt. C-2  
St. Petersburg, Florida 33701-1434

**Re: EZ Check Cashing of Clearwater, Inc. v. Gillespie**

Dear Neil:

I wanted to follow up on my previous letter to you. This confirms that we are not going to represent you in connection with your lawsuit against EZ Check Cashing.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. J. Cook', written in a cursive style.

William J. Cook

WJC/so

EXHIBIT

7

# BARKER, RODEMS & COOK

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

300 West Platt Street, Suite 150  
Tampa, Florida 33606

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

March 27, 2001

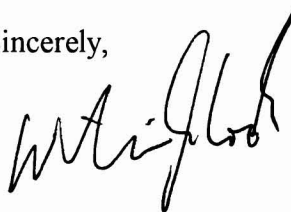
Neil J. Gillespie  
Apartment C-2  
1121 Beach Drive NE  
St. Petersburg, Florida 33701-1434

**Re: Vocational Rehabilitation**

Dear Neil:

I am enclosing the material you provided to us. We have reviewed them and, unfortunately, we are not in a position to represent you for any claims you may have. Please understand that our decision does not mean that your claims lack merit, and another attorney might wish to represent you. If you wish to consult with another attorney, we recommend that you do so immediately as a statute of limitations will apply to any claims you may have. As you know, a statute of limitations is a legal deadline for filing a lawsuit. Thank you for the opportunity to review your materials.

Sincerely,



William J. Cook

WJC/mss

Enclosures

EXHIBIT

8



# BARKER, RODEMS & COOK

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

300 West Platt Street, Suite 150  
Tampa, Florida 33606

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

May 25, 2001

Neil J. Gillespie  
Apartment C-2  
1121 Beach Drive NE  
St. Petersburg, Florida 33701-1434

**Re: St. Petersburg Junior College**

Dear Neil:

I have and thank you for your May 22, 2001 letter with enclosures. We have reviewed the materials that you provided, and while we do not disagree with your criticisms of the St. Petersburg Junior College, we are not in the position to pursue litigation. Of course, another attorney may have a different opinion. If you wish to consult with another attorney, you should do so immediately, as a statute of limitations will apply to any claims you may have. As you know, a statute of limitations is a legal deadline for filing a lawsuit.

Again, we appreciate the opportunity to review your potential claims.

Sincerely,



William J. Cook

WJC/so

EXHIBIT

9

COPY

**BARKER, RODEMS & COOK**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

300 West Platt Street, Suite 150  
Tampa, Florida 33606

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

May 30, 2001

Kelly Peterson  
Branch Manager  
National Cash Advance  
2840 34<sup>th</sup> Street North  
St. Petersburg, Florida 33713

**Re: Neil Joseph Gillespie**  
**Soc Sec No. : 160-52-5117**  
**D.O.B : 3/19/56**  
**Amount Due : \$368.00**

Dear Ms. Peterson:

This firm represents Neil Gillespie. Mr. Gillespie has provided us with a copy of your May 17, 2001 letter notifying him that he is in default because check number 1384 in the amount of \$338.00 was dishonored. Your letter is inaccurate. I am enclosing copies of correspondence from Mr. Gillespie to National Cash Advance along with National Cash Advance's response. As these materials clearly indicate, Mr. Gillespie is not in default. In fact, National Cash Advance agreed to pay him \$584.00 in exchange for Mr. Gillespie's agreement to release any claims he may have.

Your efforts to collect from Mr. Gillespie are therefore unlawful and in breach of the agreement Mr. Gillespie reached with National Cash Advance. Please cease your collection efforts immediately.

Thank you for your attention to this matter.

Sincerely,



William J. Cook

WJC/so  
Enclosures  
cc: Neil Gillespie ✓

EXHIBIT

10

VIA United Parcel Service (U.P.S.)

August 15, 2013

John F. Harkness, Executive Director  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
Email to: [jharkness@flabar.org](mailto:jharkness@flabar.org)  
VIA U.P.S. No. 1Z64589FP290057158

John T. Berry, Legal Director  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300  
Email to: [jberry@flabar.org](mailto:jberry@flabar.org)  
VIA U.P.S. No. 1Z64589FP291642764

RE: Correction and update, my letter August 7, 2013, review of Ms. Craft's improper closure of my complaint against Robert W. Bauer TFB File No. 2013-00,540 (8B)

Gentlemen:

This letter is to correct and update my letter to you August 7, 2013 and Ms. Craft's improper closure of my complaint against Mr. Bauer.

1. I requested an in-person review of my complaint against Mr. Bauer:

I do not believe a review by Shanell M. Schuyler will be sufficient. Therefore I am requesting an in-person review with John T. Berry, or his designee, to review my complaint. I would like the review video recorded and transcribed. (page 1)

This is a lot more to discuss. Lets plan for a full day to go through this complaint for a real investigation, not another white-wash. (page 16)

Unfortunately my declining health and indigent finances make that plan unworkable. Instead I would like to conduct the review by telephone on a recorded line, limited to 30 to 45 minute sessions. I regret not considering the demands of my request more carefully beforehand.

2. As indicated in my communication with Ms. Calvert Hanson August 14, 2013, a lawyer has suggested getting a federal inspector general involved. I am working on that effort.

3. Also as indicated in my communication with Ms. Calvert Hanson August 14, 2013:

"There is one correction needed concerning the number of cases where Mr. Rodems unlawfully represented his partner and firm against me, prohibited by case law, Bar Rules, UPL Rule 10-2.1(a), and F.S. § 454.23. My initial count was too low. The attached list shows 19 legal actions where Mr. Rodems was served pleadings as counsel of record. In legal actions between January 19, 2006 and September 28, 2010, Mr. Rodems improperly represented as counterparty his partner and firm. My revised count is 52 cases of UPL or a maximum 260 years imprisonment when counted consecutively. While some of the cases may not ultimately be determined as engaging in UPL, many others may be determined UPL."

4. This is a records or information request for, "Under what authority does The Florida Bar exist? Is it the integration rule, or something else?", a question posed to Ms. Calvert Hanson August 14, 2013, copy enclosed.

5. This is a records or information request showing why The Florida Bar did not adopt in its entirety recommendations of the American Bar Association (ABA) published in the Report of the Commission on Evaluation of Disciplinary Enforcement by the ABA Commission on Evaluation of Disciplinary Enforcement (1989-1992), the 1992 ABA McKay Report.

Mr. Berry was a member of the ABA Commission that issued the 1992 ABA McKay Report. Is there a reason The Florida Bar would not adopt all its recommendations? Has The Florida Bar recommend to the Fla. Supreme Court to invite an ABA review of Florida's discipline process?

Finally, another word about conflict of interest and the \$1 million value of a law license. The ABA Journal Law News Now reported July 17, 2013, "What's the value of a law degree? \$1M in a lifetime, report says" written by Debra Cassens Weiss. The ABA story discussed the value of a "law degree", but it is the "law license" that holds the value - just ask Jack Thompson. His law degree is unchanged from graduation day. His license to practice law and earn a livelihood with that license ended with his disbarment.

Bar complaints and discipline proceedings put a lawyer's law license, a \$1 million dollar asset, in jeopardy. This creates multiple conflicts of interest that undermine the discipline process. Lawyers accused of wrongdoing may resort to any means necessary to keep that license, and may even commit crimes like perjury to keep a license. Bar Counsel is understandably sensitive to the issue and may overlook misconduct that would require disbarment.

Clients who make legitimate Bar complaints face conflict and inequality due to *information asymmetry*; many consumers simply lack sufficient skill and training to make effective Bar complaints. Complaining clients also lack knowledge and understand of The Rules Regulating The Florida Bar to equally participate in the complaint and discipline process.

Thank you in advance for the courtesy of a response.

Sincerely,



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

Enclosures

Originals each signed in wet ink to John F. Harkness, and John T. Berry

cc: Florida Bar email service list

cc: Robert Bauer, by U.S. mail only

Linda Calvert Hanson, Director  
Henry Latimer Center for Professionalism  
The Florida Bar  
651 East Jefferson Street  
Tallahassee, FL 32399-2300

August 14, 2013  
via e-mail only

Dear Ms. Calvert Hanson,

Thank you for your comprehensive response. I appreciate you pointing-out that the Florida Supreme Court ordered the formation of a discipline component independent of The Florida Bar.

Has this ever happened before? Since The Florida Supreme Court has delegated to The Florida Bar the function of "disciplining" its members, I was under the impression that the Florida Bar had exclusive jurisdiction of the discipline franchise. This seems like a major policy change.

The Florida Supreme Court is Constitutionally-designated by Article V, Section 15, to regulate lawyers and admission to the practice of law, and F.S. § 454.021. Under what authority does The Florida Bar exist? Is it the integration rule, or something else?

My concern with local professionalism panels is that of the ABA McKay Report and its rebuke of local discipline components, which the Report says *Local components, such as local bar investigative committees, foster cronyism as well as prejudice against unpopular respondents*. While Order SC13-688 shows the Professionalism Commission proposed using ACAP "for initiating, processing, and resolving professionalism complaints", local components still exist.

Sorry to hear the Center for Professionalism cannot act as an ombudsperson, and that there is nothing the Center can do to assist me in this matter. That is unfortunate. However a lawyer has suggested getting a federal inspector general involved. So I am working in that possibility.

There is one correction needed concerning the number of cases where Mr. Rodems unlawfully represented his partner and firm against me, prohibited by case law, Bar Rules, UPL Rule 10-2.1(a), and F.S. § 454.23. My initial count was too low. The attached list shows 19 legal actions where Mr. Rodems was served pleadings as counsel of record. In legal actions between January 19, 2006 and September 28, 2010, Mr. Rodems improperly represented as counterparty his partner and firm. My revised count is 52 cases of UPL or a maximum 260 years imprisonment when counted consecutively. While some of the cases may not ultimately be determined as engaging in UPL, many others may be determined UPL.

Thank you again for your response. Sincerely,



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

Legal actions 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., Hobbs Act, Title 15, §1983, ADA, etc.
13. C.A.11, 12-11028-B: Estate/Gillespie v. Thirteenth Jud. Cir., FL., Hobbs Act, Title 15, §1983, ADA, etc.
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, Granted September 13, 2012, No. 12A215
19. *RCR* SCOTUS Petition for Writ of Certiorari No. 12-7747, December 10, 2012, C.A.11 12-11028, 12-11213  
Petition denied February 19, 2013; rehearing denied April 15, 2013.

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Original Case 99-2795-CIV-T-26C, Clement, Blomefield, Gillespie v. AMSCOT, December 9, 1999  
Original Appeal 01-14761-AA, Clement, Blomefield, Gillespie v. AMSCOT Corp., August 20, 2001

## Careers

# What's the value of a law degree? \$1M in a lifetime, report says

Posted Jul 17, 2013 7:42 AM CDT

By [Debra Cassens Weiss](#)

Two professors are battling the conventional wisdom about the lowered value of a law degree with a research paper finding a JD more than pays for itself.

Over a lifetime, a law grad will make \$1 million more, on average, than a college grad, according to the authors, Seton Hall University law professor Michael Simkovic and Rutgers University economics and business professor Frank McIntyre. The median increase in earnings is \$610,000. [Inside Higher Ed](#) summarizes their findings.

The median value of a JD is \$350,000 for those in the 25th percentile and \$1.1 million in the 75th percentile. "People with law degrees are still doing a lot better than people with only bachelor's degrees," Simkovic told Inside Higher Ed.

Simkovic and McIntyre used data from the Census Bureau's Survey of Income and Program Participation, which records whether individuals have law degrees, and the National Education Longitudinal Study. About two-fifths of those with JDs in the sample studied were not employed as lawyers.

The data covers four panels of graduates from 1996 through 2008 and looks at salaries through 2011. The [study](#) does not factor in tuition costs since they vary so much. Nor does it compare the value of a law degree from higher-ranked versus lower-ranked schools. Future earnings are estimated based on historic data.

"The data does not suggest that law graduates were unaffected by the recession," the study says. "Rather, earnings dropped for both law graduates and college graduates after the late 2000s recession, and law graduates maintained their relative advantage. It is this relative advantage—not absolute outcomes—that measures the value of the law degree."

"Predictions of structural change in the legal industry date back at least to the invention of the typewriter," the study says. "But lawyers have prospered while adapting to once threatening new technologies and modes of work—computerized and modular legal research through Lexis and Westlaw; word processing; electronic citation software; electronic document storage and filing systems; automated document comparison; electronic document search; email; photocopying; desktop publishing; standardized legal forms; will-making and tax-preparing software. Through it all, the law degree has continued to offer a large earnings premium."

Kyle McEntee, who co-founded Law School Transparency, told Inside Higher Ed that the professors have missed the point. "Law schools have made a habit out of capturing as much value out of their students as possible—and for a long time, used deceptive and immoral marketing tactics to do so," McEntee told Inside Higher Ed in an email. "Tens of thousands of law graduates leave school each year wondering how they're going to manage to pay off their six-figure loans. That's what motivates critics and frightens prospective law students."

*Updated at 9:35 a.m. to clarify that McIntyre is not a law professor.*

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Select Year:

## The 2014 Florida Statutes

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[Title V](#)

JUDICIAL BRANCH

[Chapter 35](#)

DISTRICT COURTS OF APPEAL

[View Entire Chapter](#)

**35.15**     **Decisions to be filed; copies to be furnished.**—All decisions and opinions delivered by the district courts of appeal or any judge thereof in relation to any action or proceeding pending in said court shall be filed and remain in the office of the clerk, and shall not be taken therefrom except by order of the court; but said clerk shall at all times be required to furnish to any person who may desire the same certified copies of such opinions and decisions, upon receiving his or her fees therefor.

**History.**—s. 1, ch. 57-248; s. 200, ch. 95-147.

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**EXHIBIT**

**Appendix 8**



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT

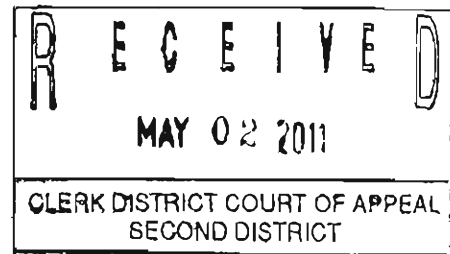
NEIL J. GILLESPIE

Plaintiff/Petitioner,

Case No.: \_\_\_\_\_  
Related Appeal: 2D10-5197  
Lower Court Case No. 05-CA-007205

vs.

BARKER, RODEMS & COOK, PA  
a Florida Corporation; and WILLIAM J. COOK,  
  
CIRCUIT COURT JUDGE JAMES D. ARNOLD,  
  
THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
  
Defendants/Respondent.



**VERIFIED EMERGENCY PETITION FOR WRIT OF PROHIBITION**

**MOTION FOR CHANGE OF VENUE**

Neil J. Gillespie ("Gillespie") Petitions the Second District Court of Appeal for an Emergency Writ of Prohibition to remove CIRCUIT COURT JUDGE JAMES D. ARNOLD as trial court judge, and to remove the THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, as venue and jurisdiction in Lower Court Case No. 05-CA-007205, and motion for a Change of Venue, and states:

Verified Emergency Petition For Writ of Prohibition, Judge James D. Arnold

I. The "Order Prohibiting Plaintiff From Appearing Pro Se" was issued in the lower tribunal September 15, 2010 by Judge Cook. (Exhibit A). On its face the Order is a sham because Judge Cook issued the Order before the time expired to respond. Judge Cook's

**EXHIBIT**

**Appendix 9**

“Order to Show Cause Why Plaintiff Should Not Be Prohibited From Appearing Pro Se” was issued November 4, 2010 (Exhibit B) and mandates:

It is therefore **ORDERED** that Plaintiff **SHALL RESPOND** to the motion, in writing, within twenty days of the date of this order and **SHOW CAUSE**, if any, why the Clerk of Court should not be instructed to reject for filing any future pleadings, petitions, motions or other documents which he submits for filing unless they are signed by a member of The Florida Bar.

The twenty day time period to respond would have run through November 24, 2010 plus an additional 5 days for service by mail, or November 29, 2010. “Order Prohibiting Plaintiff From Appearing Pro Se” was issued in the lower tribunal September 15, 2010 thereby denying Gillespie nine (9) days to respond.

2. The “Order Prohibiting Plaintiff From Appearing Pro Se” (Exhibit A) states this case is presently pending appellate review of a final summary judgment order and “There is nothing left to litigate at this time.” Yet Mr. Rodems continues to file spurious pleadings in the trial court, each of which must be reviewed and evaluated by Gillespie, members of the lower court staff, and now this Court.

3. On April 25, 2011 Gillespie served upon this Court Appellant’s Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time because opposing counsel Ryan Christopher Rodems is seeking Gillespie’s incarceration that will disrupt the appellate process. This Court granted Gillespie’s motion for leave to file an amended initial brief, to be served within 30 days, which is May 8, 2011. Mr. Rodems’ evidentiary hearing set for May 3, 2011 in the lower tribunal on “Order Adjudging Plaintiff Neil J. Gillespie In Contempt” is

seeking Gillespie's incarceration on a Writ of Bodily Attachment that will deny Gillespie time to file the brief in contempt of this Court's Order.

4. Pursuant to Fla. R. App. P., Rule 9.600(b), the jurisdiction of the lower tribunal has been divested by an appeal from a final order, making any further hearings improper in the lower tribunal unless the appellate court by order permits the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Therefore Defendants' Evidentiary Hearing is unlawful because "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" is part of a final order appeal in Case No. 2D10-5197.

5. Mr. Rodems unilaterally set for hearing without coordinating the time and date with Gillespie, an Evidentiary Hearing on the "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" (currently on appeal in 2D10-5197) for May 3, 2011 at 11:30AM.

6. Gillespie filed a Notice of Unavailability in the lower court that he is unavailable during the time set by this Court, and the Florida Rules of Appellate Procedure, to file his amended initial brief, and reply brief, and requested that no appointments, mediations, conferences, hearings, depositions, depositions duces tecum, or other legal proceedings be scheduled during that time, or prior to June 20, 2011.

7. Gillespie requested Mr. Rodems cancel the improperly set Evidentiary Hearing by letter. Mr. Rodems has not responded or canceled the hearing.

8. Gillespie informed the Honorable James D. Arnold of the foregoing by letter. Judge Arnold has not responded or canceled the hearing.

9. Gillespie filed a Motion To Stay Pending Appeal in the lower court. Mr. Rodems moved to strike on the basis that Gillespie cannot appear pro se and must have all pleadings signed by a member of the Florida Bar. (Exhibit C).

10. Because of the forgoing Gillespie fears he cannot have a fair hearing before Judge Arnold and moved to disqualify the Judge May 2, 2011. (Exhibit D). However since Gillespie cannot appear pro se, and is unable to have his pleadings signed by a member of the Florida Bar, this Court is his last resort.

Verified Emergency Petition For Writ of Prohibition, Thirteenth Judicial Circuit, Florida

Petitioner Gillespie Faces Risk To His Life And Health

11. Dr. Karin Huffer is Gillespie's disability advocate and wrote "...Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates." (October 28, 2010). Dr. Huffer's letter is attached as Exhibit E.

Introduction

12. Petitioner sued his former lawyers Barker, Rodems & Cook, PA for defrauding him of \$6,224.78 in prior representation. Barker, Rodems & Cook, PA is unlawfully representing itself against a former client on matter that is substantially the same as the prior representation<sup>1</sup>. The case is in its 6th year. The case is on its 5th trial judge. There have been 4 appeals to the 2dDCA and a previous Petition for Writ of Prohibition to remove Judge Martha J Cook, who recused sua sponte the same day. Petitioner was represented by counsel, Robert W. Bauer of Gainesville, but he dropped the case when it became too difficult. Attorney Seldon J. Childers subsequently reviewed the case for Petitioner and determined Barker, Rodems & Cook actually defrauded him of \$7,143, not \$6,224.78 claimed in the original pro se complaint. Petitioner filed Plaintiff's First

Amended Complaint May 5, 2010 but the trial court refused to consider even one amended complaint. This case shows that the Thirteenth Judicial Circuit obstructed justice to help Barker, Rodems & Cook avoid paying Gillespie \$7,143 lawfully owed him. Therefore Gillespie brought a federal Civil Rights and ADA lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no.: 5:10-cv-00503, US District Court, Middle District of Florida, Ocala Division, September 28, 2010.

Court Counsel David A. Rowland - Behind The Scene Control of Judges, ADA

13. Court Counsel David A. Rowland has been preemptively defending the Thirteenth Judicial Circuit against Petitioner's lawsuit formally announced July 12, 2010 in the notice of claim made under section 768.28(6)(a) Florida Statutes but first raised in Gillespie's letter to Mr. Rowland of January 4, 2010 requesting information about section 768.28(6)(a) Florida Statutes. Mr. Rowland is controlling the judges in this case from behind the scene since at least January 4, 2010.

14. On July 9, 2010 Mr. Rowland seized control of Petitioner's ADA accommodation request from Gonzalo B. Casares, the Court's ADA Coordinator, and issued his own letter denying the request. Likewise there is evidence that Mr. Rowland controlled Judge Cook in this case from behind the scene.

15. On July 22, 2010 at 12:24 PM Gillespie spoke by phone with Mr. Rowland about his letter of July 9, 2010 denying Gillespie's ADA request. Gillespie and Mr. Rowland discussed the notice of claim made under section 768.28(6)(a) Florida Statutes. They also discussed Mr. Rodems' representation of his firm and Gillespie's emergency motion to disqualify Rodems pending before Judge Cook. Mr. Rowland expresses surprise when

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<sup>1</sup> See Emergency Motion To Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker,

Gillespie informed him that the motion, filed July 9th, was still pending. Later that day Judge Cook denied the motion without a hearing. Judge Cook's Order was filed with the Clerk July 22, 2010 at 3.17 PM according to the Clerk's time stamp on the Order.

16. Gillespie believes the timing of events is not circumstantial, and that following the aforementioned phone call Mr. Rowland instructed Judge Cook to deny Gillespie's emergency motion to disqualify Rodems pending before her. The Order itself is unlawful, *see* 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*, filed November 1, 2010.

Thirteenth Judicial Circuit's Unlawful Conduct So Extreme Gillespie Can't Retain Counsel

17. The Thirteenth Judicial Circuit's unlawful conduct toward Gillespie is so extreme as to discourage counsel from representing him. Small firms and sole proprietors do not want to represent Gillespie and cite full caseloads as an excuse. But even Tampa's premiere 'Big Law' firm Holland & Knight would not represent Gillespie for a court-ordered deposition at its full hourly rate. The Thirteenth Judicial Circuit's departure from the rule of law offends public policy when litigants cannot obtain counsel lest they incur the court's wrath. The Thirteenth Judicial Circuit has denied Gillespie the basic requirements of justice, fairness and equality that we should all expect from our courts. The Thirteenth Judicial Circuit's behavior is immoral, unethical, oppressive, unscrupulous and substantially injurious to Gillespie. Bradford D. Kimbro, Holland & Knight's Executive Partner of the Tampa Bay Region, declined to represent Gillespie. Mr. Kimbro wrote "I have not read the letter, which was screened (but not studied) by my legal assistant... This

is to notify you that Holland & Knight LLP will not represent you...”. This is one of many firms who declined representation.

Major James Livingston, Commander Court Operations Division,  
Hillsborough County Sheriff’s Office (HCSO)

18. Major James Livingston provided Gillespie a letter January 12, 2011 that impeached Judge Cook’s “Order Adjudging Plaintiff Neil J. Gillespie In Contempt” issued September 30, 2010. See Appellant’s Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time.

19. On April 20, 2011 Gillespie requested Major Livingston prosecute violations under chapter 825, Florida Statutes, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults. Major Livingston responded today, May 2, 2011 by email “You are under a misunderstanding concerning my official role at the Courthouse - my primary responsibility is to ensure the safety and security of the Courthouse Complex facilities, its occupants, and members of the public who are visiting or conducting business here. Any investigation of Judge Cook will have to be done by another investigative entity.”

Disability Discrimination by HCSO, Thirteenth Judicial Circuit

20. The St. Petersburg Times reported February 13, 2008 about quadriplegic Brian Sterner who was dumped out of a wheelchair and onto a jail floor by HCSO Deputy Charlette Marshall-Jones. The Sheriff’s Office video shows Deputy Marshall-Jones dumping Sterner from his wheelchair like cargo from a wheelbarrow, pushing up the handles as he fell to the ground. The other deputies in the video do not intervene. One walked away smiling. A CNN video about the incident is posted on YouTube at [http://www.youtube.com/watch?v=huRYZAJ8wzA&feature=player\\_embedded](http://www.youtube.com/watch?v=huRYZAJ8wzA&feature=player_embedded)

21. HCSO Deputy Marshall-Jones dumped quadriplegic Brian Sterner out of a wheelchair and onto a jail floor because she believed Mr. Sterner was faking disability. In this case Judge Cook accused Gillespie in open court September 28, 2010 of feigning illness. (Transcript, page 3). Opposing counsel Mr. Rodems routinely accuses Gillespie of feigning illness or disability, even though his firm previously represented Gillespie on disability matters. Dr. Huffer noted this in her letter of October 28, 2010 (Exhibit E):

“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 is correct but for one detail, in the Thirteenth Judicial Circuit they dump paraplegics out of their wheelchair and accuse them of faking disability.

Gillespie Marked

Retaliation Against Gillespie by the Thirteenth Judicial Circuit, Florida

22. As a result of Gillespie’s accusations of wrongdoing against the Thirteenth Judicial Circuit, he finds himself in a position not unlike Judge Gregory P. Holder who during 2001 and 2002 cooperated with the FBI in the courthouse corruption investigation. According to testimony by Detective Bartoszak, the courthouse corruption investigation team was concerned that Judge Holder’s activities were being monitored by targets of the



investigation. Judge Holder was advised by federal law enforcement agents to carry a weapon, and he was provided with a secure cell phone to communicate with the authorities. [Bartoszak Tr. pp. 7-8, at App. 3.]. Detective Bartoszak testified that because of Judge Holder's cooperation, the investigation's targets had motive and resources to seek retribution against him. [Id. at pp. 7-8] Indeed, these targets faced not just loss of position but potential incarceration. [Id.]. At this time Gillespie fear retribution from judges, employees, and third party supporters of the Thirteenth Judicial Circuit as a result of his accusations of wrongdoing.

23. The Florida Judicial Qualifications Commission (JQC) also retaliated against Judge Holder. The JQC filed Notice of Formal Charges against Judge Holder July 18, 2003 alleging Judge Holder plagiarized 10 pages of a 21 page research report to the Faculty of the Air War College Directorate of Nonresident Studies, Air University, titled "An Analysis of the Anglo-American Combined Bomber Offensive in Europe During World War II, 1942-45." At the time Judge Holder held the rank of Lieutenant Colonel, United States Air Force Reserve. Like Gillespie, Judge Holder was accused of faking, in his case plagiarizing a research paper; Gillespie is accused of feigning disability.

24. During the trial, Judge Holder presented compelling evidence that the purported Holder paper was fabricated to retaliate against him for participating in the courthouse corruption investigation. [Bartoszak Tr. pp. 7, 12-13, at App. 3.] On June 23, 2005, the Hearing Panel of the JQC voted unanimously to dismiss the charges against Judge Holder. [Order of Dismissal, at App. 4.] Research indicates that this is the first trial defense verdict against the JQC in almost twenty years. The JCQ commenced two bogus, retaliatory inquires against Judge Holder:

a. Inquiry Concerning a Judge No. 01-303, Supreme Court Case Number: SC02-33

b. Inquiry Concerning a Judge No. 02-487, Supreme Court Case Number: SC03-1171

25. Judge Holder fought back and was awarded \$70,000 by the Florida Supreme Court for successfully defending an unsuccessful JQC Inquiry. On September 15, 2009 the Supreme Court of Florida, Case No. SC03-1171, ordered entry of judgment for Judge Gregory P. Holder for recovery of costs from the Judicial Qualifications Commission in the amount of \$70,000 for successfully defending Inquiry No. 02-487. Judge Holder's actual expenses were \$1,779,691.81 in legal fees, and cost of \$140,870.79.

#### Jurisdiction - Petition For Writ of Prohibition

26. A party may seek review of an order denying a motion for disqualification by filing a petition for writ of prohibition in the appellate court. In this case Gillespie is prohibited from filing a motion to disqualify. See Wal-Mart Stores, Inc. v. Carter, 768 So. 2d 21 (Fla. 1st DCA 2000); Carrow v. The Florida Bar, 848 So. 2d 1283 (Fla. 2d DCA 2003); Castro v. Luce, 650 So. 2d 1067 (Fla. 2d DCA 1995); Aberdeen Property Owners Ass'n, Inc. v. Bristol Lakes Homeowners Ass'n, Inc., 8 So. 3d 469 (Fla. 4th DCA 2009); J & J Towing, Inc. v. Stokes, 789 So. 2d 1196 (Fla. 4th DCA 2001); Cardinal v. Wendy's of South Florida, Inc., 529 So. 2d 335 (Fla. 4th DCA 1988); Hayslip v. Douglas, 400 So. 2d 553 (Fla. 4th DCA 1981).

27. The Thirteenth Judicial Circuit is a defendant in a federal Civil Rights and ADA lawsuit, Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTH-DAB, US District Court, MD Florida, Ocala Division. Judges have intentionally inflicted severe emotional distress on Gillespie. Judge Cook in particular misused and denied Gillespie of judicial process under the color as described in the following affidavits:

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

*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*

*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*

*Affidavit of Neil J. Gillespie, November 1, 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*

*Affidavit of Neil J. Gillespie, November 1, 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*

*Affidavit of Neil J. Gillespie, April 25, 2011, letter of Major Livingston impeaches Judge Cook's "Order Adjudging Neil J. Gillespie in Contempt"*

#### Standard On Disqualification

28. The basic principles underlying the procedure for disqualification are the same as those expressed in the Code of Judicial Conduct. Canon 3E(1) provides that a judge has an affirmative duty to enter an order of disqualification in any proceeding "in which the judge's impartiality might reasonably be questioned." The object of this provision of the Code is to ensure the right to fair trials and hearings, and to promote confidence in a fair and independent judiciary by avoiding even the appearance of partiality.

29. The central question in every motion for disqualification is whether the moving party has cause to believe that he or she will be treated unfairly. While it may be true that the judge could treat the litigant fairly in spite of the alleged facts, that is immaterial to the motion. As the supreme court explained "the question of disqualification focuses on

those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially.” Livingston v. State, 441 So. 2d 1083, 1086 (Fla. 1983).

30. The standard in determining legal sufficiency is whether a reasonable person would fear that he or she could not get a fair trial with the present judge under the circumstances outlined in the motion. See Department of Agriculture and Consumer Services v. Broward County, 810 So. 2d 1056 (Fla. 1st DCA 2002); Jimenez v. Ratine, 954 So. 2d 706 (Fla. 2d DCA 2007); Jarp v. Jarp, 919 So. 2d 614 (Fla. 3d DCA 2006); Deakter v. Menendez, 830 So. 2d 124, 49 U.C.C. Rep. Serv. 2d 849 (Fla. 3d DCA 2002); Baez v. Koelemij, 960 So. 2d 918 (Fla. 4th DCA 2007); Winburn v. Earl's Well Drilling & Pump Service, 939 So. 2d 199 (Fla. 5th DCA 2006).

31. Rule 2.330(d) defines the general grounds for disqualification and identifies several specific grounds. As previously noted, the legal procedure for disqualification is intended to serve the same general goals as the Code of Judicial Conduct. A judge is obligated by the Code of Judicial Conduct to enter an order of disqualification in any of these circumstances even if a party has not filed a motion for disqualification. It follows that a motion for disqualification is legally sufficient if it alleges any of these matters listed in Canon 3E(1).

32. A motion for disqualification can be based on the actions of the trial judge as well as the statements made by the judge. Improper conduct on the part of the judge may serve as a ground for disqualification if that conduct could prejudice the rights of a party to the case. Conflict arising from an association between the trial judge and a litigant may serve as a ground for disqualification depending on the circumstances of the case. So too, a

personal conflict that develops during the course of a proceeding may support a motion for disqualification. There are a number of Florida cases involving a trial judge's comments about a litigant. The appellate courts have generally sustained a request for disqualification if the trial judge has expressed a general opinion on the character or credibility of the litigant. A judge who renders an opinion on the character or credibility of a litigant should ordinarily be disqualified. See Brown v. St. George Island, Ltd., 561 So. 2d 253 (Fla. 1990); De-Metro v. Barad, 576 So. 2d 1353 (Fla. 3d DCA 1991).

33. Ordinarily the fact that a party has filed a civil lawsuit against the judge is not a legally sufficient basis for disqualification. May v. South Florida Water Management Dist., 866 So. 2d 205 (Fla. 4th DCA 2004). But May and similar cases do not apply in the instant case. In this case Court Counsel David A. Rowland began preemptively defending the Thirteenth Judicial Circuit against Petitioner's lawsuit formally announced July 12, 2010 in the notice of claim made under section 768.28(6)(a) Florida Statutes, but first raised in Gillespie's letter to Mr. Rowland of January 4, 2010 requesting information about section 768.28(6)(a) Florida Statutes. (Exhibit 2). Mr. Rowland is controlling the judges in this case from behind the scene since at least January 4, 2010.

34. Successive Motions. A judge may evaluate the facts alleged in a motion for disqualification if the moving party had previously disqualified another judge. Rodriguez Diaz v. Abate, 598 So. 2d 197 (Fla. 3d DCA 1992). A second motion by a party is reviewable under the stricter "legal sufficiency" standard. In Fogan v. Fogan, 706 So. 2d 382 (Fla. 4th DCA 1998), the court reversed an order by a successor judge denying a motion for disqualification because the record showed that the judge could not be impartial. In this case the record is clear that the Thirteenth Judicial Circuit can not be

impartial. The basic tenet for disqualification of a judge is that justice must satisfy appearance of justice, and this tenet must be followed even if record is lacking of any actual bias or prejudice on judge's part, and even though this stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh scales of justice equally between contending parties. Kielbania v. Jasberg 744 So.2d 1027. Florida courts hold that when trial judge leaves realm of civility and directs base vernacular towards attorney or litigant in open court, there is sufficient grounds to require disqualification. Olszewska v. Ferro 590 So.2d 11. In this case the court accused Gillespie in open court of feigning illness at a prior hearing. Tampa Fire Rescue treated Gillespie immediately following the prior hearing and produced a record supporting Gillespie's claim of illness. The Court left the realm of civility and directed base vernacular toward Gillespie when it made a gratuitous, unsupported claim of feigning illness. "A judge should be patient, dignified and courteous to litigants, ... lawyers, and others with whom he deals in his official capacity...." Fla. Bar Code Jud. Conduct, Canon 3(A)(3) (1991). When a trial judge leaves the realm of civility and directs base vernacular towards an attorney or litigant in open court, there are sufficient grounds to require disqualification. See, e.g., Lamendola v. Grossman, 439 So.2d 960 (Fla. 3d DCA 1983); Brown v. Rowe, 96 Fla. 289, 118 So. 9 (1928) (once a basis for disqualification has been established, prohibition is both appropriate and necessary). It is a fundamental right that every litigant is entitled to nothing less than the cold neutrality of an impartial judge, and it is the duty of a judge to scrupulously guard this right and refrain from attempting to exercise jurisdiction in any matter where his qualification to do so is seriously brought in question. Crosby v. State, 97 So.2d 181. Judge not only must be free of evil intent but he

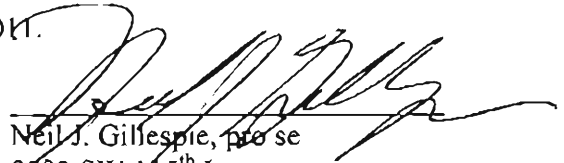
must also avoid appearance of evil. It is party's right to have judge free from any obvious source of possible unconscious bias. Aetna Life & Cas. Co. v. Thorn, 319 So.2d 82.

Motion for Change of Venue to Marion County, Florida

35. Because of the foregoing Gillespie cannot have a fair hearing in the Thirteenth Judicial Circuit and moves for a change of venue to Marion County, Florida, where he resides. In the alternative Gillespie moves to consolidate this case with the federal lawsuit Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTH-DAB, US District Court, MD Florida, Ocala Division.

WHEREFORE, Gillespie pro se demands Writ of Prohibition to remove Circuit Court Judge James D. Arnold as trial judge in the lower tribunal, and to remove the THIRTEENTH JUDICIAL CIRCUIT, FLORIDA, as venue and jurisdiction in Lower Court Case No. 05-CA-007205, and change Venue to Marion County, Florida or the federal lawsuit Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTH-DAB, US District Court, MD Florida, Ocala Division.

RESPECTFULLY SUBMITTED May 2, 2011.



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

VERIFICATION

I, Neil J. Gillespie, under penalty of perjury, swear that the facts alleged in herein are true and accurate, and I swear that the documents attached hereto are true and correct copies.

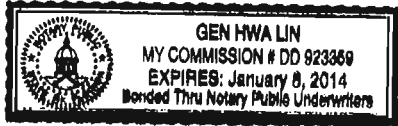
DATED May 2, 2011.

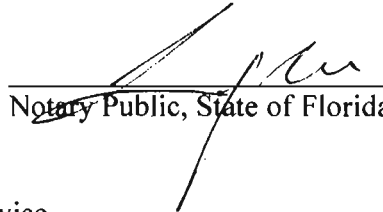


NEIL J. GILLESPIE

STATE OF FLORIDA  
COUNTY OF MARION

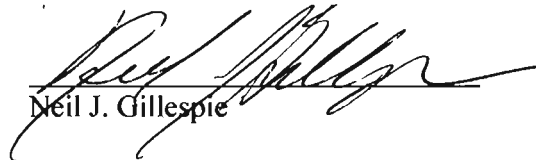
Sworn to (or affirmed) and subscribed before me May 2, 2011, by Neil J. Gillespie, who personally known to me or presented identification.



  
\_\_\_\_\_  
Notary Public, State of Florida

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed May 2, 2011 to  
Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite  
2100, Tampa, Florida 33602.

  
\_\_\_\_\_  
Neil J. Gillespie

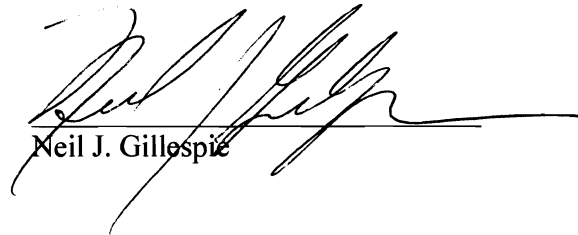


Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed May 2, 2011 to the following:

The Honorable James D. Arnold  
Circuit Court Judge  
Circuit Civil Division "J"  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

David A. Rowland, Court Counsel  
Administrative Offices Of The Courts  
Thirteenth Judicial Circuit Of Florida  
Legal Department  
800 E. Twiggs Street, Suite 603  
Tampa, Florida 33602



Neil J. Gillespie

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

**NEIL J. GILLESPIE,**  
Plaintiff,

CASE ID: 05-CA-7205

v.

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

---

DIVISION: G

**ORDER PROHIBITING PLAINTIFF FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants' "motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*," filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. Defendants allege that Plaintiff's prosecution is an affront to the dignity of the judicial system and an unacceptable burden on its resources. On November 4, 2010, this court issued the order to show cause why Plaintiff should not be prohibited from appearing *pro se*.

Among Plaintiff's response were his fourth and fifth attempts to disqualify this court. This response is typical of Plaintiff's litigation style. And his continuing course of conduct in this case is all the more troublesome because this case is presently pending appellate review of a final summary judgment order. There is nothing left to litigate at this time. Yet Plaintiff continues to file spurious pleadings with this court, each of which must be reviewed and evaluated by members of the court staff. For these reasons and the reasons enumerated in the motion, the Court hereby finds that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system, his right to full access to the court should be curtailed to the extent described in this order. Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida.



The Court therefore **ORDERS** as follows:

1. Plaintiff **SHALL CEASE** filing any pleading, correspondence, or other document in this case unless the document is signed by an attorney who is duly licensed to practice law in the State of Florida.
2. The Clerk of Court **SHALL REJECT** for filing any document received from Plaintiff which does not bear the clear and conspicuous signature of an attorney duly licensed to practice law in this state.
3. The Clerk of Court **SHALL NOT DOCKET** any pleading, correspondence or other document received from Plaintiff which is prohibited by this order.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 15<sup>th</sup> day of November, 2010.

ORIGINAL SIGNED

**NOV 15 2010**

**MARTHA J. COOK**, Circuit Judge

MARTHA J. COOK  
CIRCUIT JUDGE

Send copies to:

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

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

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

**NEIL J. GILLESPIE,**  
**Plaintiff,**

**CASE ID: 05-CA-7205**

**v.**

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

---

**DIVISION: G**

**ORDER TO SHOW CAUSE WHY PLAINTIFF  
SHOULD NOT BE PROHIBITED FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants’ “motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*,” filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. The catalogue of Plaintiff’s disruptive conduct is extensive.

The court is ever mindful of the constitutional right each citizen enjoys to access the courts of this state for the redress of their grievances.<sup>1</sup> The court is equally mindful that this is a right shared by all of this state’s citizens. Without each court’s attention to the efficient administration of justice and without each litigant’s exercise of decorum, discretion and competence in the pursuit of their claims, the right of all to access the courts becomes, in application, one which is exercised only by the litigant whose voice is loudest and whose presence is most disruptive. This the constitution does not require. The constitution grants no particular individual the right to waste those judicial resources which are vouchsafed to us all equally – judicial resources are scarce and they must be allocated prudently so that all citizens may benefit from them. And so there are standards, both of competence and of decency, which each litigant is expected to meet in the pursuit of justice. The *pro se* litigant is held to the same standard of competency as an

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<sup>1</sup> See Article I, s. 21, Florida Constitution.

attorney.<sup>2</sup> And he must adhere to the rules of court and of civil procedure as would any member of the Bar.<sup>3</sup> There is no reason to hold the *pro se* litigant to a lesser standard of decency. So we may justly look to the rules of professional conduct as well as to our common notions of decorum to find what conduct is required of every litigant. The motion alleges many facts which contradict these ideals. An abusive litigant will not be tolerated to handicap the judicial function upon which all citizens depend.<sup>4</sup>

It is therefore **ORDERED** that Plaintiff **SHALL RESPOND** to the motion, in writing, within twenty days of the date of this order and **SHOW CAUSE**, if any, why the Clerk of Court should not be instructed to reject for filing any future pleadings, petitions, motions or other documents which he submits for filing unless they are signed by a member of The Florida Bar. Failure to file a timely response to the motion may result in its being granted.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this \_\_\_\_ day of November, 2010.

ORIGINAL SIGNED  
NOV 14 2010  
MARTHA J. COOK, Circuit Judge  
MARTHA J. COOK  
CIRCUIT JUDGE

Send copies to:

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

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

---

<sup>2</sup> See *Kohn v. City of Miami Beach*, 611 So. 2d 538, 539-40 (Fla. 3d DCA 1993).

<sup>3</sup> See *Carr v. Grace*, 321 So. 2d 618 (Fla. 3d DCA 1975), *cert. denied*, 348 So. 2d 945 (Fla. 1977).

<sup>4</sup> See e.g. *Day v. State*, 903 So. 2d 886, 888 (Fla. 2005); *Platel v. Maguire, Voorhies & Wells, P.A.*, 436 So. 2d 303, 304 (Fla. 5<sup>th</sup> DCA 1983).

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.: 05-CA-007205

Division: J

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

Defendants.

\_\_\_\_\_ /

**DEFENDANTS' MOTION TO STRIKE PRO SE FILINGS BY PLAINTIFF**

Defendants Barker, Rodems & Cook, P.A. and William J. Cook move to strike all pro se filings by Plaintiff Neil J. Gillespie on or after November 15, 2010, and as grounds therefor would state:

1. On November 15, 2010, this Court entered the Order Prohibiting Plaintiff from Appearing Pro Se (November 15, 2010 Order), which Plaintiff did not appeal. A true and correct copy of the November 15, 2010 Order is attached hereto.
2. In the November 15, 2010 Order, the Court found "that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system . . . Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida." (Emphasis in original).
3. The November 15, 2010 Order also directed the Clerk to reject any filings from Plaintiff and to not docket any filings from Plaintiff.
4. In contumacious disregard of the November 15, 2010 Order, Plaintiff continues to file documents without the signature of an attorney duly licensed to practice in the State of Florida.

WHEREFORE, Defendants move to strike Plaintiffs' filings on or after November 15, 2010 that are not signed by an attorney duly licensed to practice in the State of Florida.

DATED this 26th day of April, 2011.



RYAN CHRISTOPHER RODEMS, ESQUIRE

Florida Bar No. 947652

Barker, Rodems & Cook, P.A.

400 North Ashley Drive, Suite 2100

Tampa, Florida 33602

Telephone: 813/489-1001

Facsimile: 813/489-1008

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to Neil J. Gillespie, 8092 SW 115<sup>th</sup> Loop, Ocala Florida 34481 this 26th day of April, 2011.



Ryan Christopher Rodems, Esquire

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

NEIL J. GILLESPIE,  
Plaintiff,

CASE ID: 05-CA-7205

v.

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

---

DIVISION: G

**ORDER PROHIBITING PLAINTIFF FROM APPEARING PRO SE**

**THIS MATTER** is before the Court on Defendants' "motion for an order to show cause as to why Plaintiff should not be prohibited from henceforth appearing *pro se*," filed on July 29, 2010. It is alleged that Plaintiff is an abusive litigant who should not be permitted to file further pleadings in this cause unless they are first reviewed and signed by an attorney licensed to practice law in this state. Defendants allege that Plaintiff's prosecution is an affront to the dignity of the judicial system and an unacceptable burden on its resources. On November 4, 2010, this court issued the order to show cause why Plaintiff should not be prohibited from appearing *pro se*.

Among Plaintiff's response were his fourth and fifth attempts to disqualify this court. This response is typical of Plaintiff's litigation style. And his continuing course of conduct in this case is all the more troublesome because this case is presently pending appellate review of a final summary judgment order. There is nothing left to litigate at this time. Yet Plaintiff continues to file spurious pleadings with this court, each of which must be reviewed and evaluated by members of the court staff. For these reasons and the reasons enumerated in the motion, the Court hereby finds that Plaintiff is an abusive litigant and, in order to preserve both the dignity and the efficient operation of the judicial system, his right to full access to the court should be curtailed to the extent described in this order. Plaintiff is hereby **PROHIBITED** from filing any paper with this court which is not signed by an attorney duly licensed to practice law in the State of Florida.



The Court therefore **ORDERS** as follows:

1. Plaintiff **SHALL CEASE** filing any pleading, correspondence, or other document in this case unless the document is signed by an attorney who is duly licensed to practice law in the State of Florida.
2. The Clerk of Court **SHALL REJECT** for filing any document received from Plaintiff which does not bear the clear and conspicuous signature of an attorney duly licensed to practice law in this state.
3. The Clerk of Court **SHALL NOT DOCKET** any pleading, correspondence or other document received from Plaintiff which is prohibited by this order.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 15<sup>th</sup> day of November, 2010.

ORIGINAL SIGNED

NOV 15 2010

MARTHA J. COOK  
CIRCUIT JUDGE

**MARTHA J. COOK**, Circuit Judge

Send copies to:

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

Ryan Christopher Rodems, Esquire  
Attorney for Defendant  
400 N Ashley Drive  
Suite 2100  
Tampa, FL 33602

**COPY**

**BARKER, RODEMS & COOK**  
PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

CHRIS A. BARKER  
RYAN CHRISTOPHER RODEMS  
WILLIAM J. COOK

400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

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

April 26, 2011

The Honorable James D. Arnold  
Circuit Court Judge  
Circuit Civil, Division "J"  
800 E. Twiggs Street, Room 514  
Tampa, Florida 33602

**Re: Neil J. Gillespie v. Barker, Rodems & Cook, P.A.,  
a Florida Corporation; and William J. Cook  
Case No.: 05-CA-7205; Division "J"**

Dear Judge Arnold:

Enclosed please find a courtesy copy of Defendants' Motion to Strike Pro Se Filings by Plaintiff which was filed on even date in the above-referenced matter. By Order of this Court entered November 15, 2010, Mr. Gillespie is prohibited from filing any documents pro se.

Thank you for your time and attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "RCR", followed by a stylized signature that appears to be "Rodems".

Ryan Christopher Rodems

RCR/so  
Enclosure  
cc: Neil J. Gillespie (w/encl)

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

NEIL J. GILLESPIE,

Plaintiff,

CASE NO.: 05-CA-7205

vs.

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

DIVISION: J

Defendants.

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**PLAINTIFF'S MOTION TO DISQUALIFY JUDGE ARNOLD**

1. Plaintiff pro se Gillespie moves to disqualify Circuit Court Judge James D. Arnold as trial judge in this action pursuant to chapter 38 Florida Statutes, Rule 2.330, Florida Rules of Judicial Administration, and the Code of Judicial Conduct.
2. Canon 3E(1) provides that a judge has an affirmative duty to enter an order of disqualification in any proceeding "in which the judge's impartiality might reasonably be questioned." The object of this provision of the Code is to ensure the right to fair trials and hearings, and to promote confidence in a fair and independent judiciary by avoiding even the appearance of partiality.
3. On April 26, 2011 Plaintiff telephoned Judy D. Williams, the Judicial Assistant for Judge Arnold at (813) 272-6991 to discuss an improperly set hearing by opposing counsel Ryan C. Rodems. Ms. Williams would not speak with Plaintiff and hung up on a pretext that the phone



call was recorded<sup>1</sup>.

4. In question is Defendants' Evidentiary Hearing set for hearing May 3, 2011 at 11:30 AM on "Defendants' Verified Motion for An Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of Court and Writ of Bodily Attachment Should Not Be Issued." The hearing was set without coordinating the date and time with Plaintiff. This is an ongoing problem with Mr. Rodems, his contumacious disregard for rules, regulations, law, and statutes in this case due to his unlawful representation of his law firm against Plaintiff, a former client, in a matter that is the same or substantially the same as the prior representation. The problems in this case are due to Mr. Rodems' unlawful behavior toward a former client as set forth in the Affidavit of Neil J. Gillespie of April 25, 2011.

5. Previously this matter was scheduled for hearing January 26, 2011, also without coordinating the date and time. In relation to that improperly set hearing Plaintiff called Ms. Williams January 14, 2011 who informed him that Mr. Rodems is "required to clear the hearing time" with Plaintiff. Ms. Williams instructed Plaintiff to send Mr. Rodems a letter about the matter. Plaintiff told Ms. Williams that hearing concerned the "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" entered September 30, 2010 and currently on appeal in Case No. 2D10-5197. Ms. Williams confirmed this online during the call with Plaintiff. Ms. Williams told Plaintiff that the hearing would not take place because Judge Arnold was on medical leave and did not want the covering senior judge to hear the motion.

6. Mr. Rodems had, in fact, already canceled the hearing January 12, 2011.

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<sup>1</sup> 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(4Xa)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991), See Plaintiff's Notice of Telephone Hearing filed December 30, 2009.

7. Plaintiff followed Ms. Williams' instruction relative to the improperly hearing set for May 3, 2011 at 11:30AM, wrote Mr. Rodems April 16, 2011 and requested he cancel the hearing. Plaintiff also filed a Notice of Unavailability for the duration of Case No. 2D10-5197, a final appeal of "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" and "Final Summary Judgment As to Count 1". Mr. Rodems did not respond to Plaintiff's letter, Notice of Unavailability, or cancel the hearing.

8. Plaintiff separately wrote Judge Arnold April 16, 2011 and provided him copies of his letter to Mr. Rodems and Plaintiff's Notice of Unavailability. Plaintiff also requested "Should Mr. Rodems fail to cancel the hearing, I request the Court cancel it sua sponte." Judge Arnold did not respond to Plaintiff or cancel the hearing.

9. Pursuant to Fla. R. App. P., Rule 9.600(b), the jurisdiction of the lower tribunal has been divested by an appeal from a final order, making any further hearings improper in the lower tribunal unless the appellate court by order permits the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Therefore Defendants' Evidentiary Hearing is unlawful because "Order Adjudging Plaintiff Neil J. Gillespie in Contempt" is part of a final appeal in Case No. 2D10-5197.

10. Plaintiff is a person with a disability who needs accommodation in order to participate in any proceeding in the Thirteenth Judicial Circuit, including depositions. Plaintiff so notified the ADA Coordinator, 800 E. Twiggs Street, Room 604 Tampa, FL 33602 on February 19, 2010. Court Counsel David Rowland notified Plaintiff by letter July 9, 2010 that it refused his ADA accommodation request. Accordingly Plaintiff filed a federal ADA/Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no.: 5:10cv-00503, US District Court, Middle District of Florida, Ocala Division, September 28, 2010. Rule 3, FRCP, Commencement

of Action, a civil action is commenced by filing a complaint with the court.

Disclosure under Rule 2.330(c)(4), Fla.R.Jud.Admin

11. Pursuant to Rule 2.330(c)(4), a motion to disqualify shall include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions. The case is in its 6th year. The case is on its 5th trial judge. There have been 4 appeals to the 2dDCA and a Petition for Writ of Prohibition to remove Judge Cook. The problems in this case are due to Mr. Rodems unprofessional behavior. Rodems' independent professional judgment is materially limited by his own interest and conflict, as further described in paragraph 4, and numerous pleadings such as Emergency Motion to Disqualify Defendants' Counsel Ryan Christopher Rodems & Barker, Rodems & Cook, PA filed July 9, 2010, Plaintiff's First Amended Complaint filed May 5, 2010, and Affidavit of Neil J. Gillespie of April 25, 2011.

a. Judge Richard A. Neilsen recused sua sponte November 22, 2006.

b. Judge Claudia Isom Rickert recused sua sponte February 13, 2007.

c. Judge James M. Barton was disqualified May 24, 2010.

c. Petition for Writ of Prohibition was filed November 18, 2010 to remove Judge Martha Cook and she recused sua sponte the same day.

12. Because of the forgoing Plaintiff fears he cannot receive a fair hearing before Judge Arnold. Given the totality of the prejudice against Plaintiff cited above, should Judge Arnold fail to disqualify himself, that itself would either be dishonest and proof that Plaintiff could not receive a fair hearing, or show that Judge Arnold is not of sound judgment and therefore unfit to preside. While Ms. Williams told Plaintiff that Judge Arnold was on medical leave in January 2011, she did not specify why Judge Arnold was disabled or the extent of his disability.

WHEREFORE, the undersigned movant certifies that the motion and the movant's statements are made in good faith.

Submitted and Sworn to May 2, 2011.

  
Neil J. Gillespie, Plaintiff pro se  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone: (352) 854-7807

STATE OF FLORIDA  
COUNTY OF MARION

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, appeared NEIL J. GILLESPIE, personally known to me, or produced identification, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

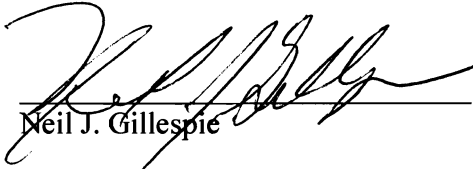
WITNESS my hand and official seal May 2, 2011.



  
Notary Public, State of Florida

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was faxed and mailed May 2, 2011 to Ryan Christopher Rodems, Barker, Rodems & Cook, PA, 400 North Ashley Drive, Suite 2100, Tampa, Florida 33602.

  
Neil J. Gillespie

## DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082  
ADAAA Titles II and III Specialist  
Counseling and Forensic Psychology  
3236 Mountain Spring Rd. Las Vegas, NV 89146  
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell



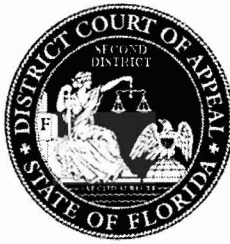
cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADAAA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (Townsend v. Quasim (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADAAA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services. (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADAAA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.



**DISTRICT COURT OF APPEAL**  
**SECOND DISTRICT**  
1005 E. MEMORIAL BOULEVARD  
LAKELAND, FLORIDA 33801-0327  
(863)-499-2290

**ACKNOWLEDGMENT OF NEW CASE**

DATE: May 3, 2011

STYLE: NEIL J. GILLESPIE v. BARKER, RODEMS & COOK,  
P A & WILLIAM J. COOK

2DCA#: 2D11-2127

The Second District Court of Appeal has received the Petition reflecting  
a filing date of 5/2/11

The county of origin is Hillsborough.

The lower tribunal case number provided is 05-CA-007205

The filing fee is Waived.

Case Type: Prohibition Civil

The Second District Court of Appeal's case number must be utilized on all pleadings and correspondence  
filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE  
ATTORNEY'S FLORIDA BAR NUMBER.

Please review and comply with any handouts enclosed with this acknowledgment.

cc: Neil J. Gillespie

Ryan Christopher  
Rodems, Esq.

Pat Frank, Clerk

**EXHIBIT**

**Appendix 10**

DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327



BL  
Neil J. Gillespie  
8092 S W 115th Loop  
Ocala, FL 34481

2D11-2127

34481\$3567 R046



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327

May 4, 2011

**CASE NO.: 2D11-2127**

L.T. No. : 05-CA-007205

Neil J. Gillespie

v.

Barker, Rodems & Cook,  
P A & William J. Cook

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Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

Petitioner's petition for writ of habeas corpus is denied.

LaROSE, CRENSHAW, and BLACK, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

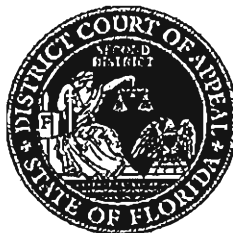
Neil J. Gillespie

Ryan Christopher Rodems, Esq.

Pat Frank, Clerk

aw

  
James Birkhold  
Clerk



**EXHIBIT**

**Appendix 11**

DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327



AW

2D11-2127

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

3448133567 R067



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327

May 6, 2011

**CASE NO.: 2D11-2127**

L.T. No. : 05-CA-007205

Neil J. Gillespie

v. Barker, Rodems & Cook,  
P A & William J. Cook

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

**AMENDED ORDER**

Petitioner's petition for writ of prohibition is denied.

LaROSE, CRENSHAW and BLACK, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Neil J. Gillespie

Ryan Christopher Rodems, Esq.

Pat Frank, Clerk

aw

  
James Birkhold  
Clerk



**EXHIBIT**

**Appendix 12**

DISTRICT COURT OF APPEAL  
SECOND DISTRICT  
P.O. BOX 327  
LAKELAND, FLORIDA 33802-0327

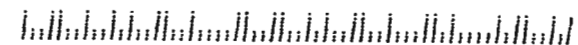


AW

2D11-2127

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

3448133557 R067



## Kangaroo Court

[Slang of U.S. origin.] *An unfair, biased, or hasty judicial proceeding that ends in a harsh punishment; an unauthorized trial conducted by individuals who have taken the law into their own hands, such as those put on by vigilantes or prison inmates; a proceeding and its leaders who are considered sham, corrupt, and without regard for the law.*

The concept of kangaroo court dates to the early nineteenth century. Scholars trace its origin to the historical practice of itinerant judges on the U.S. frontier. These roving judges were paid on the basis of how many trials they conducted, and in some instances their salary depended on the fines from the defendants they convicted. The term *kangaroo court* comes from the image of these judges hopping from place to place, guided less by concern for justice than by the desire to wrap up as many trials as the day allowed.

The term is still in common usage by defendants, writers, and scholars critical of a court or a trial. The U.S. Supreme Court has also used it. In *IN RE GAULT*, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967), a case that established that children in juvenile court have the right to DUE PROCESS, the Court reasoned, "Under our Constitution, the condition of being a boy does not justify a kangaroo court." Associate Justice WILLIAM O. DOUGLAS once wrote, "[W]here police take matters in their own hands, seize victims, beat and pound them until they confess, there cannot be the slightest doubt that the police have deprived the victim of a right under the Constitution. It is the right of the accused to be tried by a legally constituted court, not by a kangaroo court" (*Williams v. United States*, 341 U.S. 97, 71 S. Ct. 576, 95 L. Ed. 774 [1951]).

West's Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc. All rights reserved.

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**kangaroo court** n. 1) a mock court set up without legal basis, such as a fraternity, sports team or army squad might set up to punish minor violations of organizational decorum. 2) slang for a court of law in which the violations of procedure, precedents, and due process are so gross that fundamental justice is denied. It usually means that the judge is incompetent or obviously biased. (See: star chamber proceedings)

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**star chamber proceedings** n. any judicial or quasi-judicial action, trial, or hearing which so grossly violates standards of "due process" that a party appearing in the proceedings (hearing or trial) is denied a fair hearing. The term comes from a large room with a ceiling decorated with stars in which secret hearings of the privy council and judges met to determine punishment for disobedience of the proclamations of King Henry VIII of Great Britain (1509-1547). The high-handed, unfair, predetermined judgments, which sent the accused to The Tower of London or to the chopping block, made "star chamber" synonymous with unfairness and illegality from the bench. In modern American history the best example of star chamber proceedings was the conduct of the House UnAmerican Activities Committee (1938-1975) which used its subpoena power to intimidate citizens by asking them unconstitutional questions about their political beliefs and associations, and then charging them with contempt of Congress for refusing to answer. Another example was the conduct of criminal proceedings against black defendants in some southern states from 1876 until the late 1960s. (See: kangaroo court)

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**EXHIBIT**

**Appendix 14**