


































## Selected docket entries for case 12-11028

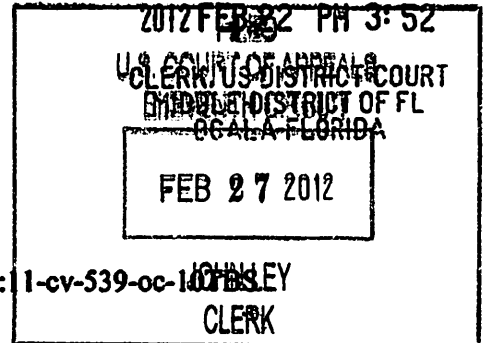
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Filed	Document Description	Page	Docket Text
02/27/2012			CIVIL APPEAL DOCKETED. Notice of appeal filed by Appellant Estate of Penelope Gillespie on 02/22/2012. Fee Status: Fee Not Paid.
	 Civil Appeal Docketed	3	
	 DKT-6	4	
02/27/2012	 USDC Order or Motion on IFP	6	USDC order denying IFP as to Appellant Estate of Penelope Gillespie was filed on 02/27/2012. Docket Entry 22.
02/27/2012			The Transcript Order Form has not been filed as to Appellant Estate of Penelope Gillespie. There are no hearings to be transcribed.
03/14/2012	 Appellant's CIP Filed	8	Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellant Estate of Penelope Gillespie.
03/14/2012			<i>MOTION to consolidate appeals filed by Appellant Estate of Penelope Gillespie. Opposition to Motion is Unknown [6519296-1]</i>
	 Motion(s) Filed	9	
	 attachments	14	
03/16/2012			<i>MOTION to proceed IFP filed by Appellant Neil J. Gillespie. Opposition to Motion is Unknown [6524989-1]</i>
03/16/2012	 Appellant's CIP Filed	22	Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellant Neil J. Gillespie.
04/09/2012	 Motion(s) Filed	23	<i>MOTION Accommodation under the Americans with Disabilities Act – Waiver of Confidentiality; Motion to toll time; for appointment of counsel filed by Appellant Neil J. Gillespie. Opposition to Motion is Unknown [6538485-1]**extensive exhibits not scanned**</i>
04/23/2012	 Amend Correct Supplement Motion	35	<i>Supplemental Consolidated Motion to Toll Time filed by Appellant Neil J. Gillespie.</i>
04/26/2012			Substitute attorney: Attorneys Robert E. O'Neill and Robert E. O'Neill in 12-11028 substituted by Attorneys Pam Bondi and Pam Bondi in 12-11028
05/07/2012			<b>ORDER: Motion to proceed in forma pauperis filed by Appellant Neil J. Gillespie is DENIED. [6524989-2]; Motion to consolidate filed by Appellant Estate of Penelope Gillespie is DENIED. [6519296-2]; Motion for appointment of counsel filed by Appellant Neil J. Gillespie is DENIED. [6538485-3]; Motion to toll time filed by Appellant Neil J. Gillespie is DENIED. [6538485-2] (CRW).</b>
	 Court Order Filed	40	
	 MOT-2	41	
05/07/2012	 Notice of Filing	42	Notice of filing: Consolidated notice of filing letter re: Florida attorney general appearance, motion to toll time – no action taken as to Appellant Neil J. Gillespie.
05/23/2012	 Motion(s) Filed to extend time to pay filing fee	54	<i>MOTION for extension of time to file pay the filing fee to 06/01/2012 filed by Appellant Neil J. Gillespie. Opposition to Motion is Unknown [6576186-1]</i>

05/31/2012			56	<i>MOTION for reconsideration of single judge's order filed by Appellant Neil J. Gillespie. Opposition to Motion is Unknown [6584612-1]</i>
	 Motions Filed for reconsideration of single judge order			
	 appendix	78		
06/01/2012	 Supplement Motion for extension to pay filing fee	120		<i>Supplement to Motion for extension to pay filing fee filed by Appellant Neil J. Gillespie.</i>
06/19/2012				<i>ORDER: Motion for reconsideration of single judge's order filed by Appellant Neil J. Gillespie is DENIED. [6584612-2]; Motion for extension to pay filing fee is MOOT [6576186-2] (CRW/BBM).</i>
	 MOT-2	128		
	 Court Order Filed	129		
07/06/2012				Public Communication: Response to order of 06/19/2012.
	 Public Communication	130		
	 SPCT-5	134		
07/13/2012	 DIS-2	135		ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Estate of Penelope Gillespie and Neil J. Gillespie has failed to pay the filing and docketing fees to the district court within the time fixed by the rules
09/17/2012	 Extension for Filing Certiorari Granted	137		Extension for filing certiorari GRANTED by U.S. Supreme Court as to Appellant Neil J. Gillespie, up to and including December 10, 2012.
12/13/2012				Certiorari NOT filed After Supreme Court Extension up to and including December 10, 2012 Granted as to Penelope Gillespie.
12/14/2012	 Certiorari Filed	139		Notice of Writ of Certiorari filed as to Appellant Neil J. Gillespie. SC# 12-7747.
01/18/2013				Checked status of ceritorari 12-7747 filed as to Appellant Neil J. Gillespie – Pending.
02/19/2013				Writ of Certiorari filed as to Appellant Estate of Penelope Gillespie is DENIED. SC# 12-7747.
	 MDT-4	140		
	 Certiorari Denied	141		
04/15/2013	 Supreme Court Rehearing Denied	142		U.S. Supreme Court rehearing DENIED as to Appellant Neil J. Gillespie. 04/15/2013. (12-11028 and 12-11213) 12-7747.—[Edited 04/16/2013 by RAV]

**FILED**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION



ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,

12-11028 B

CASE NO.: 5:11-cv-539-oc-1007-BLS  
JOHNLEY  
CLERK

Plaintiffs,

vs.

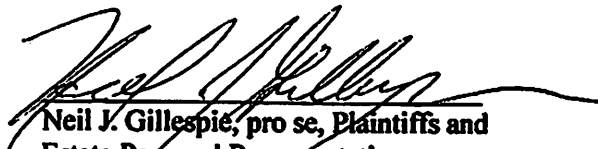
THIRTEENTH JUDICIAL CIRCUIT, FLORIDA,  
JAMES M. BARTON, II, Circuit Court Judge, and individually,  
THE LAW OFFICE OF ROBERT W. BAUER, P.A.,  
ROBERT W. BAUER,

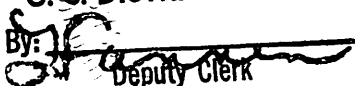
Defendants.

JOINT NOTICE OF APPEAL

Notice is given that Plaintiffs Neil J. Gillespie and Plaintiff Estate of Penelope Gillespie hereby appeal to the United States Court of Appeals for the Eleventh Circuit from the Order Dismissing Case (Doc. 18) for lack of subject-matter jurisdiction, and Judgment In A Civil Case (Doc. 19) for lack of subject-matter jurisdiction, each entered on January 24, 2012. Plaintiffs also appeal the Court's failure to rule on the Affidavit of Indigency submitted by Neil J. Gillespie on September 20, 2011. (Doc. 3).

RESPECTFULLY SUBMITTED February 22, 2012.

  
Neil J. Gillespie, pro se, Plaintiffs and  
Estate Personal Representative  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
(352) 854-7807

CERTIFIED A TRUE COPY  
SHERYL L. LOESCH, CLERK  
U. S. DISTRICT COURT  
By:   
Deputy Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

John Ley  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

March 02, 2012

Neal J. Gillespie  
8092 SW 115TH LOOP  
OCALA, FL 34481

Appeal Number: 12-11028-B  
Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al  
District Court Docket No: 5:11-cv-00539-WTH-TBS

The referenced case has been docketed in this court. Please use the appellate docket number noted above when making inquiries.

We have received a copy of the order of the district court which does not allow this appeal to proceed in forma pauperis. Rule 24(a)(5) of the Federal Rules of Appellate Procedure provides:

A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

You may within thirty (30) days from this date either pay to the DISTRICT COURT clerk the \$450 docket fee plus \$5 filing fee (total \$455) or you may move in this court for leave to proceed on appeal as a pauper (form enclosed). See 11th Cir. R. 24-2.

We have not yet received the [Certificate of Interested Persons and Corporate Disclosure Statement](#) (CIP) required by FRAP 26.1 and the accompanying circuit rules. The rules provide that the certificate must be filed by every appellant [and cross-appellant] with this court within 14 days after the date the appeal is docketed in this court, or along with the filing in this court by any party of any motion, petition, or pleading, whichever occurs first. The rules further provide that on the same day a paper certificate is served, the party filing it must also complete the court's web-based certificate at the "Electronic Filing" link of the court's website, [www.ca11.uscourts.gov](http://www.ca11.uscourts.gov), by electronically providing the information required for that form. Only the ticker symbols for publicly traded corporations that are listed on the paper CIP must



be entered in the web-based system. If your CIP does not include any publicly traded corporations, you are required to go to the website and simply click the button indicating that you have no publicly traded corporations to report. Pro se parties are **not required or authorized** to complete the web-based certificate.

You are hereby notified that the clerk is not authorized to submit to the court any brief (except for the reply brief of an appellant or cross-appellant), petition, answer, motion or response that does not contain the certificate, but may receive and retain the papers pending supplementation of the papers with the required certificate. You are also hereby notified that failure to submit the required certificate will result in your document(s) being returned unfiled which may ultimately result in dismissal of your appeal.

Attorneys who wish to participate in this appeal must be properly admitted either to the bar of this court or for this particular proceeding pursuant to 11th Cir. R. 46-1. An attorney not yet properly admitted must file an appropriate application for admission within fourteen (14) days from this date. In addition, all attorneys (except court-appointed counsel) who wish to participate in this appeal must complete and return an appearance form within fourteen (14) days. [Application for Admission to the Bar](#) and [Appearance of Counsel Form](#) are available on the Internet at [www.ca11.uscourts.gov](http://www.ca11.uscourts.gov). The clerk may not accept motions or other filings from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-5.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Melanie Gaddis, B  
Phone #: (404) 335-6187

Enclosure(s)

DKT-6 IFP already DENIED in DC

U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

FEB 27 2012

JOHN LEY  
CLERK

12-11028

B

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

ESTATE OF PENELOPE GILLESPIE, et  
al.,

Plaintiffs,

-vs-

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

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.,

Defendants.

ORDER

On January 24, 2012, the Court dismissed this case for lack of subject-matter jurisdiction (Doc. 18). Prior to dismissing the case, the Court provided the *pro se* Plaintiff multiple opportunities to demonstrate how the Court had subject-matter jurisdiction over what was, in essence, a Florida wrongful death action against non-diverse parties. (See Docs. 8-9, 11, 14-15).

On February 22, 2012, the Plaintiff filed a Notice of Appeal (Doc. 20), and he has now moved for leave to proceed *in forma pauperis* on appeal (Doc. 21). Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." For the reasons stated in the Court's January 24, 2012 Order (Doc. 18), it is clear that the Court lacks subject-matter jurisdiction over the Plaintiff's claims, and therefore his appeal of the dismissal of his case on that ground is utterly frivolous. As such, the Court hereby certifies that the

Plaintiff's appeal has not been taken in good faith, and the Plaintiff's motion for leave to appeal *in forma pauperis* (Doc. 21) is DENIED.

IT IS SO ORDERED.

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



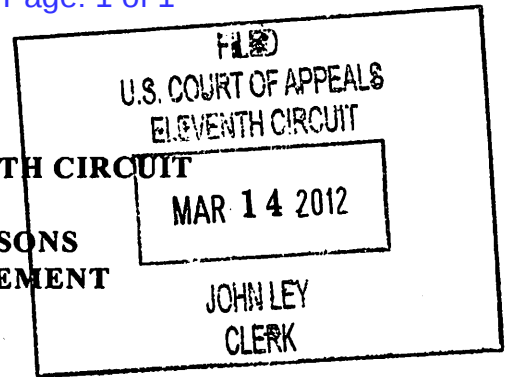
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UNITED STATES DISTRICT JUDGE

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

**U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**



Estate of Penelope Gillespie vs. Thirteenth Judicial Circuit, Florida Appeal No. 12-11028-B

11th Cir. R. 26.1 (enclosed) requires that a Certificate of Interested Persons and Corporate Disclosure Statement must be filed by the appellant with this court within 14 days after the date the appeal is docketed in this court, and must be included within the principal brief filed by any party, and included within any petition, answer, motion or response filed by any party. **You may use this form to fulfill this requirement.** In alphabetical order, with one name per line, please list the trial judge(s), and all attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates and parent corporations, including any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party.

*(please type or print legibly):*

James M. Barton, II, Defendant/Appellee

Robert W. Bauer, Defendant/Appellee

The Law Office of Robert W. Bauer, P.A., Defendant/Appellee

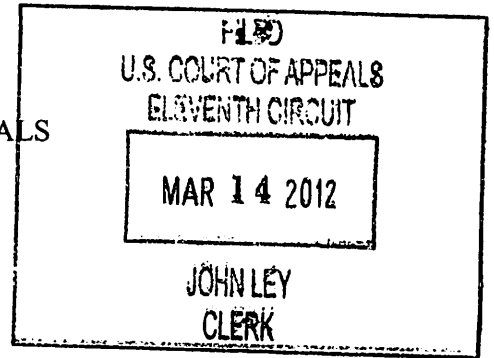
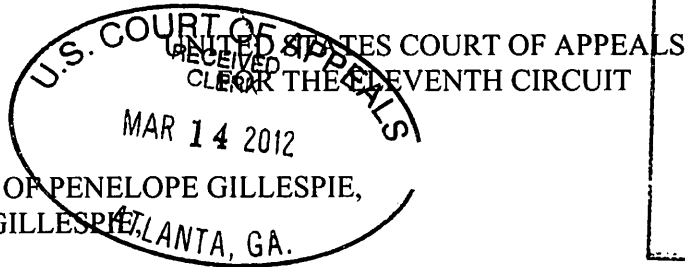
Neil J. Gillespie, Plaintiff/Appellant

Estate of Penelope Gillespie, Plaintiff/Appellant

William Terrell Hodges, U.S. District Judge, Trial Judge

Thomas B. Smith, U.S. Magistrate Judge, Trial Judge

Thirteenth Judicial Circuit, Florida, Defendant/Appellee



ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE, LANTA, GA.

CASE NO.: 12-11028-B

Plaintiffs,

CASE NO.: 12-11213

vs.

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants.

### **MOTION TO CONSOLIDATE RELATED APPEALS**

1. Appellants, ESTATE OF PENELOPE GILLESPIE and NEIL J. GILLESPIE, hereby move to consolidate the two above-captioned appeals, which arise from the following related District Court cases and involve related issues.

Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, Florida, et al, District Court Docket No: 5:11-cv-00539-WTH-TBS  
Eleventh Circuit Appeal Number 12-11028-B

Case Style: Neil J. Gillespie v. Thirteenth Judicial Circuit, Florida, et al  
District Court Docket No: 5:10-cv-00503-WTH-TBS  
Eleventh Circuit Appeal Number 12-11213

2. The above related District Court cases involve an issue in an earlier case in this Eleventh Circuit Court of Appeals, Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie v. AMSCOT Corporation, Case No. 01-14761-AA.

Attached to this motion is the following from Case No. 01-14761-AA:

a) Joint Stipulation For Dismissal With Prejudice, with Certificate of Interested Persons, filed November 9, 2001 (Exhibit 1). The Joint Stipulation calls for "each party

bearing its own attorneys' fees and costs". The Certificate of Interested Persons lists the following persons related to this appeal:

Barker, Rodems & Cook, P.A.  
Barker, Chris A., Esq.  
Cook, William J., Esq.  
Gillespie, Neil  
Rodems, Ryan Christopher, Esq.

b) Order of December 7, 2011 (Exhibit 2)

c) Copy of the docket for Case No. 01-14761-AA (Exhibit 3)

3. Barker, Rodems & Cook, P.A., and William J. Cook, Esq., represented me, Neil Gillespie, in the Amscot lawsuit. During the settlement of Amscot, Mr. Cook misrepresented that this Eleventh Circuit Appellate Court awarded \$50,000 to Barker, Rodems & Cook, P.A. The misrepresentation to a claim of \$50,000 in "court-awarded fees and costs" is the basis for the state court action at the heart of both District Court cases, and now this Appeal. See Document 2, District Court Docket No: 5.10-cv-00503-WTH-TBS, Exhibit 3, Plaintiff's First Amended Complaint, and Motion, 05-CA-007205, May-05-2010. The Clerk did not enter Exhibits 1-15 (Doc. 2) to the Complaint (Doc. 1) on the Court's Case Management and Electronic Case Filing ("CM/ECF") system, and it appears those documents are only viewable in person at the Ocala Division, or upon request of the physical case file.

4. As set forth in the Complaint in District Court Docket No: 5.10-cv-00503-WTH-TBS (Doc. 1), this lawsuit is about the misuse and denial of judicial process under the color of law in the Florida state court action Gillespie v. Barker, Rodems & Cook, PA, et al, case no. 05-CA-007205, Thirteenth Judicial Circuit, Florida. The Thirteenth Circuit

deprived me of the right to lawfully adjudicate my case due to the conflict of interest of attorney Ryan Christopher Rodems who unlawfully represented his firm, Barker, Rodems & Cook, PA, against me, a former client, on the same matter as the prior representation, the Amscot lawsuit.

The District Court continued the misuse and denial of judicial process under the color of law when it failed to disqualify (Doc. 8) Mr. Rodems in the federal action pursuant to the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. (Doc. 20). McPartland is a mandatory authority on disqualification in the Middle District of FL since entered June 30, 1995 by Judge Kovachevich. I raised this issue again (among others) in Plaintiff's Response to Order to Show Cause. (Doc. 58).

In McPartland v. ISI Investment Services, Inc., 890 F.Supp. 1029, (US District Court, MD of Florida, Tampa Division) the court held that [1] Under Florida law, attorneys must avoid appearance of professional impropriety, and any doubt is to be resolved in favor of disqualification. [2] To prevail on motion to disqualify counsel, movant must show existence of prior attorney-client relationship and that the matters in pending suit are substantially related to the previous matter or cause of action. [3] In determining whether attorney-client relationship existed, for purposes of disqualification of counsel from later representing opposing party, a long-term or complicated relationship is not required, and court must focus on subjective expectation of client that he is seeking legal advice. [5] For matters in prior representation to be "substantially related" to present representation for purposes of motion to disqualify counsel, matters need only be akin to present action in way reasonable persons would understand as important to the issues involved. [7] Substantial relationship between instant case in which law firm represented defendant and issues in which firm had previously represented plaintiffs created irrebuttable presumption under Florida law that confidential information was disclosed to firm, requiring disqualification. [8] Disqualification of even one attorney from law firm on basis of prior representation of opposing party necessitates disqualification of firm as a whole, under Florida law.



Also see Document 2, District Court Docket No: 5.10-cv-00503-WTH-TBS, Exhibit 4, Emergency Motion to Disqualify Defendants' Counsel RCR & BRC, July 12, 2010. The Clerk did not enter Exhibits 1-15 (Doc. 2) to the Complaint (Doc. 1) on the Court's Case Management and Electronic Case Filing ("CM/ECF") system, and it appears those documents are only viewable in person at the Ocala Division, or upon request of the physical case file.

The District Court failed to lawfully manage the lawsuit as set forth in Plaintiff's Response to Order to Show Cause. (Doc. 58). There was a pending a motion to file an addendum. (Doc. 60). A Notice of Objection contested evidence presented by Rodems, who has no right to represent Barker, Rodems & Cook in this case, see McPartland.

5. Mr. Bauer and his law firm represented me against Mr. Rodems and Barker, Rodems & Cook, P.A. in the state court action. At some point the representation turned to collusion with the opposition. Mr. Bauer has had numerous Bar and client complaints, see Document 15, District Court Docket No: 5:11-cv-00539-WTH-TBS, First Amended Complaint, ¶51, page 21.

6. I am disabled, see Document 36, District Court Docket No: 5.10-cv-00503-WTH-TBS, "Plaintiff Neil J. Gillespie's Notice of Filing "Verified Notice Of Filing Disability Information Of Neil J. Gillespie", filed July 7, 2011. I was denied disability accommodation in the state court action, see the complaint (Doc. 1), and Doc. 5, Doc. 23, Doc. 33, Doc. 35, Doc. 36, Doc. 37, and Doc. 39.

In a related case, Supreme Court of Florida Case No. SC11-1622, see Doc. 61 and Doc. 62 on District Court Docket No: 5.10-cv-00503-WTH-TBS. This petition for writ of mandamus was denied March 12, 2012, making this appeal a last hope for justice.

7. No briefing schedule has yet been issued in either appeal, and I respectfully ask that a single briefing and argument schedule govern the matter as consolidated, using the date of the second appeal as controlling, if not a later date.

### CONCLUSION

For the foregoing reasons, the appeals in No. 12-11028-B and No. 12-11213 should be consolidated.

RESPECTFULLY SUBMITTED March 13, 2012.

  
Neil J. Gillespie, pro se

### Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal Service first class mail March 13, 2012 to the following:

Robert E. O'Neill, US Attorney  
US Attorney's Office  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798

Robert W. Bauer, Esquire  
Law Office of Robert W. Bauer, P.A.  
2815 NW 13<sup>th</sup> Street, Suite 200E  
Gainesville, FL 32609-2865

Ryan C. Rodems, Esquire  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602

  
Neil J. Gillespie



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

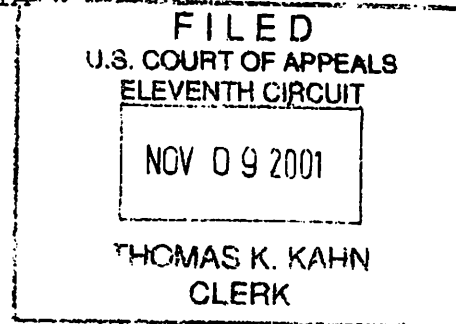
EUGENE R. CLEMENT,  
GAY ANN BLOMEFIELD, and  
NEIL GILLESPIE, individually and  
on behalf of others similarly situated,

Appellants,

v.

AMSCOT CORPORATION,

Appellee.



JOINT STIPULATION FOR DISMISSAL WITH PREJUDICE

The Parties, by and through their undersigned counsel, having amicably resolved this matter, pursuant to Federal Rule of Appellate Procedure 42(b) move for dismissal with prejudice with each party bearing its own attorneys' fees and costs.

RESPECTFULLY SUBMITTED this 6th day of November, 2001.

BARKER, RODEMS & COOK, P.A.

WILLIAM J. COOK, ESQUIRE  
Florida Bar No. 986194  
300 West Platt Street  
Suite 150  
Tampa, Florida 33606  
(813) 489-1001 (TEL)  
(813) 489-1008 (FAX)  
Attorneys for Appellants

Gray, Harris, Robinson,  
Shackleford, Farrior

LARA R. FERNANDEZ, ESQUIRE  
Florida Bar No. 0088500  
501 E. Kennedy Blvd  
Suite 1400  
Tampa, Florida 33602  
(813) 273-5000 (TEL)  
(813) 273-5145 (FAX)  
Attorneys for Appellee

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, counsel for the Appellants certify that the following persons and entities have an interest in the outcome of this case.

Alpert, Jonathan L., Esq.

Alpert & Ferrentino, P.A.

Amscot Corporation

Anthony, John A., Esq.

Barker, Rodems & Cook, P.A.

Barker, Chris A., Esq.

Blomefield, Gay Ann

Clement, Eugene R.

Cook, William J., Esq.

Gillespie, Neil

Gray, Harris, Robinson, Shackelford, Farrior, P.A.

Lazzara, The Honorable Richard A.

United States District Judge, Middle District of Florida

MacKechnie, Ian

Rodems, Ryan Christopher, Esq.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-14761-AA

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

DEC 07 2001

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

GAY ANN BLOMEFIELD,  
NEIL GILLESPIE,

THOMAS K. KAHN

CLERK

Plaintiff-Appellant,

8: 99-CV-2795-T-2G EHS

Plaintiffs-Intervenors-  
Counter-Defendants-Appellants,

versus

AMSCOT CORPORATION,  
A Florida Corporation,

Defendant-Intervenor-Counter  
-Claimant-Appellee.

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

BEFORE: EDMONDSON and BARKETT, Circuit Judges.

BY THE COURT:

The parties joint stipulation for dismissal of this appeal  
with prejudice, which is construed as a motion to dismiss this  
appeal with prejudice, with the parties bearing their own costs  
and attorney's fees, is GRANTED.

A TRUE COPY - ATTESTED:  
CLERK U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

BY:

*Joe Sauer*  
DEPUTY CLERK  
ATLANTA, GEORGIA



**United States Court of Appeals  
for the Eleventh Circuit**

56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

**01-14761-AA**  
**Eugene R. Clement v. Amscot Corporation**

**Closed****Docket #:** 01-14761-AA**Short Style:** Eugene R. Clement v. Amscot Corporation**Docket Date:** 08/23/2001**Lead Case:****Agency:****Nature of Suit:** Other: Statutory Actions**Misc. Type:****Clerk:** Brown, Shirley M.**Clerk Phone:** (404) 335-6170**District Information****Docket #:** 99-02795-CV-T-26 **Judge:** Richard A. Lazzara**Dkt Date:** 12/08/1999**District:** Florida-Middle**NOA Date:** 08/20/2001**Office:** MFL-Tampa**Secondary Case Information****Docket #:** **Judge:****Dkt Date:** //**Case Relationships**

Docket #	Short Style	Relation	Status
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**Pending Motions**

No Pending Motions

**EXHIBIT****3**



**United States Court of Appeals  
for the Eleventh Circuit**

56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

**01-14761-AA  
Eugene R. Clement v. Amscot Corporation**

EUGENE R. CLEMENT,

individually and on behalf of others similarly

situated,

Plaintiff-Appellant,

GAY ANN BLOMEFIELD,

NEIL GILLESPIE,

Plaintiffs-Intervenors

Counter-Defendants

Appellants,

versus



AMSCOT CORPORATION,

A Florida Corporation,

Defendant-Intervenor

Counter-Claimant

Appellee.



**United States Court OF Appeals  
FOR the Eleventh Circuit**

56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

01-14761-AA

**Eugene R. Clement v. Amscot Corporation**

Appellant	Appellant Attorney
<b>Eugene R. Clement</b> Address Not On File <i>Record Excerpts filed on 10.03.2001</i> <i>Fees: Paid on 08.20.2001</i>	<b>William J. Cook</b> 300 W PLATT ST STE 150 TAMPA, FL 33606-2299 (813) 489-1001 <i>No Briefing Information Found.</i>
<b>Gay Ann Blomefield</b> Address Not On File <i>No Briefing Information Found.</i> <i>Fees: Paid on 08.20.2001</i>	<b>William J. Cook</b> 300 W PLATT ST STE 150 TAMPA, FL 33606-2299 (813) 489-1001 <i>No Briefing Information Found.</i>
<b>Neil Gillespie</b> Address Not On File <i>Appellant Brief Filed filed on 10.03.2001</i> <i>Fees: Paid on 08.20.2001</i>	<b>William J. Cook</b> 300 W PLATT ST STE 150 TAMPA, FL 33606-2299 (813) 489-1001 <i>No Briefing Information Found.</i>
Appellee	Appellee Attorney
<b>Amscot Corporation</b>	<b>John A. Anthony</b>

Address Not On File

Gray, Harris, Robinson, Shackelford, et al  
 501 E. Kennedy Blvd., Suite 1400  
 Tampa, FL 33602  
 (813) 273-5066  
 Fax: (813) 273-5145  
*No Briefing Information Found.*

**Initial Service****Lara R. Fernandez**

501 E. Kennedy Blvd., Suite 1400  
 P.O. Box 3324  
 Tampa, FL 33601-  
 (813) 273-5000



**United States Court of Appeals  
 for the Eleventh Circuit**

56 Forsyth Street, N.W.  
 Atlanta, GA 30303-2289  
 (404) 335-6100

**01-14761-AA****Eugene R. Clement v. Amscot Corporation**

File Date	Entry	Party	Pending
08/20/2001	Fee Status: Paid (08/20/01) for Eugene R. Clement	Eugene R. Clement	No
08/20/2001	Fee Status: Paid (08/20/01) for Gay Ann Blomefield	Gay Ann Blomefield	No
08/20/2001	Fee Status: Paid (08/20/01) for Neil Gillespie	Neil Gillespie	No
08/24/2001	DKT7CIV (Docketing 7) issued. cc: Loesch, Sheryl L. cc: Cook, William J. cc: Anthony, John A.		No
08/24/2001	Briefing Notice Issued		No
09/04/2001	Appearance Form Submitted: William J. Cook	William J. Cook	No
09/04/2001	Transcript Order Form: Appellants- No transcript required		No
09/04/2001	Civil Appeal Statement Form- Appellants		No
09/05/2001	Probable Jurisdiction Noted		No

09/07/2001	Appearance Form Submitted: John A. Anthony	John A. Anthony	No
09/28/2001	Certificate of Readiness		No
10/03/2001	Appellant's Brief Filed: Appellants-Clement, Eugene R., Blomefield, Gay Ann, and Gillespie, Neil (Atty: William J. Cook)	Neil Gillespie	No
10/03/2001	Record Excerpts: Appellant-Clement, Eugene R. (Atty: William J. Cook)	Eugene R. Clement	No
11/09/2001	Joint Stipulation to Dismiss Appeal with Prejudice		No
12/07/2001	The parties joint stipulation for dismissal of this appeal with prejudice, which is construed as a motion to dismiss this appeal with prejudice, with the parties bearing their own costs and attorney fees, is GRANTED(JLE/RB).j		No
12/07/2001	DIS-4 (Dismissal 4 Letter) issued. cc: Cook, William J. cc: Anthony, John A. To: Loesch, Sheryl L.		No
12/07/2001	CASE CLOSED		No

PACER Service Center			
Transaction Receipt			
03/28/2006 00:34:15			
PACER Login:	ng0053	Client Code:	
Description:	docket sheet	Case Number:	01-14761-AA
Billable Pages:	4	Cost:	0.32

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FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

MAR 16 2012

JOHN LEY  
CLERK

**U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, Florida, et al  
Appeal Number 12-11028-B  
District Court Docket No: 5:11-cv-00539-WTH-TBS

In compliance with 11th Cir. R. 26.1 Appellant Neil Gillespie pro se certifies that the following persons and entities have an interest in the outcome of this case.

**Updated March 14, 2012 by Neil Gillespie, pro se**

Barton, James, M, II, Circuit Court Judge, and individually

Bauer, Robert, W., Attorney

Bauer, Robert, W., Law Office of, P.A.

Gillespie, Estate of Penelope

Gillespie, Neil, J., pro se

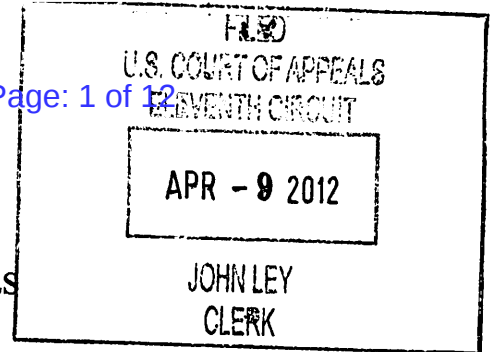
Hodges, William Terrell, U.S. District Judge, Trial Judge

Smith, Thomas, B., U.S. Magistrate Judge

Thirteenth Judicial Circuit, Florida



UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



NEIL J. GILLESPIE,  
ESTATE OF PENELOPE GILLESPIE,

CASE NO.: 12-11028-B

Appellants/Plaintiffs,

vs.

CASE NO.: 12-11213-C

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Respondents/Defendants.

**CONSOLIDATED MOTION FOR ACCOMMODATION UNDER THE  
AMERICANS WITH DISABILITIES ACT - WAIVER OF CONFIDENTIALITY**

**MOTION TO TOLL TIME**

1. Appellant/Plaintiff Neil J. Gillespie ("Gillespie"), personally, and as personal representative of the Estate of Penelope Gillespie, hereby moves for reasonable accommodation under the ADA, the Americans With Disabilities Act, 42 U.S.C., Chapter 126, Equal Opportunities for Individuals with Disabilities, §§ 12101 - 12213. This is a consolidated motion in the above captioned appeals. Gillespie also moves the Court to toll time during the pending motion, and any implementation thereof.

**STATEMENT OF THE FACTS AND THE CASE**

2. This seven (7) year lawsuit is to recover \$7,143 stolen by Defendant/Appellee Barker, Rodems & Cook, P.A. ("BRC") from Plaintiff/Appellant Gillespie in the Amscot lawsuit. As set forth in Gillespie's *Motion To Consolidate Related Appeals* docketed in this Court March 14, 2012, the above related District Court cases involve an issue in an



earlier case in this Appellate Court, Eugene R. Clement, Gay Ann Blomefield, and Neil Gillespie v. AMSCOT Corporation, Case No. 01-14761-AA. During the settlement of Amscot, BRC misrepresented that this Appellate Court awarded \$50,000 to BRC in “court-awarded fees and costs”. The misrepresentation to a claim of \$50,000 in “court-awarded fees and costs” is the basis for the state court action at the heart of both District Court cases, and now this Appeal. Compounding the difficulty of this matter is the representation by Ryan Christopher Rodems, a partner of BRC who is unethically representing his firm and merely continuing the misrepresentations that are the heart of this case. Mr. Rodems has prevented the lawful adjudication of this case because of his own conflict with Gillespie, a former client of the small, three-partner BRC firm.

#### **GILLESPIE’S ADA DISABILITY FILE**

3. On September 28, 2010 Gillespie filed in the District Court in case no. 5:10-cv-00503-WTH-TBS a comprehensive disability file for consideration under the ADA. The District Court appears to have disregarded the medical information, much like the state court disregarded the medical information in Neil J. Gillespie v. Barker, Rodems & Cook, P.A. and William J. Cook, Case No. 05-CA-7205, Hillsborough County, Florida. (“state court action”). Gillespie later waived confidentiality and filed the information publicly in the state court action, see “Verified Notice of Filing Disability Information of Neil J. Gillespie” filed May 27, 2011. (“Disability Notice”). (Exhibit 36). Gillespie again waived confidentiality filed the same Disability Notice in the District Court July 7, 2011. (Doc. 36). (Exhibit 36). A copy of Gillespie’s Disability Notice accompanies this ADA

request. (Exhibit 36). It is marked Exhibit 36 in keeping with docket number 36 in the District Court case no. 5:10-cv-00503-WTH-TBS.

4. Gillespie's Disability Notice (Exhibit 36) contains a seven (7) page statement of Gillespie's disability issues, and four (4) exhibits:

Exhibit 1 is Gillespie's ADA Medical Report by Dr. Karin Huffer.

Exhibit 2 is Gillespie's ADA Accommodation Request to the Court.

Exhibit 3 is a letter of July 9, 2010 from court counsel David Rowland of the Thirteenth Judicial Circuit denying Gillespie's ADA Accommodation Request, with instructions to submit the request by written motion to the presiding judge, the Hon. Martha J. Cook, a defendant in the District Court case no. 5:10-cv-00503- WTH-TBS.

Exhibit 4 is the deposition transcript of Gillespie in the Amscot lawsuit ("Amscot") where Gillespie was represented by Defendant/Appellee BRC. Amscot is at the heart of the state court action. In turn the failure of the state court to lawfully adjudicate the action over Amscot is at the heart of both District Court actions in this appeal. Amscot was before this Appellate Court in 2001 when Gillespie was represented by Defendant/Appellee BRC in 01-14761-AA. This transcript shows Defendant/Appellee BRC represented Gillespie in Amscot and knew about Gillespie's disabilities.

#### **GILLESPIE'S ADA ACCOMODATION REQUEST**

5. Gillespie requests the following disability accommodations:

- a. Permission to file electronically (e-filing);
- b. Intensive case management;
- c. Appointment of counsel;



- d. A general request for further relief as this Court deems just and equitable.

#### **PERMISSION TO FILE ELECTRONICALLY**

6. Gillespie seeks permission to file electronically (e-file) on disability grounds, and because he is indigent. Gillespie has a PACER account in good standing since 1999.

Gillespie meets the following e-file technical requirements:

- a. A computer, the internet, and email on a daily basis to e-file documents and receive notifications from the Court
- b. A scanner to scan documents that are only in paper format (like exhibits).
- c. A printer/copier for documents needed in hard copy.
- d. A word-processing program to create documents.
- e. Adobe Acrobat program to convert word processing documents to PDF.

Gillespie's Disability Report (Exhibit 36) at Exhibit 2 (p17) states:

"ADA Request No.6: Mr. Gillespie requests time to scan thousands of pages of documents in this case to electronic PDF format. This case and underlying cause of action covers a ten year period and the files have become unmanageable and confusing relative to Gillespie's disability. Mr. Gillespie is not able to concentrate when handling a large amount of physical files and documents. He is better able to manage the files and documents when they are organized and viewable on his computer. Mr. Gillespie will bear the cost of converting files and documents to PDF."

Gillespie will provide further information to the Court in support of e-filing at the request of the Court in the event that the Court cannot grant Gillespie permission to e-file based on the foregoing information, and medical information contained in Gillespie's Disability Report (Exhibit 36).

### **INTENSIVE CASE MANAGEMENT**

7. Gillespie is mentally ill and has other disabilities like type 2 adult onset diabetes, high blood pressure, and communication disorders. Gillespie requests intensive case management because he does not want to miss a deadline due to confusion related to mental illness or other disability. Gillespie is totally disabled and not able to work. Social Security determined that Gillespie is disabled and cannot work<sup>1</sup>. Gillespie sustained a traumatic brain injury and has not held substantial employment since. Gillespie is not a lawyer and did not attend law school. Gillespie does not want any inadvertent miscommunication with the Court to cause dismissal of his appeal because of mental illness or disability.

### **APPOINTMENT OF COUNSEL**

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

---

<sup>1</sup> Prior to the onset of the most disabling aspects Gillespie's medical conditions, he was a productive member of society, and a business owner for 12 years. As such Gillespie paid both the employee and employer payroll tax contribution to the Social Security program.

“16. Gillespie is an individual with mental illness as defined by 42 U.S.C. Chapter 114 The Protection and Advocacy for Individuals with Mental Illness Act, § 10802(4)(A) and (B)(i)(III). Gillespie was involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense. Gillespie’s involuntary confinement was in the George E. Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida. On June 1, 2011 Judge Arnold issued a politically motivated warrant to arrest Gillespie for the purpose of harming Gillespie by abuse as defined § 10802(1) and neglect as defined by § 10802(5) to force a walk-away settlement agreement in the state action, and to force a walk-away settlement agreement in the federal action, Gillespie’s civil rights and ADA lawsuit against the Thirteenth Judicial Circuit, Florida, et al., for the misuse and denial of judicial process under the color of law, and denial of disability accommodation. Gillespie was involuntary confined by two (2) fully armed deputies of the Hillsborough County Sheriff’s Office, and involuntarily held during an improper full deposition, post final summary judgment, an open-ended deposition without time limit, with no lunch break, and no meals usually given to an inmate, until Gillespie suffered injury and agreed to sign a walk-away settlement agreement. Gillespie was so impaired when he signed the agreement that the record shows he was unable to make the settlement decision himself.”

A copy of the opinion decided March 27, 2012 by Judge Richard Posner of the 7th U.S. Circuit Court of Appeals accompanies my letter to Sheryl L. Loesch, Clerk of the District Court. (Exhibit CLERK; Exhibit 3 to the letter dated April 5, 2012). The American Bar Association Journal Law News Now reported this story March 28, 2012. (Exhibit 4 to the letter dated April 5, 2012 to Ms. Loesch, and at the URL below).

[http://www.abajournal.com/news/article/for\\_one\\_prisoner\\_nutriload\\_diet\\_may\\_violate\\_eighth\\_amendment\\_posner\\_opinion](http://www.abajournal.com/news/article/for_one_prisoner_nutriload_diet_may_violate_eighth_amendment_posner_opinion)

### **GENERAL REQUEST FOR FURTHER RELIEF AS THIS COURT**

#### **DEEMS JUST AND EQUITABLE.**

9. Gillespie makes a general request for further relief as this Court deems just and equitable and submits the following documents for consideration:

a. Case No. SC11-1622, Supreme Court of Florida, Petition (Active Case). This petition shows that Mr. Rodems misled the state court and obtained a warrant to arrest Gillespie for allegedly failing to appear for a deposition in aid of execution. (Rodems

obtained sanctions of \$11,550 against Gillespie in a vexatious counterclaim that was later voluntarily dismissed by Rodems). Rodems obtained a warrant to arrest Gillespie on a writ of bodily attachment AFTER the case was closed and on appeal in 2D10-5197 Second District Court of Appeals, Florida. After being hunted down by law enforcement for three (3) weeks on the arrest warrant, Gillespie voluntarily appeared and surrendered at Hillsborough Courthouse for the deposition, but that turned out to be a trap to force a “walk-away” settlement agreement. By then the deposition had changed to a full deposition, open-ended, with no time limit. Gillespie was taken into custody and involuntarily confined by two Hillsborough County Sheriff’s Deputies, Deputy Randy Olding and Deputy Larry Berg. Gillespie was denied accommodation under the ADA, and the Federal Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801 et seq. After being held in custody during the deposition for over four (4) hours without a lunch break, or the usual mid-day meal provided to a prisoner, Gillespie became confused and disoriented. The record shows that Gillespie was so impaired that he could not make a decision to sign the agreement. Gillespie’s counsel Eugene Castagliuolo, whom he hired from Craigslist a couple weeks earlier, made the decision to settle because “judges have mud on their shoes”. Gillespie signed the agreement while confused and in a diminished state. Castagliuolo disobeyed Gillespie’s prior written and verbal instructions not to accept a walk-away settlement agreement. Once Gillespie was released from custody and had a meal, he realized the settlement was a mistake and promptly disaffirmed the agreement by written notice to Mr. Rodems, Mr. Castagliuolo and Major James Livingston of the Hillsborough County Sheriff’s Office.

The initial Petition was denied/dismissed March 12, 2012 as shown in the Order, Exhibit SC-1, and the case was closed. However the case was reopened upon Gillespie's motion for reconsideration as set forth in Exhibits SC-2 and SC-3, to reconsider Rodems' misconduct during a hearing on disqualification of counsel April 25, 2006 where 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, such as McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, or U.S. v. Culp, 934 F.Supp. 394. The Court may also reconsider Mr. Rodems' vexatious litigation against Gillespie, a libel counterclaim commenced by Rodems and pursued vexatiously by Rodems from January 19, 2006 through September 28, 2010, whereupon Rodems voluntarily dismissed the counterclaim without prejudice. Gillespie retained counsel to defend the vexatious litigation brought by Mr. Rodems on behalf of Mr. Cook and Barker, Rodems & Cook, P.A. and Gillespie incurred over \$30,000 in legal fees by attorney Robert W. Bauer, a referral from the Florida Bar Lawyer Referral Service for libel. Mr. Bauer then encourage Petitioner to reinstate dismissed claims in the litigation.

Exhibit 62, Petition for Writ of Mandamus, SC11-1622 (with CD ROM)

Exhibit 61, Affidavit of Neil J. Gillespie, Re: Eugene P. Castagliuolo, Esq.

Exhibit SC-1, Order denied/dismissed Petition, March 12, 2012

Exhibit SC-2, Motion for Reconsideration, Single Issue, March 19, 2012

Exhibit SC-3, Addendum, Motion for Reconsideration, March 22, 2012

Exhibit SC-4, Case Docket, the case is active as of 7.26AM April 7, 2012

b. Case No. 5:10-cv-00503-Oc-WTH-DAB (later 5:10-cv-00503-Oc-WTH-TBS)

Exhibit 1, Complaint, Civil Rights 42 USC § 1983 and ADA violations, for the misuse and denial of judicial process under the color of law for the benefit of Ryan Christopher Rodems in the state court action.

Exhibit 22, Plaintiff's Voluntary Dismissal, allegation of Torture.

Exhibit 36, Verified Notice of Filing Disability Information of Neil J Gillespie

Exhibit 49, Notice of Filing Transcript of Krista J Sterken, Foley & Lardner.

Ms. Sterken offered to represent Gillespie pro bono, but that offer was withdrawn without explanation. See Gillespie's letter to Sheryl L. Loesch, Clerk of the District Court below, there is reason to conclude that Magistrate Judge Baker may have had some role in the decision by Foley & Lardner not to represent Gillespie pro bono.

Exhibit 58, Plaintiff's Response to Order to Show cause, with exhibits. This shows why the case should have been designated Track Three Complex Litigation.

Exhibit 60, Unopposed Motion for Leave to Submit Addendum to Doc. 58

Exhibit 68, Motion to Amend the Judgment, letter to Chief Judge Anne Conway

c. Case No. 5:11-cv-00539-Oc-WTH-TBS

Exhibit Estate-15, First Amended Complaint, Civil Rights 42 USC § 1983 and ADA violations, restraint of trade, fair services, wrongful death, Federal Protection, Advocacy for Mentally Ill Individuals Act, etc. This amended complaint shows beginning at paragraph 51 that Robert W. Bauer, former counsel who charged Gillespie over \$33,000 for representation then dropped the case, has a pattern of disregard toward clients who are disabled and/or elderly. There is also a question beginning at paragraph 47 as to Mr. Bauer's literacy, if Bauer's literacy is sufficient to practice law. Mr. Bauer is a fireman who became a lawyer at age 35. More than

one client has complained that Mr. Bauer submits pro se client pleadings, and the work of law students, to the court as his own work, and then charges the client for the work as his own. Even Mr. Rodems complained that Bauer submitted Gillespie's pro se pleadings as his own, ¶ 49.

Exhibit Estate-17, Notice of Hunger Strike.

d. Letter to Sheryl L. Loesch, Clerk of the U.S. District Court, Middle District of Florida

Exhibit CLERK, Letter to Ms. Loesch dated April 5, 2012. Gillespie's letter to Ms. Loesch of April 5, 2012 sets forth failures by the Clerk and the Court regarding the disqualification of counsel Mr. Rodems and BRC, case management issues, no ADA accommodation, failure to put documents on the CM/ECF and PACER systems, and reason to conclude that Magistrate Judge Baker may have had some role in the decision by Foley & Lardner not to represent Gillespie pro bono.

**WAIVER OF ALL CONFIDENTIALITY**

10. Gillespie hereby waives all confidentiality and request that his ADA request be placed in the public record. A person's disability information is ordinarily confidential and protected from public disclosure like any other private medical information. Gillespie finds the public disclosure of his mental illness and other private medical information contained in Dr. Huffer's report and his ADA request objectionable just as any reasonable person would find it objectionable. In Gillespie's view this is a wrongful intrusion into his private life, in such manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities. Gillespie makes the information public to expose wrongdoing to the light of day, as well as for the benefit of others who are either in a similar situation, or may encounter one in the future. Gillespie



would like to see the abuses in this case, the torture of a mentally ill person, and the denial and misuse of judicial process under the color of law, reported in the press.

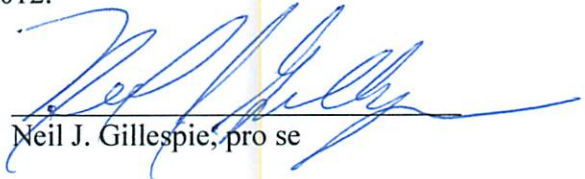
### **ISSUES FOR APPEAL**

11. The District Court erred in failing to designate this action as Tract Three Complex Litigation under Local Rule 3.05 (Exhibit 58). The District Court erred when it failed to disqualify counsel Mr. Rodems/BRC on Gillespie's motion (Doc. 8) pursuant to the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. (Doc. 20). McPartland has been a mandatory authority on disqualification in the Middle District of Florida since entered June 30, 1995 by Judge Kovachevich. (Exhibit 58) The District Court erred when it failed to provide Gillespie accommodation under the ADA. (Exhibit CLERK). The District Court erred when it failed to allow Gillespie to consolidate the two actions, 5:10-cv-00503-Oc-WTH-TBS and 5:11-cv-00539-Oc-WTH-TBS, and subsequently file an amended complaint. The amended complaint would add allegations of substantial wrongdoing that have occurred since the original complaint was filed September 28, 2010 by incorporating many of the facts and allegations already set forth in Exhibit 61 and Exhibit 62, the Supreme Court of Florida petition, case no. SC11-1622, and allegations contained in Exhibit 58, Plaintiff's Response to Order to Show cause, Exhibit 60, Unopposed Motion for Leave to Submit Addendum to Doc. 58, Exhibit 68, Motion to Amend the Judgment, letter to Chief Judge Anne Conway, and Exhibit CLERK, Gillespie's letter to Sheryl L. Loesch, Clerk of the District Court. The District Court erred in its reliance on Heck v. Humphrey, 512 U.S. 477, 114 S.Ct. 2364 (1994) in the Order of Dismissal (Doc. 64). Heck has significant negative history, and

does not address the ADA or other facts in this case. The opinion decided March 27, 2012 by Judge Richard Posner of the 7th U.S. Circuit Court of Appeals in a civil rights suit brought under 42 U.S.C. § 1983 is more in line with the facts in this action.

WHEREFORE, Gillespie moves for disability accommodation and appointment of counsel as set forth herein, and makes a general request for further relief as this Court deems just and equitable.

RESPECTFULLY SUBMITTED April 7, 2012.



Neil J. Gillespie, pro se

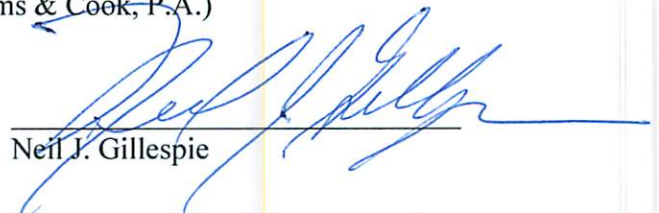
Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal Service first class mail April 7, 2012 or as indicated below. Only this document was served in paper format; the exhibits were served in PDF on CD ROM.

Robert E. O'Neill, US Attorney (For the Thirteenth Judicial Circuit, Florida, et al)  
US Attorney's Office  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798

Catherine Barbara Chapman (For Robert W. Bauer, et al)  
Guilday, Tucker, Schwartz & Simpson, P.A.  
1983 Centre Pointe Boulevard, Suite 200  
Tallahassee, FL 32308-7823

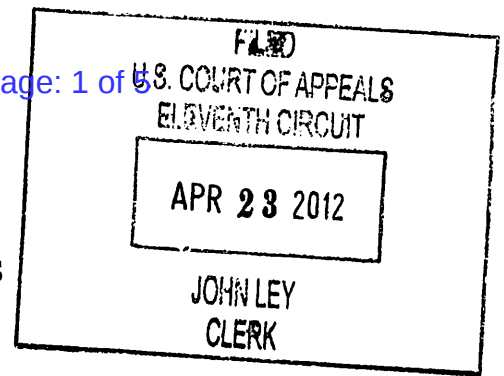
Ryan C. Rodems  
(For himself and his law firm Barker, Rodems & Cook, P.A.)  
400 North Ashley Drive, Suite 2100  
Tampa, Florida 33602



Neil J. Gillespie



UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



NEIL J. GILLESPIE,  
ESTATE OF PENELOPE GILLESPIE,

CASE NO.: 12-11028-B

Plaintiffs/Appellants,

vs.

CASE NO.: 12-11213-C

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants/Appellees.

**CONSOLIDATED NOTICE OF CLERK MISTAKE**

**RE: U.S. ATTORNEY APPEARANCE**

**MOTION TO TOLL TIME**

1. Appellants, ESTATE OF PENELOPE GILLESPIE and NEIL J. GILLESPIE, hereby give consolidated notice of a letter suggesting a mistake by the Clerk, received from Mr. David P. Rhodes, Assistant United States Attorney, Chief, Appellate Division, on behalf of Robert E. O'Neill, United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602, dated April 12, 2012. (Exhibit 1). The letter, addressed to Neil J. Gillespie ("Gillespie"), 8092 SW 115th Loop, Ocala, Florida 34481, states:

"Thank you for your letter. The Eleventh Circuit Court Clerk had mistakenly listed us as counsel in this appeal. We do not represent anyone in this case, and the Court has corrected its records. So you do not need to serve us with anything associated with your appeal."

2. Mr. Rhodes' letter was in response to a letter from Gillespie to U.S. Attorney Robert E. O'Neill requesting information about the appearance of the U.S. Attorney in this appeal, as set forth below: (Exhibit 2)

"Dear U.S. Attorney O'Neill:

This inquiry is to understand your appearance in the above captioned appeal(s).

March 8, 2012 I spoke with Melanie Gaddis at (404) 335-6187, the Case Handler for Appeal Number 12-11028-B. Ms. Gaddis said your appearance for the Thirteenth Judicial Circuit, Florida, et al. was standard procedure. Based on that information I provided you service of copies for the Thirteenth Circuit.

Yesterday I read on the U.S. Attorney's website that "We enforce the criminal laws of the United States and represent the United States' interest in civil judicial proceedings."

Insofar as the Thirteenth Judicial Circuit, Florida, et al., are state actors, I do not understand your appearance, since there is no United States interest in this case.

Please advise because I do not understand. Should I continue providing your office copies of pleadings in the appeal(s)? Thank you.

3. Gillespie moves to toll time so he can determine who represents the Thirteenth Judicial Circuit, Florida, et al., and serve counsel with the pleadings misdirected to the U.S. Attorney. Catherine Barbara Chapman, counsel for Mr. Bauer, informed Gillespie April 17, 2012 "I do not know who represents the Thirteenth Judicial Circuit."
4. Gillespie provided a copy of this notice to David A. Rowland, Court Counsel for the Thirteenth Judicial Circuit, Florida, and requests Mr. Rowland identify to Gillespie who represents or accepts service for the Thirteenth Judicial Circuit, Florida, et al.

RESPECTFULLY SUBMITTED April 18, 2012.

  
Neil J. Gillespie, pro se



Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal

Service first class mail April 18, 2012 to the following:

Robert E. O'Neill, US Attorney (courtesy copy)  
US Attorney's Office  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798

David A. Rowland, Court Counsel (For the Thirteenth Judicial Circuit, FL, et al.)  
Administrative Offices Of The Courts  
Thirteenth Judicial Circuit Of Florida  
Legal Department  
800 E. Twiggs Street, Suite 603  
Tampa, Florida 33602

Catherine Barbara Chapman (For Robert W. Bauer, et al)  
Guilday, Tucker, Schwartz & Simpson, P.A.  
1983 Centre Pointe Boulevard, Suite 200  
Tallahassee, FL 32308-7823

Ryan C. Rodems, Esquire (For himself and his firm Barker, Rodems & Cook, PA)  
Barker, Rodems & Cook, PA  
501 E. Kennedy Blvd, suite 790  
Tampa, Florida 33602

  
Neil J. Gillespie



35 SE 1st Avenue, Suite 300  
Ocala, Florida 34471  
352/547-3600  
352/547-3623 (Fax)

**U.S. Department of Justice  
United States Attorney  
Middle District of Florida**

**Main Office**  
400 North Tampa Street, Suite 3200  
Tampa, Florida 33602  
813/274-6000  
813/274-6358 (Fax)

501 West Church Street, Suite 300  
Orlando, Florida 32805  
407/648-7500  
407/648-7643 (Fax)

**Reply to: Tampa**

April 12, 2012

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

Re: Appeal No. 12-11028-B

Dear Mr. Gillespie:

Thank you for your letter. The Eleventh Circuit Court Clerk had mistakenly listed us as counsel in this appeal. We do not represent anyone in this case, and the Court has corrected its records. So you do not need to serve us with anything associated with your appeal.

Very truly yours,

ROBERT E. O'NEILL  
United States Attorney

By:

DAVID P. RHODES  
Assistant United States Attorney  
Chief, Appellate Division

VIA FAX (813) 274-6358 and  
U.S.P.S. First Class Mail

April 9, 2012

Robert E. O'Neill, U.S. Attorney  
U.S. Attorney's Office  
Middle District of Florida  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798

RE: Neil J. Gillespie, et al., v. Thirteenth Judicial Circuit, Florida, et al.  
U.S. Court of Appeals for the Eleventh Circuit  
Appeal Number 12-11028-B and Appeal Number 12-11213-C

Dear U.S. Attorney O'Neill:

This inquiry is to understand your appearance in the above captioned appeal(s).

March 8, 2012 I spoke with Melanie Gaddis at (404) 335-6187, the Case Handler for Appeal Number 12-11028-B. Ms. Gaddis said your appearance for the Thirteenth Judicial Circuit, Florida, et al. was standard procedure. Based on that information I provided you service of copies for the Thirteenth Circuit.

Yesterday I read on the U.S. Attorney's website that "We enforce the criminal laws of the United States and represent the United States' interest in civil judicial proceedings."

Insofar as the Thirteenth Judicial Circuit, Florida, et al., are state actors, I do not understand your appearance, since there is no United States interest in this case.

Please advise because I do not understand. Should I continue providing your office copies of pleadings in the appeal(s)? Thank you.

Sincerely,



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

Telephone: (352) 854-7807  
Email: [neilgillespie@mfi.net](mailto:neilgillespie@mfi.net)  
Website: <http://yousue.org/litigation/>





IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 12-11028-B

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

MAY - 7 2012

JOHN LEY  
CLERK

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

Plaintiffs-Appellants,

versus

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

Defendants-Appellees.

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

ORDER:

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

/s/ Charles R. Wilson  
UNITED STATES CIRCUIT JUDGE

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

John Ley  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

May 07, 2012

Neil J. Gillespie  
8092 SW 115TH LOOP  
OCALA, FL 34481

Appeal Number: 12-11028-B  
Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al  
District Court Docket No: 5:11-cv-00539-WTH-TBS

The following action has been taken in the referenced case:

The enclosed order has been ENTERED.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of fourteen (14) days from this date, this appeal will be dismissed by the clerk without further notice unless you pay to the DISTRICT COURT clerk the \$450 docket and \$5 filing fees (total of \$455), with notice to this office.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Melanie Gaddis, B  
Phone #: (404) 335-6187

MOT-2 Notice of Court Action



UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

NEIL J. GILLESPIE,  
ESTATE OF PENELOPE GILLESPIE,

CASE NO.: 12-11028-B

Plaintiffs/Appellants,

CASE NO.: 12-11213-C

vs.

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants/Appellees.

**CONSOLIDATED NOTICE OF FILING LETTER**

**RE: FLORIDA ATTORNEY GENERAL APPEARANCE**

**MOTION TO TOLL TIME**

1. Appellants, NEIL J. GILLESPIE and ESTATE OF PENELOPE GILLESPIE, hereby give consolidated notice of filing a letter to Pam Bondi, Florida Attorney General dated May 3, 2012. The letter is to establish that the Florida Office of Attorney General represents the Thirteenth Judicial Circuit, Florida, et al. in appeal 12-11028-B so that Gillespie can serve pleadings that were misdirected to U.S. Attorney Robert E. O'Neill.
2. Gillespie also gives notice of fifteen (15) related cases, see Exhibit 3 to the letter.
3. Gillespie moves to toll time for a response by the Florida Attorney General, and to serve, if necessary, pleadings that were misdirected to the U.S. Attorney.

RESPECTFULLY SUBMITTED May 3, 2012.

  
Neil J. Gillespie, pro se

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal

Service first class mail May 3, 2012 to the following:

Pam Bondi, Attorney General  
Office of Attorney General  
State of Florida  
The Capitol PL-01  
Tallahassee, FL 32399-1050

Catherine Barbara Chapman (For Robert W. Bauer, et al) (Service by email only)  
Guilday, Tucker, Schwartz & Simpson, P.A.  
1983 Centre Pointe Boulevard, Suite 200  
Tallahassee, FL 32308-7823

Ryan C. Rodems, Esquire (For himself and his firm Barker, Rodems & Cook, PA)  
Barker, Rodems & Cook, PA  
501 E. Kennedy Blvd, suite 790  
Tampa, Florida 33602

  
\_\_\_\_\_  
Neil J. Gillespie  
8092 SW 115th Loop  
Ocala, Florida 34481  
(352) 854-7807

Pam Bondi, Attorney General  
Office of Attorney General  
State of Florida  
The Capitol PL-01  
Tallahassee, FL 32399-1050

May 3, 2012

RE: Neil J. Gillespie, et al., v. Thirteenth Judicial Circuit, Florida, et al.  
U.S. Court of Appeals for the Eleventh Circuit  
Appeal Number 12-11028-B and Appeal Number 12-11213-C

Dear Attorney General Bondi:

This inquiry concerns your appearance in the above captioned appeal(s).

Previously U.S. Attorney Robert E. O'Neill was listed for Thirteenth Judicial Circuit, Florida, et al. on the appellate docket in appeal 12-11028-B, but that was a mistake. See the enclosed Consolidated Notice of Clerk Mistake. (Exhibit 1)

The appellate docket now shows substitute attorney Pam Bondi in 12-11028-B for the Thirteenth Judicial Circuit, Florida, et al. A copy of the appellate docket is enclosed showing the April 26, 2012 entry. (Exhibit 2)

Please acknowledge to the undersigned if in fact the Florida Office of Attorney General represents the Thirteenth Judicial Circuit, Florida, et al. in appeal 12-11028-B so that I can serve pleadings that were misdirected to U.S. Attorney Robert E. O'Neill.

The following motions are pending:

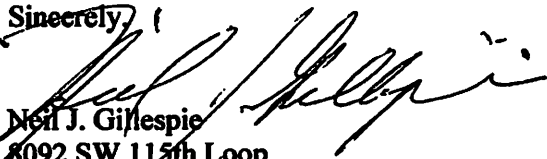
Appellants' motion to appear in forma pauperis, March 16, 2012

Appellants' motion to consolidate related appeals, March 14, 2012

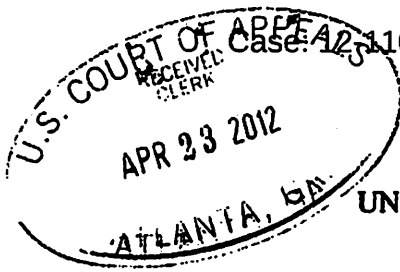
Appellants' consolidated motion for accommodation under the Americans with Disabilities Act and appointment of counsel, April 9, 2012.

Please note that a related case is pending before the Florida Supreme Court, SC11-1622. In fact, there are fifteen (15) related cases, see the enclosed list. (Exhibit 3)

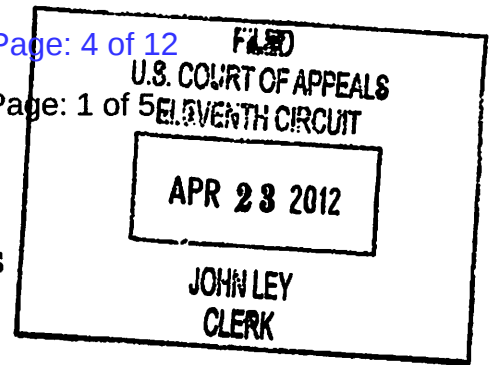
Sincerely,

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

Enclosures



UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



NEIL J. GILLESPIE,  
ESTATE OF PENELOPE GILLESPIE,

CASE NO.: 12-11028-B

Plaintiffs/Appellants,

CASE NO.: 12-11213-C

vs.

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants/Appellees.

**CONSOLIDATED NOTICE OF CLERK MISTAKE**

**RE: U.S. ATTORNEY APPEARANCE**

**MOTION TO TOLL TIME**

1. Appellants, ESTATE OF PENELOPE GILLESPIE and NEIL J. GILLESPIE, hereby give consolidated notice of a letter suggesting a mistake by the Clerk, received from Mr. David P. Rhodes, Assistant United States Attorney, Chief, Appellate Division, on behalf of Robert E. O'Neill, United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602, dated April 12, 2012. (Exhibit 1). The letter, addressed to Neil J. Gillespie ("Gillespie"), 8092 SW 115th Loop, Ocala, Florida 34481, states:

"Thank you for your letter. The Eleventh Circuit Court Clerk had mistakenly listed us as counsel in this appeal. We do not represent anyone in this case, and the Court has corrected its records. So you do not need to serve us with anything associated with your appeal."

EXHIBIT

1

2. Mr. Rhodes' letter was in response to a letter from Gillespie to U.S. Attorney Robert E. O'Neill requesting information about the appearance of the U.S. Attorney in this appeal, as set forth below: (Exhibit 2)

"Dear U.S. Attorney O'Neill:

This inquiry is to understand your appearance in the above captioned appeal(s).

March 8, 2012 I spoke with Melanie Gaddis at (404) 335-6187, the Case Handler for Appeal Number 12-11028-B. Ms. Gaddis said your appearance for the Thirteenth Judicial Circuit, Florida, et al. was standard procedure. Based on that information I provided you service of copies for the Thirteenth Circuit.

Yesterday I read on the U.S. Attorney's website that "We enforce the criminal laws of the United States and represent the United States' interest in civil judicial proceedings."

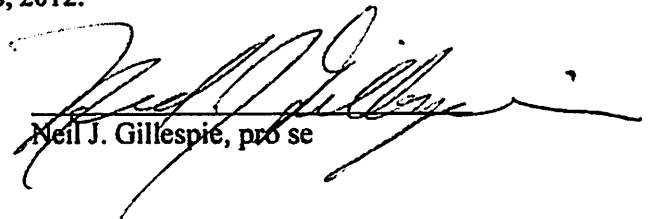
Insofar as the Thirteenth Judicial Circuit, Florida, et al., are state actors, I do not understand your appearance, since there is no United States interest in this case.

Please advise because I do not understand. Should I continue providing your office copies of pleadings in the appeal(s)? Thank you.

3. Gillespie moves to toll time so he can determine who represents the Thirteenth Judicial Circuit, Florida, et al., and serve counsel with the pleadings misdirected to the U.S. Attorney. Catherine Barbara Chapman, counsel for Mr. Bauer, informed Gillespie April 17, 2012 "I do not know who represents the Thirteenth Judicial Circuit."

4. Gillespie provided a copy of this notice to David A. Rowland, Court Counsel for the Thirteenth Judicial Circuit, Florida, and requests Mr. Rowland identify to Gillespie who represents or accepts service for the Thirteenth Judicial Circuit, Florida, et al.

RESPECTFULLY SUBMITTED April 18, 2012.

  
Neil J. Gillespie, pro se



Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal

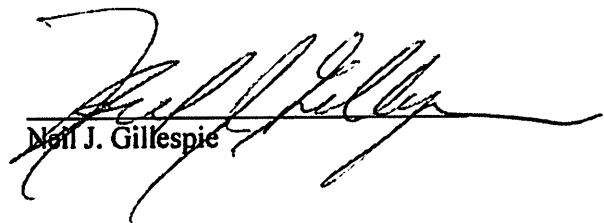
Service first class mail April 18, 2012 to the following:

Robert E. O'Neill, US Attorney (courtesy copy)  
US Attorney's Office  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798

David A. Rowland, Court Counsel (For the Thirteenth Judicial Circuit, FL, et al.)  
Administrative Offices Of The Courts  
Thirteenth Judicial Circuit Of Florida  
Legal Department  
800 E. Twiggs Street, Suite 603  
Tampa, Florida 33602

Catherine Barbara Chapman (For Robert W. Bauer, et al)  
Guilday, Tucker, Schwartz & Simpson, P.A.  
1983 Centre Pointe Boulevard, Suite 200  
Tallahassee, FL 32308-7823

Ryan C. Rodems, Esquire (For himself and his firm Barker, Rodems & Cook, PA)  
Barker, Rodems & Cook, PA  
501 E. Kennedy Blvd, suite 790  
Tampa, Florida 33602

  
Neil J. Gillespie

35 SE 1st Avenue, Suite 300  
Ocala, Florida 34471  
352/547-3600  
352/547-3623 (Fax)

**U.S. Department of Justice  
United States Attorney  
Middle District of Florida**

Main Office  
400 North Tampa Street, Suite 3200  
Tampa, Florida 33602  
813/274-6000  
813/274-6358 (Fax)

501 West Church Street, Suite 300  
Orlando, Florida 32805  
407/648-7500  
407/648-7643 (Fax)

Reply to: Tampa

April 12, 2012

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

Re: Appeal No. 12-11028-B

Dear Mr. Gillespie:

Thank you for your letter. The Eleventh Circuit Court Clerk had mistakenly listed us as counsel in this appeal. We do not represent anyone in this case, and the Court has corrected its records. So you do not need to serve us with anything associated with your appeal.

Very truly yours,

ROBERT E. O'NEILL  
United States Attorney

By:

  
DAVID P. RHODES  
Assistant United States Attorney  
Chief, Appellate Division

**VIA FAX (813) 274-6358 and**  
**U.S.P.S. First Class Mail**

**April 9, 2012**

**Robert E. O'Neill, U.S. Attorney  
U.S. Attorney's Office  
Middle District of Florida  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602-4798**

**RE: Neil J. Gillespie, et al., v. Thirteenth Judicial Circuit, Florida, et al.  
U.S. Court of Appeals for the Eleventh Circuit  
Appeal Number 12-11028-B and Appeal Number 12-11213-C**

**Dear U.S. Attorney O'Neill:**

**This inquiry is to understand your appearance in the above captioned appeal(s).**

**March 8, 2012 I spoke with Melanie Gaddis at (404) 335-6187, the Case Handler for Appeal Number 12-11028-B. Ms. Gaddis said your appearance for the Thirteenth Judicial Circuit, Florida, et al. was standard procedure. Based on that information I provided you service of copies for the Thirteenth Circuit.**

**Yesterday I read on the U.S. Attorney's website that "We enforce the criminal laws of the United States and represent the United States' interest in civil judicial proceedings."**

**Insofar as the Thirteenth Judicial Circuit, Florida, et al., are state actors, I do not understand your appearance, since there is no United States interest in this case.**

**Please advise because I do not understand. Should I continue providing your office copies of pleadings in the appeal(s)? Thank you.**

**Sincerely,**



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

**Telephone: (352) 854-7807  
Email: [neilgillespie@mfi.net](mailto:neilgillespie@mfi.net)  
Website: <http://yousue.org/litigation/>**



**General Docket  
United States Court of Appeals for the Eleventh Circuit**

<b>Court of Appeals Docket #:</b> 12-11028 <b>Nature of Suit:</b> 3440 Other Civil Rights Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al <b>Appeal From:</b> Middle District of Florida <b>Fee Status:</b> IFP Pending	<b>Docketed:</b> 02/27/2012  <b>Case Handler:</b> Gaddis, Melanie, B (404) 335-6187
--	--

**Case Type Information:**

- 1) Private Civil
- 2) Federal Question
- 3) -

**Originating Court Information:**

**District:** 113A-5 : 5:11-cv-00539-WTH-TBS  
**Civil Proceeding:** Wm. Terrell Hodges, -, U.S. District Judge  
**Secondary Judge:** Thomas B. Smith, -, U.S. Magistrate Judge  
**Date Filed:** 09/16/2011  
**Date NOA Filed:**  
 02/22/2012

**Prior Cases:**

None

**Current Cases:**

None

**ESTATE OF PENELOPE GILLESPIE**

Plaintiff - Appellant

NEIL J. GILLESPIE, Personal Representative of the Estate,  
 Survivor

Plaintiff - Appellant

Neil J. Gillespie, -  
 [NTC Pro Se]  
 8092 SW 115TH LOOP  
 OCALA, FL 34481

versus

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA  
 Defendant - Appellee

Pam Bondi, -  
 [COR NTC Government]  
 Office of the Attorney General  
 Firm: 850-414-3300  
 PL-01, THE CAPITOL  
 TALLAHASSEE, FL 32399-1050

JAMES M. BARTON, II, Circuit Court Judge, and individually  
 Defendant - Appellee

Pam Bondi, -  
 [COR NTC Government]  
 (see above)

THE LAW OFFICE OF ROBERT W. BAUER, P.A.  
 Defendant - Appellee

ROBERT W. BAUER

Defendant - Appellee

**EXHIBIT****2**








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

Plaintiffs - Appellants,

versus

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

Defendants - Appellees.

02/27/2012	<input type="checkbox"/> 	CIVIL APPEAL DOCKETED. Notice of appeal filed by Appellant Estate of Penelope Gillespie on 02/22/2012. Fee Status: Fee Not Paid.
	3 pg, 93.15 KB	
02/27/2012	<input type="checkbox"/> 	USDC order denying IFP as to Appellant Estate of Penelope Gillespie was filed on 02/27/2012. Docket Entry 22.
	2 pg, 67.3 KB	
02/27/2012	<input type="checkbox"/>	The Transcript Order Form has not been filed as to Appellant Estate of Penelope Gillespie. There are no hearings to be transcribed.
03/14/2012	<input type="checkbox"/> 	Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellant Estate of Penelope Gillespie.
	1 pg, 47.83 KB	
03/14/2012	<input type="checkbox"/> 	<i>MOTION to consolidate appeals filed by Appellant Estate of Penelope Gillespie. Opposition to Motion is Unknown [6519296-1]</i>
	13 pg, 1.39 MB	
03/16/2012	<input type="checkbox"/>	<i>MOTION to proceed IFP filed by Appellant Neil J. Gillespie. Opposition to Motion is Unknown [6524989-1]</i>
03/16/2012	<input type="checkbox"/> 	Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellant Neil J. Gillespie.
	1 pg, 29.59 KB	
04/09/2012	<input type="checkbox"/> 	<i>MOTION Accommodation under the Americans with Disabilities Act - Waiver of Confidentiality; Motion to toll time; for appointment of counsel filed by Appellant Neil J. Gillespie. Opposition to Motion is Unknown [6538485-1]**extensive exhibits not scanned**</i>
	12 pg, 783.88 KB	
04/23/2012	<input type="checkbox"/> 	<i>Supplemental Consolidated Motion to Toll Time filed by Appellant Neil J. Gillespie.</i>
	5 pg, 562.6 KB	
04/26/2012	<input type="checkbox"/>	Substitute attorney: Attorneys Robert E. O'Neill and Robert E. O'Neill in 12-11028 substituted by Attorneys Pam Bondi and Pam Bondi in 12-11028

**15 Cases Related to Gillespie v. Barker, Rodems & Cook, PA, 05-CA-7205**

1. BRC v. Gillespie, vexatious libel counterclaim in 05-CA-7205, January 19, 2006 - September 28, 2010. (Mr. Bauer appeared for Gillespie April 2, 2007 through October 1, 2009)

**Related Cases in the Second District Court of Appeal, Florida:**

2. Case No. 06-3803: Gillespie v. BRC, discovery sanctions (Gillespie pro se) (closed)
3. Case No. 07-4530: BRC v. Gillespie, voluntary dismissal (Mr. Bauer for Gillespie) (closed)
4. Case No. 08-2224: Gillespie v. BRC, § 57.105 sanctions (Mr. Bauer for Gillespie) (closed)
5. Case No. 10-5197: Gillespie v. BRC, appeal final summary judgment (Gillespie pro se) (closed)
6. Case No. 10-5529: Gillespie v. BRC, prohibition, Judge Cook (Gillespie pro se) (closed)
7. Case No. 11-2127: Gillespie v. BRC, prohibition/venue, Judge Arnold (Gillespie pro se) (closed)

**Related Cases in the Supreme Court of Florida:**

8. Case No. SC11-858: Gillespie v. BRC, habeas corpus, prohibition (Gillespie pro se) (closed)
9. Case No. SC11-1622: Gillespie v. BRC, mandamus, other relief (Gillespie pro se) (active)

**Related Cases in the U.S. District Court, Middle District of Florida, Ocala Div.:**

10. Case No. 10-cv-00503: Gillespie v. Thirteenth Judicial Circuit, FL, et al, Civil Rights/ADA (Gillespie pro se) (closed, appeal)
11. Case No. 11-cv00539: Estate/Gillespie v. Thirteenth Judicial Circuit., FL, et al, Civil Rights/ADA (Gillespie pro se) (closed, appeal)

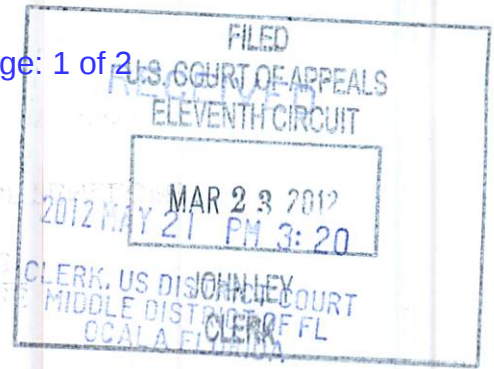
**Related Cases in the U.S. Court of Appeals for the Eleventh Circuit:**

12. Case No. 12-11028-B: Estate/Gillespie v. Thirteenth Judicial Circuit., FL, et al, Civil Rights/ADA (Gillespie pro se) (active)
13. Case No. 12-11213-C: Gillespie v. Thirteenth Judicial Circuit., FL, et al, Civil Rights/ADA (Gillespie pro se) (active)

**Related Cases in the Supreme Court of the United States:**

14. Rule 22 Application to Justice Thomas May 31, 2011, not docketed/returned. (Gillespie pro se) Emergency Petition for Stay or Injunction, re: Supreme Court of Florida SC11-858
15. Rule 22 Application to Justice Thomas June 11, 2011, not docketed/returned. (Gillespie pro se) Emergency Petition for Stay or Injunction, re: Supreme Court of Florida SC11-858





UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,

Plaintiffs-Appellants,

District Case No.: 5:11-cv-539-oc-10TBS  
U.S. 11th Circuit Case No.: 12-11028-B

vs.

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

Defendants-Appellees.

MOTION TO EXTEND TIME TO PAY FILING FEE  
\$50 NOW, BALANCE OF \$405 ON JUNE 1, 2012

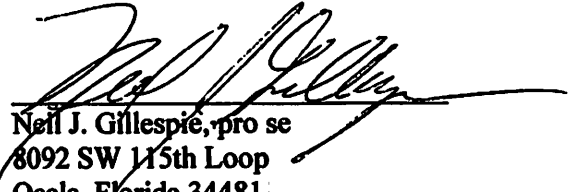
Appellants, NEIL J. GILLESPIE ("Gillespie") and ESTATE OF PENELOPE  
GILLESPIE, hereby move to extend time to pay the filing fee and state as follows:

1. The U.S. Court of Appeals denied Appellants leave to proceed on appeal in forma pauperis. A copy of the Order is attached hereto. Pursuant to Eleventh Circuit Rule 42-1(b), the Circuit Court notified Appellants that upon expiration of fourteen (14) days, this appeal will be dismissed by the clerk without further notice unless Appellants pay to the DISTRICT COURT clerk the \$450 docket and \$5 filing fees (total of \$455), with notice to the Circuit Court.
2. Appellant Gillespie states the appeal is not frivolous as will be shown on appeal.
3. Appellant Gillespie is indigent and/or insolvent, thereby making payment of \$455 impossible as set forth by the Circuit Court. Appellant is willing to pay the \$455 fee in a

reasonable time, consistent with his means, as follows: \$50 cash to the District Court clerk with this motion, and the \$405 balance on Friday, June 1, 2012.

4. Appellant Gillespie moves to extend time eleven (11) days to pay the \$405 balance to the District Court clerk upon receipt of his disability income June 1, 2012.

RESPECTFULLY SUBMITTED May 21, 2012.



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

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was mailed by U.S. Postal

Service first class mail May 21, 2012 to the following:

U.S. Court of Appeals for the Eleventh Circuit  
56 Forsyth Street  
N.W. Atlanta, Georgia 30303

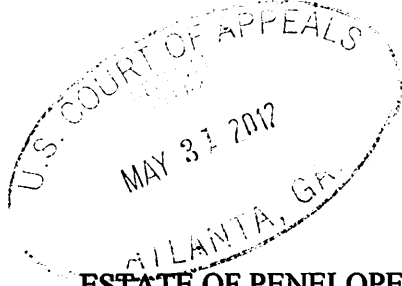
Pam Bondi, Attorney General (For the Thirteenth Judicial Circuit, FL, et al)  
Office of Attorney General  
State of Florida  
The Capitol PL-01  
Tallahassee, FL 32399-1050

Catherine Barbara Chapman (For Robert W. Bauer, et al) (Service by email only)  
Guilday, Tucker, Schwartz & Simpson, P.A.  
1983 Centre Pointe Boulevard, Suite 200  
Tallahassee, FL 32308-7823

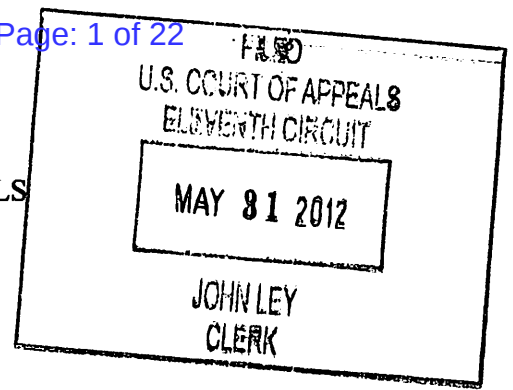
Ryan C. Rodems, Esquire (For himself and his firm Barker, Rodems & Cook, PA)  
Barker, Rodems & Cook, PA  
501 E. Kennedy Blvd, suite 790  
Tampa, Florida 33602



Neil J. Gillespie



UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,

Plaintiffs/Appellants,

vs.

CASE NO.: 12-11028-B

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants/Appellees.

MOTION TO RECONSIDER, VACATE OR MODIFY ORDER

MOTION TO TOLL TIME

Appellants, Neil J. Gillespie ("Gillespie") and Estate of Penelope Gillespie, hereby move to reconsider, vacate or modify this Court's Order of May 7, 2012, and in support thereof state:

Motion to Reconsider: The Appeal is Not Frivolous

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

The Florida Supreme Court has delegated to The Florida Bar the function of "disciplining" its members in this integrated state bar system. The Supreme Court and The Bar have a fiduciary duty to the public as well as to members of The Bar to exercise that disciplining function through "honest services," afforded all involved in this disciplinary process - both the members of the public allegedly harmed by the unethical practice of law and lawyers who may be targeted for discipline - due process of law, equal protection, and all other constitutionally-guaranteed rights. The Florida Bar

unfortunately is being operated, and demonstrably so, in a fashion as to protect itself rather than the public and honest lawyers. It is presently violating federal laws in pursuit of illicit ends, just as the United States Supreme Court predicted would eventually become the case with integrated state bars such as Florida's.

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

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

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

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

Supreme Court honestly considered his petition, Gillespie believed he could avoid RICO litigation.

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

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

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

agreement in Gillespie's federal civil rights and ADA disability lawsuit. Mr. Rodems intentionally inflicted emotional distress on Gillespie, who is mentally ill. As such, Mr. Rodems violated the following:

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

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

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

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



v. Division of Administration, State Dept. of Transp. 344 So.2d 1304 (Fla. Dist. Ct. App. 2d Dist. 1977).

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

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

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

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

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

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

Judge Barton negligently allowed Mr. Rodems to re-litigate matters already decided by the Order of Judge Nielsen entered January 13, 2006. (Res judicata). Judge Barton accepted as true false testimony by Mr. Rodems in the improper re-litigation of the Order of Judge Nielsen entered January 13, 2006. Judge Barton negligently allowed this case to languish for a period of one year



following the motion to withdrawal by Gillespie's lawyer Robert W. Bauer on October 13, 2008.

This racketeering activity is in violation of the following:

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

f. Judge Barton continued the pattern of racketeering activity in awarding \$11,550 in sanctions to Mr. Rodems. (Doc. 15, ¶13b). Judge Barton was negligent in his failure to conduct a hearing on a Claim Of Exemption And Request For Hearing served August 14, 2008 by Gillespie's attorney Robert W. Bauer. Judge Barton entered Order Granting Defendants' Motion For Writ of Garnishment After Judgment July 24, 2008. On July 29, 2008 Mr. Rodems obtained Writs of Garnishment against Gillespie's bank accounts, and client account with Mr. Bauer. Rodems garnished \$598.22 from Gillespie's bank accounts with Park Avenue Bank, a Georgia bank, affecting interstate commerce. (Doc. 15, ¶13b). Mr. Rodems garnished Gillespie's Social Security Disability benefits, exempt from garnishment under section 222.18 Florida Statutes. Judge Barton failed to provide Gillespie accommodation under the ADA. Barker, Rodems & Cook, P.A. paid money to Regency Reporting Service, owned by Chere Barton, wife of Judge Barton, who acted with unlawful favor toward Mr. Rodems and his firm. This racketeering activity is in violation of the following:

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

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

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

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

"Plaintiff has already paid twice the actual damages in attorneys fees to date in the case and there is still essentially no complaint filed. [at footnote 3] i.e. the current complaint is deficient and will have to be amended by a new complaint that is largely re-written, which will re-set all case deadlines and permit more discovery, new motions to dismiss, motions for summary judgment, and a new answer with affirmative defenses and counter-claims, all of which will have to be dealt with just as they were the first time around." (Analysis of Case, Sep-17-09, page 3, ¶2.)

Based upon Mr. Childers' review, Mr. Bauer should not have undertaken this representation on an hourly fee basis. Even under the best scenario, this case would lose \$7,475.34. Under the worst scenario the case would lose \$204,067.41. This litigation was never in Gillespie's

interest, only Mr. Bauer's interest, a clear breach of fiduciary duty and a violation of section 825.103(1)(a), Fla. Stat. (Doc. 15, ¶67) This racketeering activity is in violation of the following:

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

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

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

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

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

(B) Plaintiff's Verified Emergency Motion for Order of Protection and Removal. (Doc. 5) shows that Judge Cook accused Gillespie of feigning disability, ordered Gillespie removed

from a hearing September 28, 2010, then proceeded with the hearing ex parte to grant Mr. Rodems final summary judgment, and held Gillespie in contempt.

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

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

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

14. A letter from Dr. Huffer in support of Gillespie is attached to this notice. (Exhibit A). The letter shows that Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities. Dr. Huffer wrote: "As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter." (Dr. Huffer, October 28, 2010, paragraph 2)

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

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

*official court record, and unlawfully denied Gillespie due process on the disqualification of Ryan Christopher Rodems as counsel*

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

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

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

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

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

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

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

defined § 10802(1) and neglect as defined by § 10802(5) to force a walk-away settlement agreement in the state action, and to force a walk-away settlement agreement in the federal action, Gillespie's civil rights and ADA lawsuit against the Thirteenth Judicial Circuit, Florida, et al., for the misuse and denial of judicial process under the color of law, and denial of disability accommodation. Gillespie was involuntarily confined by two (2) fully armed deputies of the Hillsborough County Sheriff's Office, and involuntarily held during an improper full deposition, post final summary judgment, an open-ended deposition without time limit, with no lunch break, and no meals usually given to an inmate, until Gillespie suffered injury and agreed to sign a walk-away settlement agreement. Gillespie was so impaired when he signed the agreement that the record shows he was unable to make the settlement decision himself.

This racketeering activity is in violation of the following:

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

j. For additional examples of Defendants' racketeering activity see:

Plaintiff's Response to Order to Show cause, with exhibits. (Doc. 58)  
Unopposed Motion for Leave to Submit Addendum to Doc. 58 (Doc. 60)

3. On March 12, 2012 The Florida Supreme Court in SC11-1622 denied in part the petition as directed towards the district court; a writ of mandamus cannot be issued to direct the manner in which a court shall act in the lawful exercise of its jurisdiction. The Florida Supreme Court did not honestly consider the petition beyond that narrow question, and held "To the extent the petitioner seeks any additional relief, the petition is dismissed as facially insufficient."

4. In response to the dismissal as "facially insufficient", Gillespie moved March 19, 2012 for leave to file a motion for reconsideration on a single issue, to rescind the walk-away settlement agreement of June 21, 2011. Gillespie articulated to the Florida Supreme Court the misconduct of Ryan Christopher Rodems, misconduct that is the central issue in this seven-year

lawsuit. The motion showed that Mr. Rodems has unlawfully represented his firm and law partner in this action, and should have been disqualified as counsel April 25, 2006 during a motion to disqualify before Judge Richard Nielsen, pursuant to the holding of McPartland v. ISI Inv. Services, Inc., 890 F.Supp. 1029, M.D.Fla., 1995. McPartland has been a mandatory authority on disqualification in Tampa since entered June 30, 1995 by Judge Kovachevich.

McPartland v. ISI Investment Services, Inc., 890 F.Supp. 1029, (US District Court, MD of Florida, Tampa Division), June 30, 1995, District Judge Elizabeth Kovachevich:

[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.

A hearing on Plaintiff's Motion to Disqualify Counsel was held April 25, 2006. 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. Counsel had 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.

5. Due to exhaustion, mental disability, and indigent, pro se status, Gillespie neglected to include in his motion information about Mr. Rodems' vexatious litigation, so Gillespie filed an addendum March 22, 2012. As described in paragraph 3, Rodems pursued vexatious litigation against Gillespie in the form of a libel counterclaim from January 19, 2006 through September 28, 2010, whereupon Rodems voluntarily dismissed the counterclaim without prejudice.

Gillespie retained attorney Robert W. Bauer, a referral from the Florida Bar Lawyer Referral Service, to defend against libel counterclaim. Mr. Bauer encourage Gillespie to reinstate his dismissed claims, charged Gillespie \$33,000 in legal fees, but later dropped the case.

U.S. Court of Appeals Case 01-14761-AA - Evidence of Mr. Rodems' Conflict

6. This U.S. Court of Appeals for the Eleventh Circuit has first-hand evidence in appeal no. 01-14761-AA of the facts underlying this case, and of Mr. Rodems' conflict with Gillespie. Rodems' law partner William J. Cook of Barker, Rodems & Cook, P.A. submitted to this Court in appeal no. 01-14761-AA a Joint Stipulation For Dismissal With Prejudice ("Stipulation") November 6, 2001 on Gillespie's behalf. (Exhibit 2). Clerk Thomas K. Kahn filed the Stipulation November 9, 2001 in this Court. The Stipulation shows Neil Gillespie as one of the Appellants. The accompanying Certificate of Interested Persons and Corporate Disclosure Statement in appeal no. 01-14761-AA certified the following persons and entities had an interest in the outcome of this 2001 case. (Relevant portion)

Albert, Jonathan L, Esq.  
Amscot Corporation  
Barker, Rodems & Cook, P.A.  
Barker, Chris A., Esq.

Cook, William J., Esq.  
Gillespie, Neil  
Rodems, Ryan Christopher, Esq.

In 2001 Barker, Rodems & Cook, P.A., and Messrs. Barker, Rodems and Cook, represented Gillespie and others against Amscot Corporation. ("Amscot" litigation). Barker, Rodems & Cook, P.A. and Mr. Rodems later represent themselves against Gillespie in the state court case 05-CA-7205 related to the former Amscot litigation where Barker, Rodems & Cook, P.A. defrauded Gillespie in the settlement of the Amscot. This stipulation was not provided to Gillespie by Barker, Rodems & Cook, P.A. in conjunction with its representation of Gillespie in the Amscot case. Gillespie obtained a copy of this stipulation directly from this Court in 2006 through a public records request. (Exhibit 3). An Order filed December 7, 2001 in this Court shows Circuit Judges Edmondson and Barkett granted dismissal of appeal no. 01-14761-AA with prejudice, with the parties bearing their own costs and attorney's fees. (Exhibit 4). This Order and stipulation impeach the taking by Mr. Rodems and Barker, Rodems & Cook, P.A. of \$50,000 in "court-awarded fees and costs" on the settlement sheet dated "as of: October 31, 2001". (Exhibit 5). A copy of the docket in appeal no. 01-14761-AA is Exhibit 6.

7. Gillespie had a clear legal right, as set forth in his motion to the Florida Supreme Court to have his case lawfully adjudicated. In turn the circuit court had an indisputable legal duty to lawfully adjudicate the case. Had the circuit court disqualified Mr. Rodems as required by McPartland this case would have been resolved years ago. But the circuit court did not disqualify Mr. Rodems as required by McPartland. Instead Mr. Rodems prevented the lawful adjudication of this case, made numerous false statements of material fact to the court, failed to cooperate with opposing counsel, and disrupted the tribunal for strategic advantage. As set forth in the Petition SC11-1622, Rodems made false representations to the court to have an arrest warrant

issued for Gillespie for the purpose of forcing a walk-away settlement agreement in the case, and to force a walk-away settlement in Gillespie's federal civil rights and ADA disability lawsuit.

8. The Florida Supreme Court denied without comment Gillespie's motion for reconsideration on May 22, 2012. (Exhibit 7). The Florida Supreme Court, now without question, was fully advised of the central issue in this case - Rodems' misconduct - but refused to follow long-settled case law on disqualification, and the Rules Regulating the Florida Bar. Therefore it is clear that the Florida courts never had any intention of lawfully adjudicating Gillespie v. Barker, Rodems & Cook, P.A.. The walk-away settlement agreement of June 21, 2011 is a nullity because the result in this matter was a foregone conclusion, determined in advance by the courts: Gillespie must not prevail. Had Gillespie not signed the agreement, he would have remained in coercive custody indefinitely, and would have been further injured, or killed on some pretext.

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

9. Governmental units, such as the New York City Civil Court, may be "enterprises" within the meaning of RICO. United States v. Angelilli, 660 F. 2d 23 (C.A.2 1981). A court may be an enterprise within the meaning of RICO. United States v. Bachelier, 611 F.2d 443, 450 (3d Cir.1979) (Philadelphia Traffic Court). Judges and lawyers may be "enterprises" within the meaning of RICO. U.S. v. Limas, 1:11-cr-00296, U.S. District Court, Southern District of Texas, Brownsville (Indictment of Judge Abel C. Limas March 29, 2011). In this matter, Mr. Rodems, Barker, Rodems & Cool, PA, Mr. Bauer and his law office, are "enterprises" within the meaning of RICO. The Thirteenth Judicial Circuit, The Florida Bar, the Hillsborough County Clerk, the Hillsborough County Sheriff, even the Florida Supreme Court, are "enterprises" within the meaning of RICO, to which judicial immunity or other immunity does not attach.

Scott W. Rothstein - A RICO Enterprise Within A Larger RICO Enterprise - The Florida Bar

10. Scott W. Rothstein operated a \$1.2 billion ponzi scheme from his Florida law firm. Rothstein operated his criminal enterprise as member of the Florida Bar, as member of a Florida Bar grievance committee, and as a member of the Fourth District Court of Appeal Judicial Nominating Commission. Rothstein had the confidence of Gov. Crist, and many other Florida officials. Rothstein's criminal enterprise collapsed in 2009. Rothstein surrendered to authorities December 1, 2009 and was arrested on RICO charges. Rothstein cooperated with the authorities and plead guilty to five federal crimes on January 27, 2010. Rothstein was sentenced to 50 years in prison. See U.S. v. Rothstein, 09-cr-60331, U.S. District Court, Southern District of Fla. Rothstein used his law firm as a racketeering enterprise with the tacit approval of The Florida Bar. As reported on Law.com by John Pacenti December 7, 2009, "Plenty of smoke surrounded attorney Scott Rothstein and his well-heeled Fort Lauderdale, Fla., law firm. But nobody called the fire department until it was too late." (Exhibit 8, Why Suspicions About Fla. Firm's Alleged Ponzi Scheme Weren't Voiced). Florida Bar president Jesse Diner is quoted in the story:

The worst-kept secret in the South Florida legal community this fall was that the firm Rothstein Rosenfeldt Adler spent more money on payroll than it had coming in the door. The firm spent three times more on advertising than the three biggest firms combined in South Florida.

"Obviously, that business model didn't work," said Florida Bar president Jesse Diner, a Fort Lauderdale attorney with Atkinson Diner Stone Mankuta & Ploucha. "A lot of it didn't make sense."

Nonlawyer Chuck Malkus saw what the Florida Bar choose to ignore:

Chuck Malkus, who runs Malkus Communications Group in Fort Lauderdale, served on the board of the charity Neighbors 4 Neighbors, which refused to accept a Rothstein donation. "This was building up for over a year, and many of us believe this is just the tip of the iceberg," Malkus said. "I wish I picked up the phone and called the FBI."

Attorney Ed Davis quantified the number of rogue Florida attorneys at 850, to which the public is more than vulnerable:

Ed Davis, a founding shareholder in Miami's Astigarraga Davis, said Rothstein's alleged actions didn't help the breach of trust issues the public always has with attorneys, "but you can't judge the entire profession by the acts of a few." Still, if there is only 1 percent of bad lawyers in a state with 85,000 attorneys, the public could be more than vulnerable, Jarvis said. "That is 850 rogue attorneys. That is a lot of rogues," Jarvis said.

David J. Stern - A RICO Enterprise Within A Larger RICO Enterprise - The Florida Bar

11. Attorney David J. Stern improperly abandoned 100,000 Florida foreclosure cases without consequence of court sanction or Bar reprimand. Stern's Plantation-based foreclosure practice was one of eight under investigation by the Florida attorney general for allegations of fabricating documents, slipshod paperwork and questionable fees - until it was determined that the Florida attorney general did not have jurisdiction. Only the Florida Bar can investigate lawyers, and no one can investigate law firms. Stern abandoned 10,000 foreclosure cases in Hillsborough County but was not sanctioned. This is outrageous when juxtaposed to the \$11,550 Gillespie was sanctioned in Hillsborough County for actions deliberately precipitated by Mr. Rodems. The reason for this disparity is clear: Mr. Stern is a member in good standing of the RICO "enterprise" known as The Florida Bar, and Gillespie is not.

12. Gillespie is a law abiding citizen and deserves honest services from judges and the courts. Gillespie is a college graduate, a former business owner, with no record of arrest, and no record of criminal conviction. When judges and the courts deny honest services to law abiding citizens, it is a violation of the public trust, reflects discredit upon the justice system, and suggests partiality in the consideration of litigants.

District Court Order Dated February 27, 2012 (Doc. 22)

13. District Judge Wm. Terrell Hodges denied by Order entered February 27, 2012 (Doc. 22) Gillespie's motion for leave to proceed on appeal in forma pauperis on the basis that the appeal was not taken in good faith. (Exhibit 13). The Order states "Prior to dismissing the case, the

Court provided the pro se Plaintiff multiple opportunities to demonstrate how the Court had subject-matter jurisdiction over what was, in essence, a Florida wrongful death action against nondiverse parties. (See Docs. 8-9, 11, 14-15). However the record does not support the District Court's claim that Gillespie was provided multiple opportunities, but instead shows conduct by the District Court inconsistent with the effective and expeditious administration of the business of the courts, and conduct prejudicial to the administration of justice.

14. For a period of sixty-one (61) days after Gillespie filed the Complaint, the District Court took no action under F.R.C.P. 12(h)(3) to dismiss the case because the parties were non-diverse. For a period of fifty-seven (57) days after Gillespie filed his notarized affidavit of indigency, the District Court took no action under 28 U.S.C. § 1915(e)(2) to dismiss the case. Therefore on November 16, 2011 Gillespie filed a motion to determine indigency, combined with a motion to change the designation to Track Three under Local Rule 3.05. (Doc. 6 & 7). (Exhibit 9).

15. November 17, 2011, the day after Gillespie moved for a determination of indigency, the Magistrate Judge issued a Report and Recommendation. (Doc. 8) The Court held "Under these circumstances it would be futile to grant Mr. Gillespie leave to amend and therefore, it is appropriate to dismiss this case without prejudice." Therefore Gillespie filed the First Amended Complaint (Doc. 15) January 17, 2012 as a civil rights complaint, with shadow RICO claims.

Right of Estate - 42 U.S.C. § 1982. Property rights to inherit, hold, convey personal property

16. At issue in this appeal is the right of the estate to inherit a security interest in the state court action, Gillespie v. Barker, Rodems & Cook, P.A., case no. 05-CA-7205. On November 19, 2008 Gillespie assigned and transferred to Penelope Gillespie for her use and benefit a security interest in all rights of Gillespie to receive any proceeds in the state court action. The

assignment was prepared by attorney Jeffery Shelquist. The security interest became part of the Estate upon the death of Ms. Gillespie. The Estate has not been settled. (Doc. 15, pages 3-4).

#### Amendment of Pleadings

17. Florida case law permits amendment a complaint four times. A court should not dismiss a complaint without leave to amend unless the privilege of amendment has been abused or it is clear that the complaint cannot be amended to state a cause of action. Trotter v. Ford Motor Credit Corp. 868 So.2d 593. Procedural rule allowing amended pleadings to relate back to the date of the original pleading is to be construed liberally. Rule 1.190(c). Stirman v. Michael Graves Design 983 So.2d 626.

#### FRCP Rule 8(e) Construing Pleadings. Pleadings must be construed so as to do justice

18. The Federal Rules of Civil Procedure, Rule 8(e) Construing Pleadings, states “Pleadings must be construed as to do justice.” It could also be argued that to dismiss a civil rights action or other lawsuit in which a serious factual pattern or allegation of a cause of action has been made would itself be violative of procedural due process as it would deprive a pro-se litigant of equal protection of the law vis a vis a party who is represented by counsel. Pro se pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed. Tannenbaum v. U.S., 148 F.3d 1262, C.A.11.Fla.,1998. When interpreting pro se papers, court should use common sense to determine what relief party desires. S.E.C. v. Elliott, 953 F.2d 1560, C.A.11.Fla.,1992. The Court of Appeals is to give liberal construction to the pleadings of pro se litigants. Albra v. Advan, Inc., 490 F.3d 826, C.A.11.Fla., 2007. Pro se pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed. Miller v. Donald, 541 F.3d 1091, C.A.11.Fla.,2008. Pro se



pleadings are held to "less stringent standards" than those drafted by attorneys. Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam).

ADA - Americans With Disabilities Act

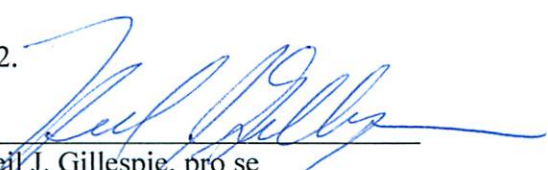
19. Gillespie moved for accommodation under the Americans With Disabilities Act (ADA) in this Court of Appeals April 7, 2012. Gillespie is confused as to whether this Court's Order of May 7, 2012 responds to his ADA accommodation request. In any event, on April 10, 2012 Chris Wolpert, Chief Deputy of Operations, U.S. District Court for the Northern District of California, informed Gillespie by email that "My understanding is that the Americans With Disabilities Act does not apply to the Federal Judiciary." Gillespie determined that Mr. Wolpert is correct, the ADA does not apply to the federal judiciary, so it appears Gillespie should be given leave to amend his disability request under the appropriate law.

Motion to Suspend Rules Pursuant to Rule 2, Federal Rules of Appellate Procedure

20. Gillespie moves pursuant to FRAP Rule 2 to suspend for good cause any rule that would prevent this Circuit Court from considering this Motion to Reconsider, Vacate or Modify. In support thereof Gillespie states his mental ability has declined due to "permanent secondary wounds" described in the October 28, 2010 letter of Dr. Huffer, injuries which resulted from the intentional infliction of emotional distress, or torture, by private attorneys, judges and people acting on the part of the state.

21. Gillespie moves to toll time.

RESPECTFULLY SUBMITTED May 30, 2012.

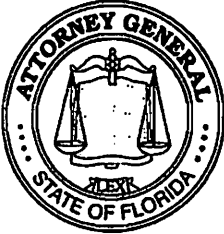
  
\_\_\_\_\_  
Neil J. Gillespie, pro se  
8092 SW 115th Loop  
Ocala, Florida 34481  
(352) 854-7807

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was provided May 30, 2012 by email only to Catherine Barbara Chapman (catherine@guildaylaw.com), Guilday, Tucker, Schwartz & Simpson, P.A. 1983 Centre Pointe Boulevard, Suite 200. Tallahassee, FL 32308-7823, counsel for Robert W. Bauer, et al.

NOTE: Pam Bondi, Attorney General, was not served on behalf of the Thirteenth Judicial Circuit, Florida, et al, pursuant to a response by Diana R. Esposito, Assistant Attorney General. Ms. Esposito clarified in a letter dated May 18, 2012 that "Our office has not filed an appearance on behalf of any of the defendants in this matter.", and based on the order of dismissal, "[T]he Attorney General's Office would not become involved at this stage of the proceedings in any case." A copy of the letter is attached.

  
Neil J. Gillespie



PAM BONDI  
ATTORNEY GENERAL  
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL  
General Civil Litigation – Tampa Bureau  
Diana R. Esposito  
Chief-Assistant Attorney General  
501 East Kennedy Blvd., Suite 1100  
Tampa, FL 33602  
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<http://www.myfloridalegal.com>

May 18, 2012

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

Re: Neil Gillespie v. Thirteenth Judicial Circuit et al.  
Appeal #12-11028-B  
Your letter dated May 3, 2012

Dear Mr. Gillespie:

Thank you for your letter of May 3, 2012 addressed to Attorney General Bondi. You have asked the question of whether or not the Florida Attorney General represents the Thirteenth Circuit in your appeal bearing docket number 12-11028-B. Our office has not filed an appearance on behalf of any of the defendants in this matter.

I can see by looking at the docket in the U.S.D.C. – Middle District of Florida, your initial complaint was dismissed for, among other reasons, failure to make service of process on any of the defendants. Since that is the Order of the Court the Attorney General's Office would not become involved at this stage of the proceedings in any case. I hope this answers your question.

Respectfully,

A handwritten signature in black ink, appearing to read "Diana R. Esposito".

Diana R. Esposito  
Assistant Attorney General

DRE

UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,

Plaintiffs/Appellants,

vs.

CASE NO.: 12-11028-B

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants/Appellees.

**APPENDIX** - MOTION TO RECONSIDER, VACATE OR MODIFY ORDER

- Exhibit 1**      **Lanson v. The Florida Bar**, 08-80422-Civ-ZlochSnow, Apr-21-2008
- Exhibit 2**      C.A.11, Case No. 01-14761-AA, Joint Stipulation for Dismissal with Prejudice
- Exhibit 3**      Gillespie's records request to the US Court of Appeals, April 2006
- Exhibit 4**      C.A.11, Case No. 01-14761-AA, Order of December 7, 2001
- Exhibit 5**      Barker, Rodems & Cook, P.A., Amscot Closing Statement
- Exhibit 6**      C.A.11, Case No. 01-14761-AA, Docket
- Exhibit 7**      Florida Supreme Court, Denied reconsideration, SC11-1622
- Exhibit 8**      Law.com, Scott Rothstein story by John Pacenti, December 7, 2009
- Exhibit 9**      Plaintiff's Motion to Determine Indigency, District Court Doc. 9
- Exhibit 10**    PROFESSIONALISM AND LITIGATION ETHICS, 28 Stetson L. Rev. 323

FILED ELECTRONIC	Page 1 of 1 D.C.
APR. 21, 2008	
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI	

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.:** \_\_\_\_\_

MERYL LANSON, individually,  
MARY ALICE GWYNN, individually,  
And MARY ALICE GWYNN, P.A.,  
A professional association,

**08-80422-Civ-ZLOCH/SNOW**

Plaintiffs,

v.

THE FLORIDA BAR, JOHN HARKNESS,  
JOHN BERRY, KEN MARVIN,  
RAMON ABADIN, JULIET ROULHAC,  
FLORIDA LAWYERS MUTUAL INSURANCE  
COMPANY,

Defendants.

**COMPLAINT FOR CAUSES OF ACTION ARISING UNDER  
FEDERAL RICO AND ANTI-TRUST LAWS, AND CLASS ACTION**

COMES NOW the Plaintiffs, MERYL LANSON, MARY ALICE GWYNN and  
MARY ALICE GWYNN, P.A., and state as follows:

**THE PARTIES**

Plaintiff, Meryl Lanson (Lanson) is a citizen of the United States, a resident of Palm Beach County, Florida, and more than eighteen years of age. She has filed meritorious Bar complaints with The Florida Bar against lawyers guilty of multiple breaches of The Florida Bar's Rules regarding ethics, which complaints The Bar has improperly refused to process fully.

Plaintiff, Mary Alice Gwynn (Gwynn) is a citizen of the United States, a resident of Palm Beach County, Florida, more than eighteen years of age, and a Florida lawyer

practicing in Palm Beach County, Florida, and a member in continuous good standing with The Bar since she commenced her practice in 1991.

Plaintiff, Mary Alice Gwynn, P.A. is a licensed. professional association doing business in Palm Beach County, Florida since 1993.

Defendant, The Florida Bar, claims to be the state's "official arm" of the Florida Supreme Court, headquartered in Tallahassee, Leon County, Florida, operating through its Board of fifty-two Governors, designated by the Supreme Court as its "disciplinary" agency.

Defendant, John Harkness (Harkness), is a citizen of the United States, a resident of Florida, the long-time Executive Director of The Florida Bar, and as such he is the chief executive officer of The Bar, working in Tallahassee, Leon County, Florida. He also serves on the Board of Directors of Defendant Florida Lawyers Mutual Insurance Company (FLMIC).

Defendant, John Berry (Berry), is a citizen of the United States, a resident of Florida, the Legal Division Director of The Florida Bar who reports to Harkness, and working in Tallahassee, Leon County, Florida. He also helped author the American Bar Association's McKay Commission Report regarding state disciplinary processes, whose key recommendations The Bar, now under Berry's guidance, is violating.

Defendant, Ken Marvin (Marvin), is a citizen of the United States, a resident of Florida, Director of Lawyer Regulation of The Bar who reports directly to Berry, and supervises all "discipline" of Florida lawyers.

Defendant, Ramon Abadin (Abadin), is a citizen of the United States, a resident of Miami-Dade County, Florida, a member lawyer of The Florida Bar, a Bar Governor, and a Director on the Board of defendant FLMIC.

Defendant, Juliet Roulhac (Roulhac), is a citizen of the United States, a resident of Miami-Dade County, Florida, a lawyer member of The Florida Bar, a Bar Governor, and a Director on the Board of defendant FLMIC.

Defendant, FLMIC, is a mutual insurance company incorporated in the State of Florida, headquartered in Orlando, Florida, and created by The Florida Bar in 1989, purportedly to provide malpractice insurance policies to Florida lawyers.

### **JURISDICTION**

This court has subject matter jurisdiction pursuant to 18 USC 1961 (RICO), 18 USC 1346 (fraud and honest services), 18 USC 1951 (interference with commerce), Title 15 of the United States Code pertaining to restraint of trade and monopolies (anti-trust law), and Rule 23, Federal Rules of Civil Procedure (class action).

### **VENUE**

This court affords the proper venue for this action, given the locations of the various parties, noted above, and in light of the fact that these various causes of action have arisen in the federal courts' Southern District of Florida because of acts in this geographic area.

### **THE FACTS**

The Florida Supreme Court has delegated to The Florida Bar the function of "disciplining" its members in this integrated state bar system. The Supreme Court and The Bar have a fiduciary duty to the public as well as to members of The Bar to exercise that disciplinary function through "honest services," afforded all involved in this disciplinary process—both the members of the public allegedly harmed by the unethical practice of law and lawyers who may be targeted for discipline—due process of law, equal protection, and all other constitutionally-guaranteed rights. The Florida Bar unfortunately is being operated,



and demonstrably so, in a fashion as to protect itself rather than the public and honest lawyers. It is presently violating federal laws in pursuit of illicit ends, just as the United States Supreme Court predicted would eventually become the case with integrated state bars such as Florida's.

When Miami lawyer Miles McGrane, was President of the Bar in 2003, The Bar commissioned a poll/survey to assess what Bar members thought of the job The Bar was doing with its discipline. A significant number of members surveyed opined that discipline was not being meted out even-handedly based upon what respondent or potential respondent had done, but rather based upon who the respondents were and how well they were connected within The Bar's leadership hierarchy. The Bar was perceived by its own members to be looking the other way if a lawyer enjoyed advantageous relationships with those making or influencing disciplinary decisions.

The following comments from lawyers are related because they indicate not only the concern about a lack of fair treatment and a lack of equal protection in The Bar's disciplinary process, but also the fact that The Bar was, and has been, fully aware of the problem. This from the *Palm Beach Post* on March 5, 2004:

**Broward County Assistant State Attorney Craig Dyer called the grievance process "irrational," "knee-jerk" and "heavy-handed."**

**Gabe Kaimowitz, a Gainesville lawyer and longtime Bar critic, wrote that the association isn't capable of investigating itself. "If it wants the truth, I'm afraid the organization can't handle it," Kaimowitz wrote. "My own personal hypothesis is that the system favors the 'white, Christian good-old-boys.' "**

**Roshani Gunewardene of Altamonte Springs wrote that, if anything, the Bar may be too zealous in pursuing obvious vendettas from losing or opposing parties in cases. "The grievance system should not be used to harass and humiliate any member of the Bar," Gunewardene's e-mail said.**

**In 2000, state Rep. Fred Brummer, R-Apopka, proposed a constitutional amendment to take regulation of lawyers away from the Bar and the Florida**

**Supreme Court. The proposal fizzled, but Brummer feels it got the Bar's attention.**

**"It's not just the fox guarding the hen house, it's the fox deciding when the hens can come and go," Brummer said. "I think it's important that the appearance of cronyism or the good-old-boy network present in the system is removed."**

**Brummer's favorite example is the case of a former legislative colleague, Steven Effman. The former Broward County lawmaker and mayor of Sunrise was suspended for 91 days last April after he was accused of having sex with three divorce clients, including one woman who alleged she was billed for their intimate time together.**

**Brummer said Effman got off easy because he had a close relationship with the Bar and because of his position in the legislature.**

Bar President McGrane and The Bar created a Special Commission on Lawyer Regulation ostensibly to suggest improvements to The Bar's disciplinary system. A Jacksonville lawyer and Bar Governor, Hank Cox, was the chair of this Special Commission, and one of the problems to be addressed was disparate discipline based upon who Bar respondents were rather than what they had allegedly done.

The Commission issued its report in 2006 as Hank Cox became President of The Bar, and it failed to address this disparate discipline problem.

More than a decade earlier, in February 1992, the American Bar Association's McKay Commission issued a report entitled *Lawyer Regulation for A New Century: Report of the Commission on Evaluation of Disciplinary Enforcement*. One of the nine members of the McKay Commission that issued this Report to the ABA was John Berry, a defendant herein, who was at the time overseeing discipline for The Florida Bar.

The McKay Report addresses the chronic shortcomings of disciplinary mechanisms and methods of integrated state bars, and it made twenty-one recommendations for improvements in state bar disciplinary systems. Four of the twenty-one recommendations

by the ABA McKay Commission unequivocally state that any involvement of any kind by a Bar and by its officials and Governors in the disciplinary process vitiates the entire process and renders it suspect. **Discipline, according to the ABA McKay Commission, must be the sole domain of the judiciary and delegated in no fashion whatsoever to a Bar.**

Again, Defendant, John Berry, then of the Florida Bar and now of the Florida Bar, along with eight other individuals, authored the aforementioned McKay Commission Report. John Berry now oversees Defendant, Ken Marvin, who is the Director of Lawyer Regulations and is ultimately in charge of overseeing all disciplinary matters. For example, sitting on every single grievance committee is a Bar Governor acting as a "designated reviewer." This is the most important position in the entire grievance process. This Bar Governor has a direct line of communication to the entire Board of Governors and to Bar officials such as Harkness, Berry, and Marvin. This flies directly in the face of the core recommendation of the ABA McKay Commission that there must be a "Chinese wall" between The Bar's operatives and discipline. It must be solely the domain of the judiciary.

Another of the twenty-one formal recommendations (Recommendation #3) of the ABA's McKay Report is that "lawyer discipline" must *protect the public* and not lawyers collectively or individually, as is often, correctly, perceived to be the case.

The Florida Bar, despite the ABA's McKay Report, since its issuance in 1992, has continued to violate these core recommendations, so much so that The Florida Bar is now arguably the most prominent of all state bars in its flouting of the ABA's McKay Report.

Two years prior to the issuance of the ABA McKay Report, the United States Supreme Court unanimously held in *Keller v. State Bar of California*, 496 US 1 (1990), adopting in effect the prescient minority Justices' dissents in *Lathrop v. Donohue*, 367 US

820 (1961), that integrated state bars must not venture into political and ideological waters but stick with the narrow, legitimate functions of integrated state bars. To do otherwise these bars would become, as Justice Douglas pointed out in *Lathrop*, “goose-stepping brigades” that serve neither the public nor the profession.

The Supreme Court has warned all integrated state bars, then, that those that do not stick with their narrow functions will be treated as if they were “guilds,” and they would suffer the same historical fate of guilds—abolition. Guilds have gone the way of the dodo because they were correctly identified as restricting trade, harming the public, protecting professional wrongdoers from accountability, and denying certain professionals the right to earn a living unimpeded by interference from the guild.

In 1989, The Bar created the Florida Lawyers Mutual Insurance Company, herein called FLMIC, to provide, purportedly, malpractice insurance to Florida lawyers. Indeed, if one goes to the current Internet web site for FLMIC, one finds a remarkable “Welcome” from defendant Harkness explaining the long-standing relationship between The Bar and FLMIC. Harkness does this despite the fact that the FLMIC is supposed to be a private corporation with no ties to The Bar. The FLMIC web site found at <http://www.flmic.com> makes it clear to anyone viewing it that there is a cozy, ongoing relationship between it and The Bar. The site even links to certain Florida Bar sites.

Indeed, at a recent mediation presided over by former Miami-Dade Chief Judge Gerald Wetherington, a claims adjustor for FLMIC was greeted by the Judge with the words, “I know you. You’re from The Bar.”

Serving on FLMIC’s Board of Directors is not only Harkness, but also Defendant Abadin and Defendant Roulhac, both Bar Governors. Serving also on the FLMIC Board is

Alan Bookman, Bar President immediately before the tenure of the aforementioned Hank Cox.

Harkness, Abadin, and Roulhac have a fiduciary duty to The Bar, to its members, and to the public in the discharge of their "Bar" duties, particularly regarding "discipline." Yet, they also have a fiduciary duty to FLMIC and its mutual policyholders. These two sets of fiduciary duties are in clear conflict with one another, not only conceptually but in fact.

Florida Bar members who are FLMIC policy holders are shielded from discipline by The Bar. By buying FLMIC policies they purchase, in effect, discipline protection, avoiding it altogether or securing more lenient discipline.

One Bar respondent stated, "I was told by The Bar that if I purchased FLMIC insurance my 'disciplinary problems would go away.'"

Plaintiffs are aware of specific instances in which certain Florida lawyers, clearly guilty of egregious ethics breaches in violation of Florida Bar Rules, have been protected by The Bar from discipline because of their holding FLMIC policies. The result of this protection of FLMIC policyholders is to deny members of the public, who have formally complained to The Bar, a disciplinary remedy.

Further, lawyers who have no malpractice insurance or who have malpractice insurance coverage with other carriers, do not enjoy this "discipline protection" from The Bar, and they are more likely to be disciplined and disciplined more severely. Thus, the Defendants are ensnared in a commercial relationship with an insurer that is bearing rotten fruit in a regulatory setting. The guilty are being exonerated and the innocent are being unfairly targeted.

The twentieth century saw the rise of a deadly ideology known as “fascism,” one aspect of which was the melding of the state with commercial interests, which is the facet of fascism known as “corporatism.” See <http://en.wikipedia.org/wiki/Corporatism>. What the Defendants have done is fall into this fascist trap by blurring the lines between government and commerce in such a way as to increase the power of both, and at the expense of individual liberties.

The illicit *reason* for the wedding of this governmental state function—the disciplining of lawyers—to what is supposed to be a solely private sector commercial activity—the sale and purchase of malpractice insurance—is that blocking the discipline of a lawyer, who is an FLMIC policyholder, serves to help insulate him/her from a malpractice action. A member of the public, told by The Bar that it will not discipline a lawyer guilty of ethics breaches, serves as a powerful disincentive to that complaining citizen to take the next step and bring a malpractice action. If The Bar itself will not proceed, with all of its resources, why should a single citizen do so, the victim reasons. Further, FLMIC and its Directors, including the three defendant Bar Governors Harkness, Abadin, and Roulhac, use their influence to prevent adverse ethics findings by The Bar, and thus such would-be findings be used as collateral proof of malpractice against that lawyer in any civil litigation.

Thus fiduciaries, who have a duty to pursue discipline fairly and equitably, with no respect whatsoever as to who the respondent is, have a powerful commercial disincentive to do so. What they do have is a fiduciary duty to protect FLMIC and its policyholders. The aphorism that a “man cannot serve two masters” undergirds the very concept, in our system of law, as to what a fiduciary is. All of the Defendants have breached this duty to serve only one master by virtue of their improper relationship between FLMIC and The Bar. No lawyer

or any other person who understands "conflict of interest" could possibly think that Bar operatives should be sitting on the Board of FLMIC.

Often conspiracies are proven and then unravel, because documents called "smoking guns" are discovered and disgorged from hidden sources, that has now become evident in this scandal pertaining to The Bar's and FLMIC's racket. Plaintiffs have a smoking gun that has appeared in the light of day by the hand of the Defendants themselves. Attached hereto as Exhibit A, and made a part hereof, is a large color advertisement that has been regularly and recently gracing the pages of The Bar's own in-house publication, *The Florida Bar News*. It is an ad for Defendant, FLMIC. Its message proves the Plaintiffs' case is noteworthy and harmful to the Plaintiffs and the public at large, for the following reasons patent in the ad itself, to-wit:

The advertisement shares with all Florida Bar members its slogan, at the lower left-hand corner of the ad: "We've built our reputation on vigorously defending yours." The related bullet point down the right-hand side reads "Aggressive defense of your reputation." FLMIC is thus using The Florida Bar's publication to send the message that it can be counted upon to "vigorously" mount an "aggressive defense" of any claim brought by any client who asserts that he has been harmed by the malpractice of a lawyer. By contrast, other state bars are increasingly moving toward mandatory lawyer malpractice insurance as a measure to protect the public by compensating them by these means. Oregon has mandatory lawyer malpractice insurance—not to protect Oregon lawyers and their "reputations", but rather to compensate victims of it.

This message and this mindset—FLMIC will do what is necessary to defeat a client's claim—is bad enough. But here is the proof of the insurance and discipline racket in which



all the Defendants are involved. The FLMIC ad proclaims in its last bullet point as to why Florida Bar members should purchase their liability coverage product rather than that provided by dozens of other insurers:

## • Defense for disciplinary proceedings

FLMIC is thus making one of the services it provides under the policy full defense for any lawyer charged with a disciplinary breach by a client. This is significant in at least two regards: 1) it is an acknowledgment of the linkage between malpractice and discipline and the keen interest of FLMIC in defeating any grievance brought because of its impact upon any finding of liability for malpractice, and 2) it is a promise that FLMIC, which the first bullet point notes was "Created by The Florida Bar for your benefit", will do what it can to defeat any grievance brought by the public to The Bar's attention! Why in the world should a company created by The Bar be involved in thwarting what is supposed to be The Bar's regulatory function intended to protect the public?

This remarkable ad, then, proves the Plaintiffs' point: FLMIC has been created by The Florida Bar to defeat grievances brought by the public. It could not be clearer. It says precisely this on the pages of *The Florida Bar News*. Any lawyer not understanding this message—that to buy this Bar-created insurance product buys one "discipline protection"—has missed the unmissable.

Plaintiff, Gwynn, has been wrongly singled out for "discipline" by The Bar, with the collaborative efforts of all of the Defendants, in large part because she is not an FLMIC policyholder. Subsequently, Gwynn and Gwynn, P.A. have suffered damages. Plaintiff, Lanson, a Bar complainant, has been denied "honest services" in the processing of her formal

Bar complaints by a conspiracy of all of the Defendants in that certain Florida lawyers who acted in their professional capacities unethically were protected from discipline by The Bar by virtue of the fact that they were FLMIC insureds.

More specifically, Plaintiff, Meryl Lanson, beginning in 1998 filed bar complaints against Florida attorneys for a litany of egregious ethical violations, including but not limited to, perjury and fraud. The Bar thwarted the disciplinary process by labeling the grievance a "fee dispute." It was not.

The complained of ethics violations, according to The Bar's own Rules, were very serious and, according to Bar guidelines, were deserving of severe punishment. Nevertheless, the complaint never made it past a perfunctory intake process.

Here is a listing of the ethics breaches by Lanson's attorneys, which The Bar refused even to investigate:

Rule 4-1.1	Competence
Rule 4-1.3	Diligence
Rule 4-1.4	Communication
Rule 4-1.5	Fees for Legal Services
Rule 4-1.7	Conflict of Interest; General Rule

Duty to Avoid Limitation on Independent Professional Judgment.

Explanation to Clients

**Loyalty to a Client** – Loyalty to a Client is also impaired when a lawyer cannot consider, recommend, or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests. The conflict in effect forecloses alternatives that would otherwise be available to the client.

**Lawyer's Interests** – The lawyer's own interests should not be permitted to have adverse effect on representation of a client.

**Conflicts in Litigation** – Subdivision (a) prohibits representation of opposing parties in litigation. Simultaneous representation of parties whose interests in litigation may conflict, such as co-Plaintiffs or co-Defendants, is governed by subdivisions (b) and (c). An impermissible conflict may exist by reason of substantial discrepancy in the parties' testimony, incompatibility in positions in relation to an opposing party, or the fact that there are substantially different possibilities of settlement of the claims or liabilities in question.

Rule 4-1.8	Conflict of Interest: Prohibited and other Transactions.
------------	--

**Settlement of Claims for Multiple Clients.**

**Rule 4-1.16 Declining or Terminating Representation.**

In 1999, when the plaintiff and her husband, Norman Lanson, filed their malpractice action against these attorneys they learned that the attorneys were insured by FLMIC and that one of the attorneys was a defense attorney employed by FLMIC. It became obvious as to why The Bar's judgment and its failure to discharge its fiduciary duty as to discipline, was compromised by its commercial relationship with FLMIC. There is a clear disincentive for The Bar to punish attorneys insured by the Bar's created carrier, as such punishment could be additional support and collateral proof for a claim arising out of legal malpractice. The paper trail of communications between Lanson, The Florida Bar, its Board of Governors, The Supreme Court of Florida, and Florida Lawyers Mutual Insurance Company outlines the devastating affect this improper relationship among The Bar, FLMIC, and the other Defendants has on the unsuspecting public. Lanson has discovered evidence that theirs was not an isolated incident, but in fact, there is a class of individuals similarly harmed.

Plaintiff, Mary Alice Gwynn, is another victim of the illicit relationship among the Defendants, although the harm emanating therefrom has taken a different, albeit related, form. In 2004, Bar complaints were filed against Gwynn by a Florida attorney who enjoyed a relationship with The Bar's outside investigator assigned to the case. This attorney had threatened Gwynn with a Bar complaint, and then filed it. The lawyer complainant's threat to file a Bar complaint was, of course, an act in violation of Florida Bar Rule 4-3.4(h), as he made that threat solely to gain advantage in a civil proceeding.

The Bar complaint resulted in a finding of "probable cause" against Gwynn because of a) the relationship between the complainant and The Bar prosecutor, b) Gwynn's status of

not being an FLMIC policyholder, and c) The Bar's becoming aware of her relationship with the plaintiff herein, Lanson.

More recently, the same lawyer complainant has written Gwynn and told her that if she seeks certain relief in litigation in which he and Gwynn are involved, he will file a new Bar complaint. Such a threat, of course, is a criminal act—extortion—by this Bar complainant. Despite this use of a criminal threat, The Bar has decided to proceed nevertheless against the victim of it, Ms. Gwynn.

Plaintiff, Mary Alice Gwynn, P.A. has suffered financial losses as a result of the Defendants' actions against Gwynn.

#### **COUNT I: RACKETEERING**

Plaintiffs adopt and incorporate the foregoing facts into this count.

18 USC 1961, *et sequitur*, affords certain civil remedies to persons harmed by racketeering activities. The Plaintiffs seek all forms of relief afforded them under the Federal "RICO Act."

The multiple "predicate acts" of racketeering engaged in by Defendants include, but are not necessarily limited to: bribery, extortion, mail fraud, obstruction of justice, interference with commerce, fraud, including but not limited to violations of 18 USC 1951, as well as deprivation by fraud of honest services, as set forth in 18 USC 1346.

More specifically, both The Bar and FLMIC are engaged, one with the other and in conspiracy with the individuals who are Defendants herein, in a pattern of racketeering activity whereby lawyers are prosecuted by The Bar for "disciplinary" reasons if they are not FLMIC insured. The offering and purchase of an FLMIC malpractice insurance policy constitutes extortion.

FLMIC directors' fees are paid by FLMIC to Defendants Harkness, Rabadin, and Roulhac, who have control, along with other Bar operatives, over The Bar's disciplinary machinery, in order to assure that discipline is not meted out by The Bar against Florida lawyers who are FLMIC insured.

In thwarting proper discipline of FLMIC insured, there is an obstruction of justice, within the clear meaning of the RICO statute, by all of the Defendants.

Further, all of the Defendants have conspired to interfere with commerce, as a distinct commercial advantage by FLMIC over other legal malpractice carriers, by this racketeering activity that benefits FLMIC and its insured, at the expense of the public and of unfairly targeted Florida lawyers.

The use by all Defendants of the United States Postal Service, as well as by other means of communication, in furtherance of this pattern of racketeering activity constitutes mail fraud. More generally, the Defendants have engaged in fraud by presenting themselves as if they were fiduciaries providing services and products; when in fact, they have been collaborating and conspiring to enrich themselves and their racketeering enterprises. See 18 USC 1951.

Finally, but perhaps not exhaustively, the Defendants have deprived both the public and non-FLMIC insured "honest services," in violation of 18 USC 1346 by pretending to exercise legitimate regulatory functions, under color of state law, when in fact they have been actively harming the public by protecting wrongdoers and punishing innocent lawyers, all for commercial gain.

WHEREFORE, Plaintiffs seek all appropriate relief available to them against all Defendants, such relief being set forth in 18 USC 1961, *et sequitur*, for all of the aforementioned racketeering activities set forth.

#### **COUNT II. ANTI-TRUST**

Plaintiffs adopt and incorporate the foregoing facts into this count.

Section 15 of Chapter One of Title 15 of the United States Code affords individuals harmed by violations of federal anti-trust laws certain remedies which the Plaintiffs herein seek against the Defendants herein.

The Defendants have all conspired to restrain trade or commerce in pursuit of a monopoly in violation of Section 1, Chapter One, Title 14, United States Code.

More specifically, the Defendants, in establishing FLMIC and in operating it in such a fashion as to improperly wed a governmental function under color of state law, to their commercial interests, have sought and secured a competitive advantage over other legal malpractice insurers in the state by virtue of providing "discipline protection" to their insured, which these other insurers cannot and would not provide.

Further, the Defendants, have restrained trade with and through FLMIC to deny lawyers their right to earn a living as lawyers in the legal profession, on an equal footing with other lawyers in the state.

The effect of this conspiracy, in this regard, is to harm not only other insurers and certain lawyers, but also to deprive the legal services-consuming public of the representation of such lawyers whom they would otherwise hire.

All of the Plaintiffs, then, by virtue of being either lawyers or clients have been harmed by the Defendants' restraint of trade and monopolistic practices involving FLMIC.

WHEREFORE, all Plaintiffs seek, to the extent allowable under Section 15, Chapter One, Title 15 all damages and all other relief allowable thereunder.

#### **CERTIFICATION OF CLASS**

Under Rule 23, Federal Rules of Civil Procedure, the three named Plaintiffs herein are typical representatives of a class of individuals yet unknown, who are either members of the public, such as Lanson, who have been harmed by lawyers by means of breaches of The Florida Bar's Rules of Professional Responsibility and whom the Defendants have conspired to protect, at the expense of the public, or who are, like Gwynn, lawyers who have done no wrong and yet who have been targeted improperly for discipline because of the insinuation of commercial concerns and other improper influences upon the disciplinary process.

Other members of this class, then, would include non-lawyers as well as lawyers who have been victimized by the Defendants who are masquerading as public servants, when in fact they have been tyrants acting under color and under cover of state law.

WHEREFORE, the Plaintiffs seek certification by the court that this action should be and is a class action.

#### **DEMAND FOR TRIAL BY JURY**

Plaintiffs demand a trial by jury of all issues so triable.



Date: 4-21-08

Mary Alice Gwynn, Esq.  
Pro Se and as attorney for  
Mary Alice Gwynn, P.A.  
805 George Bush Boulevard  
Delray Beach, FL 33483  
Telephone: 561-330-0633  
Facsimile: 561-330-8778  
E-mail: [mgwynnlaw@aol.com](mailto:mgwynnlaw@aol.com)

By: 

Mary Alice Gwynn, Esq.  
Florida Bar No.: 879584

Meryl M. Lanson  
Pro Se  
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Boca Raton, Florida 33498  
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Facsimile: 561-488-2861  
E-mail: [mlanson@bellsouth.net](mailto:mlanson@bellsouth.net)

By: 

Meryl M. Lanson

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EXHIBIT  
A



08-80422-Civ-ZLOCH/SNOW

Entered on FLSD Docket 04/22/2008

FILED BY 20 APR 20 D.C. ELECTRONIC

JS 44 (Rev. 11/05)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

APR. 21, 2008

STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

## I. (a) PLAINTIFFS

MERYL LANSON, individually, MARY ALICE GWYNN,  
individually and MARY ALICE GWYNN, P.A., a Professional(b) County of Residence of First Listed Plaintiff Palm Beach  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Mary Alice Gwynn, Esq., Pro Se and as attorney for Mary Alice  
Gwynn, P.A., 805 George Bush Blvd., Delray Beach, FL 33483  
561-330-0633

## DEFENDANTS

THE FLORIDA BAR, JOHN HARKNES  
MARVIN, RAMON ABADIN, JULIET KOULHAC,County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT  
LAND INVOLVED.

Attorneys (If Known)

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☒ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE  
HIGHLANDS

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Kidnapping
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deposition
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<b>LABOR</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 575 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 590 Other Statutory Actions
	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 740 Railway Labor Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 591 Agricultural Acts
	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 592 Economic Stabilization Act
	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 593 Environmental Matters
	<input type="checkbox"/> 380 Other Personal Property Damage			<input type="checkbox"/> 594 Energy Allocation Act
	<input type="checkbox"/> 385 Property Damage Product Liability			<input type="checkbox"/> 595 Freedom of Information Act
	<b>PERSONAL PROPERTY</b>			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 370 Other Fraud			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 371 Truth in Lending			
	<input type="checkbox"/> 380 Other Personal Property Damage			
	<input type="checkbox"/> 385 Property Damage Product Liability			
	<b>PRISONER PETITIONS</b>			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<b>REAL PROPERTY</b>			
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting			
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment			
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations			
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare			
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 440 Other Civil Rights			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. RELATED/RE-FILED CASE(S).

(See instructions second page):

a) Re-filed Case ☐ YES ☐ NOb) Related Cases ☐ YES ☐ NO

JUDGE

DOCKET NUMBER

## VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

This court has subject matter jurisdiction pursuant to 18 USC 1961 (RICO), 18 USC 1346 (fraud and honest services), 18 USC 1951 (interference with commerce). Title 15 of the United States Code pertaining to restraint. LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

## VIII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE &amp; CORRECT TO THE BEST OF MY KNOWLEDGE

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

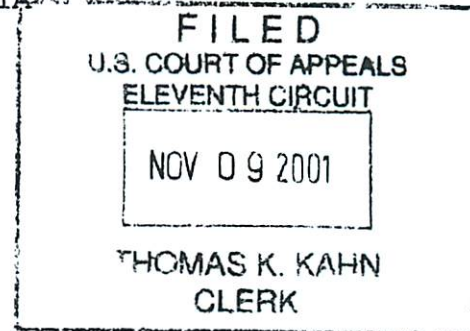
EUGENE R. CLEMENT,  
GAY ANN BLOMEFIELD, and  
NEIL GILLESPIE, individually and  
on behalf of others similarly situated,

Appellants,

v.

AMSCOT CORPORATION,

Appellee.




JOINT STIPULATION FOR DISMISSAL WITH PREJUDICE


The Parties, by and through their undersigned counsel, having amicably resolved this matter, pursuant to Federal Rule of Appellate Procedure 42(b) move for dismissal with prejudice with each party bearing its own attorneys' fees and costs.

RESPECTFULLY SUBMITTED this 6th day of November, 2001.

BARKER, RODEMS & COOK, P.A.

  
WILLIAM J. COOK, ESQUIRE  
Florida Bar No. 986194  
300 West Platt Street  
Suite 150  
Tampa, Florida 33606  
(813) 489-1001 (TEL)  
(813) 489-1008 (FAX)  
Attorneys for Appellants

Gray, Harris, Robinson,  
Shackleford, Farrior

  
LARA R. FERNANDEZ, ESQUIRE  
Florida Bar No. 0088500  
501 E. Kennedy Blvd  
Suite 1400  
Tampa, Florida 33602  
(813) 273-5000 (TEL)  
(813) 273-5145 (FAX)  
Attorneys for Appellee

EXHIBIT

2

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, counsel for the Appellants certify that the following persons and entities have an interest in the outcome of this case.

Alpert, Jonathan L., Esq.

Alpert & Ferrentino, P.A.

Amscot Corporation

Anthony, John A., Esq.

Barker, Rodems & Cook, P.A.

Barker, Chris A., Esq.

Blomefield, Gay Ann

Clement, Eugene R.

Cook, William J., Esq.

Gillespie, Neil

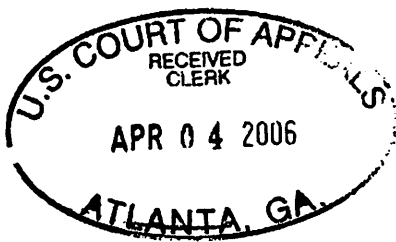
Gray, Harris, Robinson, Shackelford, Farrior, P.A.

Lazzara, The Honorable Richard A.

United States District Judge, Middle District of Florida

MacKechnie, Ian

Rodems, Ryan Christopher, Esq.



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

Telephone: (352) 854-7807

March 30, 2006

Daniel Richardson, Deputy Clerk  
United States Court of Appeals  
for the Eleventh Circuit  
56 Forsyth Street, NW  
Atlanta, GA 30303-2289

Telephone: (404) 335-6100

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Sincerely,

  
Neil J. Gillespie

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Case Number or Other Reference	
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IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-14761-AA

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

DEC 07 2001

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

THOMAS K. KAHN

CLERK

Plaintiff-Appellant,

GAY ANN BLOMEFIELD,  
NEIL GILLESPIE,

8: 99-CV-2795-T-2G EAS

Plaintiffs-Intervenors-  
Counter-Defendants-Appellants,

versus

AMSCOT CORPORATION,  
A Florida Corporation,

Defendant-Intervenor-Counter  
-Claimant-Appellee.

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

BEFORE: EDMONDSON and BARKETT, Circuit Judges.

BY THE COURT:

The parties joint stipulation for dismissal of this appeal with prejudice, which is construed as a motion to dismiss this appeal with prejudice, with the parties bearing their own costs and attorney's fees, is GRANTED.

A TRUE COPY - ATTESTED:  
CLERK U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

BY:

*Joe Sauer*  
DEPUTY CLERK  
ATLANTA, GEORGIA

EXHIBIT

4

121

**BARKER, RODEMS & COOK, P.A.**  
**CLOSING STATEMENT**

Style of Case: Eugene R. Clement, Gay Ann Blomefield, and  
Neil Gillespie v. AMSCOT Corporation.

As of: October 31, 2001

Our File No.: 99.4766

ATTORNEYS' FEES \$ 50,000.00  
& COSTS

PAYMENTS TO CLIENTS

EUGENE R. CLEMENT	\$ 2,000.00
GAY ANN BLOMEFIELD	2,000.00
NEIL GILLESPIE	2,000.00

**TOTAL** \$ 56,000.00

---

In signing this closing statement, I acknowledge that AMSCOT Corporation separately paid my attorneys \$50,000.00 to compensate my attorneys for their claim against AMSCOT for court-awarded fees and costs. I also acknowledge that I have received a copy of the fully executed Release and Settlement Agreement dated October 30, 2001.

  
Neil Gillespie 11-1-01  
(Date)

BARKER, RODEMS & COOK, P.A.

By:   
WILLIAM J. COOK, ESQUIRE

EXHIBIT

5

**United States Court of Appeals  
for the Eleventh Circuit**56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100**01-14761-AA****Eugene R. Clement v. Amscot Corporation**

Closed

**Docket #:** 01-14761-AA**Short Style:** Eugene R. Clement v. Amscot Corporation**Docket Date:** 08/23/2001**Lead Case:****Agency:****Nature of Suit:** Other: Statutory Actions**Misc. Type:****Clerk:** Dixon, Eleanor**Clerk Phone:** (404) 335-6172**District Information****Docket #:** 99-02795-CV-T-26 **Judge:** Richard A. Lazzara**Dkt Date:** 12/08/1999**District:** Florida-Middle**NOA Date:** 08/20/2001**Office:** MFL-Tampa**Secondary Case Information****Docket #:** **Judge:****Dkt Date:** //**Case Relationships**

Docket #	Short Style	Relation	Status
----------	-------------	----------	--------

Pending Motions

No Pending Motions

**EXHIBIT****6**



**United States Court of Appeals  
for the Eleventh Circuit**

56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

**01-14761-AA**

**Eugene R. Clement v. Amscot Corporation**

EUGENE R. CLEMENT,

individually and on behalf of others similarly

situated,

Plaintiff-Appellant,

GAY ANN BLOMEFIELD,

NEIL GILLESPIE,

Plaintiffs-Intervenors

Counter-Defendants

Appellants,

versus

AMSCOT CORPORATION,

A Florida Corporation,

Defendant-Intervenor

Counter-Claimant

Appellee.


**United States Court OF Appeals  
FOR the Eleventh Circuit**

 56 Forsyth Street, N.W.  
 Atlanta, GA 30303-2289  
 (404) 335-6100
**01-14761-AA****Eugene R. Clement v. Amscot Corporation**

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



	<b>John A. Anthony</b> Gray Robinson, P.A. 201 N FRANKLIN ST STE 2200 TAMPA, FL 33602-5822 (813) 273-5066 Fax: (813) 221-4113 janthony@gray-robinson.com <i>No Briefing Information Found.</i>
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**United States Court of Appeals  
for the Eleventh Circuit**

56 Forsyth Street, N.W.  
Atlanta, GA 30303-2289  
(404) 335-6100

**01-14761-AA**  
**Eugene R. Clement v. Amscot Corporation**

File Date	Entry	Party	Pending
08/20/2001	Fee Status: Paid (08/20/01) for Eugene R. Clement	Eugene R. Clement	No
08/20/2001	Fee Status: Paid (08/20/01) for Gay Ann Blomefield	Gay Ann Blomefield	No
08/20/2001	Fee Status: Paid (08/20/01) for Neil Gillespie	Neil Gillespie	No
08/24/2001	DKT7CIV (Docketing 7) issued. cc: Loesch, Sheryl L. cc: Cook, William J. cc: Anthony, John A.		No
08/24/2001	Briefing Notice Issued		No
09/04/2001	Appearance Form Submitted: William J. Cook	William John Cook	No
09/04/2001	Transcript Order Form: Appellants- No transcript required		No
09/04/2001	Civil Appeal Statement Form- Appellants		No
09/05/2001	Probable Jurisdiction Noted		No



09/07/2001	Appearance Form Submitted: John A. Anthony	John A. Anthony	No
09/28/2001	Certificate of Readiness		No
10/03/2001	Appellant's Brief Filed: Appellants-Clement, Eugene R., Blomefield, Gay Ann, and Gillespie, Neil (Atty: William J. Cook)	Neil Gillespie	No
10/03/2001	Record Excerpts: Appellant-Clement, Eugene R. (Atty: William J. Cook)	Eugene R. Clement	No
11/09/2001	Joint Stipulation to Dismiss Appeal with Prejudice		No
12/07/2001	The parties joint stipulation for dismissal of this appeal with prejudice, which is construed as a motion to dismiss this appeal with prejudice, with the parties bearing their own costs and attorney fees, is GRANTED(JLE/RB).j		No
12/07/2001	DIS-4 (Dismissal 4 Letter) issued. cc: Cook, William J. cc: Anthony, John A. To: Loesch, Sheryl L.		No
12/07/2001	CASE CLOSED		No

PACER Service Center			
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# Supreme Court of Florida

TUESDAY, MAY 22, 2012

CASE NO.: SC11-1622

Lower Tribunal No(s): 2D10-5197, 05-CA-7205

NEIL J. GILLESPIE

vs. BARKER, RODEMS & COOK,  
ET AL.

---

Petitioner(s)

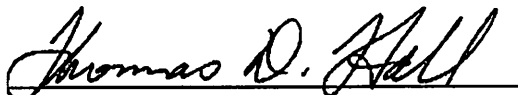
Respondent(s)

Petitioner's "Motion for Leave to File a Proper Motion for Reconsideration on Single Issue" has been treated as a Motion for Extension of Time to file a Motion for Rehearing, and said motion is hereby denied.

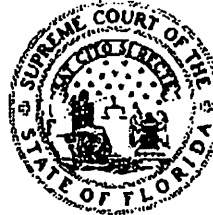
Petitioner's Addendum, Request to Toll Time, Amended Certificate of Service" has been treated as a Motion to Toll Time, and said motion is denied.

A True Copy

Test:



Thomas D. Hall  
Clerk, Supreme Court



ab

Served:

NEIL J. GILLESPIE  
RYAN CHRISTOPHER RODEMS  
HON. PAT FRANK, CLERK  
HON. JAMES BIRKHOLD, CLERK

EXHIBIT

7

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### Why Suspicions About Fla. Firm's Alleged Ponzi Scheme Weren't Voiced

John Pacenti

12-07-2009

Plenty of smoke surrounded attorney Scott Rothstein and his well-heeled Fort Lauderdale, Fla., law firm. But nobody called the fire department until it was too late.

The worst-kept secret in the South Florida legal community this fall was that the firm Rothstein Rosenfeldt Adler spent more money on payroll than it had coming in the door. The firm spent three times more on advertising than the three biggest firms combined in South Florida.

"Obviously, that business model didn't work," said Florida Bar president Jesse Diner, a Fort Lauderdale attorney with Atkinson Diner Stone Mankuta & Ploucha. "A lot of it didn't make sense."

Chuck Malkus, who runs Malkus Communications Group in Fort Lauderdale, served on the board of the charity Neighbors 4 Neighbors, which refused to accept a Rothstein donation.

"This was building up for over a year, and many of us believe this is just the tip of the iceberg," Malkus said. "I wish I picked up the phone and called the FBI."

The highly secretive Rothstein made sure nobody within or outside the firm had the smoking gun needed to go to authorities or to The Bar.

"It was very surprising that a lawyer nobody ever heard of a few years ago is suddenly throwing around money in a recession," said Robert Jarvis, a law professor at Nova Southeastern University's Shepard Broad Law Center.

"Of course it raised lots and lots of eyebrows, but that is not enough."

According to the U.S. Attorney's office, there were no legitimate complaints about Rothstein to federal agencies. And The Bar never launched a serious investigation until Rothstein returned from Morocco early last month to face his accusers and voluntarily surrendered his law license.

The man who hobnobbed with sports figures, celebrities and top-tier politicians allegedly burned through \$1.2 billion in an alleged Ponzi scheme related to bogus investments in lawsuit settlements, targeting friends and clients of RRA.

He spent millions of dollars on himself, buying sports cars, yachts, mansions and expensive jewelry.

Now he sits in a federal detention center facing a litany of fraud charges. As a result, the South Florida legal profession collectively is nursing a black eye.

Attorneys worry how the Fort Lauderdale powerbroker's spectacular downfall might affect the public trust in the profession, which is implicitly relied upon as an honest broker in business and policy matters in both the public and private sector.

"Here we have an attorney, an officer of the court, whose core values should be honesty and integrity, and instead he is unlawfully enriching himself at the expense of his clients," said Daniel Auer, the special agent in charge of the Internal Revenue Service for the Miami field office for criminal investigation.

When asked about Rothstein, local lawyers put on their best face. Rothstein is the cliché "one bad apple," said some, pointing to the many attorneys who do unsung pro bono work for clients who can't afford legal services. They said



Rothstein may have been an attorney, but he was a conman first and foremost.

"I don't think he made us all look bad. I think he made lawyers wearing \$5,000 suits and driving \$500,000 cars look bad," said David Markus, a Miami criminal defense attorney.

Ed Davis, a founding shareholder in Miami's Astigarraga Davis, said Rothstein's alleged actions didn't help the breach of trust issues the public always has with attorneys, "but you can't judge the entire profession by the acts of a few."

Still, if there is only 1 percent of bad lawyers in a state with 85,000 attorneys, the public could be more than vulnerable, Jarvis said.

"That is 850 rogue attorneys. That is a lot of rogues," Jarvis said. "So is the glass half full? There are a lot of bad lawyers out there, just like there are a lot of bad doctors, bad car salesmen and bad journalists."

Still, the rumors that Rothstein and his firm were far from legitimate were a main topic of conversation in early October among attorneys lunching along Fort Lauderdale's Las Olas Boulevard, where RRA had its offices.

Within weeks, Rothstein had flown to Morocco in possession of millions, only to have a change of heart and return to face charges of racketeering, fraud and money laundering.

Attorneys said they had confronted some RRA attorneys, who pointed to full-page advertisements glorifying the firm's legitimacy.

And there were some who were wary of Rothstein and his piles of cash from the start. "The question always was: Where is the money coming from? We don't see him in court. The rumor was they were behind some deals," Malkus said.

There were no deals. Just bogus and forged paperwork, prosecutors said in a criminal information filed last week after federal agents arrested Rothstein.

RRA was, in essence, a front for illegal activity, bringing in \$8 million in business a year with \$18 million in payroll.

Federal investigators want to know who in the firm averted their eyes to apparent crimes -- or, worse, were complicit with Rothstein.

"There is deliberate ignorance, which is not an excuse," acting U.S. Attorney Jeff Sloman said.

Diner, The Florida Bar president, said there was not a lot the organization that regulates attorneys could do without a legitimate complaint about Rothstein's business practices.

"It's a very interesting question if The Bar can be preemptive," Diner said. "The Bar is not in the position of just going out willy-nilly and auditing people."

Diner said that in the future The Bar should take a more proactive role when there are such questions about an attorney's practices.

No doubt, any Bar investigator would have had his hands full with the blustery Rothstein, who protected his empire with threats of litigation against anyone who questioned it.

Diner said The Bar is concerned with other RRA attorneys who may have been complicit in making political donations in return for bonuses or expense reimbursements. He said attorneys also may have violated ethics standards by not reporting Rothstein's questionable business practices and promoting themselves as partners of the firm when they were not fulfilling their fiduciary duties by keeping track of trust funds.

RRA partner Stuart Rosenfeldt has said Rothstein refused to show him the firm's financial books.

"There are certainly ethical concerns, and it doesn't stop with the disbarment of Scott Rothstein," Diner said. "The law firm is going to have to be looked at closely."

But can one really blame attorneys who accepted good salaries during a recession, or charities that didn't want to reject generous gifts from a man they believed was a respected attorney?

Yes, says Jay Cohen, a Fort Lauderdale attorney and member of The Florida Bar's Board of Governors.

"I don't think that's a hard decision," he said. "If there is any potential wrongdoing, if there is any question as to either the source of the funds or with the manner in which the funds are distributed, I don't think that's a hard question."

For law enforcement's part, Sloman said that without a complaint from a member of the public, there is little federal authorities can do. The FBI can't operate on mere rumor.

Jarvis said there is little anyone can do to stop such white-collar crimes. Ponzi schemes run on greed, and there is always an abundance of that vice.

"We've learned nothing from Scott Rothstein. We've learned nothing from Bernie Madoff," he said.

**FILED**

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

**2011 NOV 16 PM 2: 09  
CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FL  
OCALA FLORIDA**

**ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE (Personal Representative, Survivor)  
MARK J. GILLESPIE (Survivor)  
ELIZABETH BAUERLE (Survivor)**

**CASE NO.: 5:11-cv-539-oc-10TBS**

**Plaintiffs,**

**vs.**

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

**Defendants.**

**MOTION TO DETERMINE INDEGENCY**

**MOTION TO CHANGE DESIGNATION TO TRACK THREE UNDER RULE 3.05**

**Personal Representative Neil J. Gillespie pro se (Gillespie) moves as follows:**

- 1. September 20, 2011 Gillespie filed a completed, signed, and notarized "Affidavit of Indigency". [DKT 3]. As of today the Court has not made a determination of indigency for the prepayment of fees and costs. Gillespie moves the Court to make a determination of indigency. In the alternative, Gillespie moves the Court to arrange a payment schedule to allow him to pay the filing fee and service of process costs in affordable installments.**
- 2. September 23, 2011 the Clerk in accordance with Local Rule 3.05 designated this action as a Track Two Case. Upon information, Gillespie believes this action is a Track Three Case in accordance with Local Rule 3.05, because the Defendants include the Thirteenth Judicial Circuit, Florida, Judge James M. Barton, II, and Gillespie's former**

**EXHIBIT**

**9**

attorney. See Plaintiff's Response To Order To Show Cause, docket no. 58 in the related case Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case no. 5:10-cv-00503, United States District Court, Middle District of Florida, Ocala Division. [DKT 2].

WHEREFORE, Gillespie moves the Court to make a determination of indigency. In the alternative, Gillespie moves the Court to arrange a payment schedule to allow him to pay the filing fee and service of process costs in affordable installments. Gillespie moves the Court to re-designate this action a Track Three Case under Local Rule 3.05.

RESPECTFULLY SUBMITTED November 16, 2011.



Neil J. Gillespie, Personal Representative, pro se  
8092 SW 115<sup>th</sup> Loop  
Ocala, Florida 34481  
Telephone (352) 854-7807  
Email: neilgillespie@mfi.net



Westlaw

28 STETLR 323  
28 Stetson L. Rev. 323

Page 1

C

Stetson Law Review  
Fall, 1998

Essay

**\*323 PROFESSIONALISM AND LITIGATION ETHICS**

Hon. Claudia Rickert Isom [FNa1]

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My first assignment as a newly elected circuit judge was to the family law division. Although I considered myself to be an experienced trial attorney, I was somewhat naive about my role as a judge presiding over discovery issues. I assumed that the attorneys assigned to my division would know the rules of procedure and the local rules of courtesy. I also assumed that, being knowledgeable, they would comply in good faith with these provisions. I soon learned that attorneys who were entirely pleasant and sociable creatures when I was counted among their numbers, assumed a much different role when advocating for litigants.

For example, take Harvey M. (not his real name). Harvey and I had bantered for years, having many common interests. Perhaps this familiarity gave rise to, while not contempt, a certain lackadaisical attitude about complying with case management and pretrial orders. Harvey challenged me to establish my judicial prerogative and assist him in achieving goals not of his own making.

A common assumption regarding family law is that clients receive the quality of legal representation that they deserve. However, my time in the family law division has convinced me that this is not necessarily true. Often times, a case that has wallowed along, seemingly hung up in endless depositions and discovery problems, becomes instantly capable of resolution by bringing all parties together in the context of a pretrial conference. Apparently, some attorneys feel that "cutting up" is a large part of what their clients expect them to do. When this litigious attitude begins to restrict the trial court's ability to effectively bring cases to resolution, the judge must get involved to assist the process.

Recently, the Florida Conference of Circuit Court Judges conducted an educational seminar designed to guide circuit judges in appropriately responding to unprofessional and unethical behavior. [FN1] Various scenarios were presented on video, after which the \*324 judges voted on what they felt would be the appropriate court response. A surprising number of judges voted to impose sanctions or report unethical behavior to the Florida Bar Grievance Section. However, the most common response was to do nothing or to privately counsel the offending attorney.

A common theme at meetings of the Florida Bar Standing Committee on Professionalism is that, while attorneys can aspire to greater professionalism, the courts can be a bully pulpit to encourage professional behavior. Perhaps the perceived backlash of cracking down on unprofessional behavior is unrealistic for Florida's circuit judges who are elected officials. However, that perception shapes the judicial response, even when responding theoretically at a seminar.

28 STETLR 323  
28 Stetson L. Rev. 323

Page 2

The Joint Committee of the Trial Lawyers Section of the Florida Bar and the Conferences of Circuit and County Court Judges' 1998 Handbook on Discovery Practice admonishes trial judges to fully appreciate their broad powers to end discovery abuses and the 1998 Handbook reassuringly states that the appellate courts will sustain the trial court's authority if it is exercised in a procedurally correct manner. [FN2] Once again, this rallying cry ignores the reality of our situation.

As a new judge, the lessons urged by bar leadership have been a matter of trial and error (pun intended). Harvey quickly established his reputation, not as a fellow member of my legal community, but as a problematic litigator whose behavior had to be controlled and modified by court order for the legal process to smoothly progress. For example, hearing time was made available to address discovery issues, very specific orders were entered regarding who was to do what, when, and how, verbal commitments were elicited on the record about document production and interrogatory responses, in an attempt to avoid additional hearings. Cases involving Harvey were, by necessity, intensely case managed.

Resentment, of course, is a by-product of such intensive case management. Attorneys may perceive that the court is trying to prevent them from earning additional attorney fees by streamlining the process. However, clients rarely complain once they realize that the underlying purpose is to bring the case to timely resolution.

In Harvey's case, extreme tools--reporting Harvey to the Florida\*325 Bar, striking responses, striking witnesses, imposing financial sanctions, and conducting contempt hearings-- were never implicated. What did happen was that Harvey trained me to be a better judge by showing me how, in a nonconfrontational manner, I could effectively case manage Harvey and similar counsel without having to take off the gloves.

Fortunately, not every litigator requires the case management skills of a Harvey situation. Most attorneys are well-intentioned, have a legitimate interest in pursuing discovery efficiently, and do not seek to unnecessarily delay the resolution of a case. What a relief it is to have a case with opposing counsel who are both of this school of thought.

New attorneys, or attorneys who are appearing in front of a judge for the first time, must remember that their reputation is primarily built on the judge's personal experiences with them. No bench book exists with a list of which attorneys are trustworthy professionals and which are not. Instead, the individual judge keeps a mental catalog of experiences. For example, does this attorney routinely generate complaints from opposing counsel in other cases about not clearing depositions with their office? Is this attorney often the subject of motions to compel? Can this attorney be trusted when he tells you that the responses to interrogatories are "in the mail"? Once a negative reputation has been established with the court, an attorney's job will be much more challenging in establishing credibility with the court. And certainly, with so many issues up to the court's discretion, an attorney's reputation as trustworthy and ethical is of utmost importance.

And, what about Harvey? Do his clients suffer? Of course they do. But, with effective case management and an experienced judiciary, the damage and delay caused by the Harveys of this world can be minimized while still allowing clients the freedom to choose their own counsel.

[FN1]. Circuit Judge, Thirteenth Judicial Circuit, Tampa, Florida, 1991-Present; B.S.Ed., University of Iowa, 1972; J.D., Florida State University, 1975; Vice-Chair and member, Florida Bar Standing Committee on Professionalism; Assistant State Attorney, Thirteenth Judicial Circuit, 1979-1982; District VI Legal Counsel, Florida

28 STETLR 323  
28 Stetson L. Rev. 323

Page 3

Department of Health and Rehabilitative Services, 1984-1986; Shareholder, Isom, Pingel and Isom-Rickert, P.A., 1986-1990.

[FN1]. *See* ANNUAL BUSINESS MEETING OF FLORIDA CONFERENCE OF CIRCUIT JUDGES: PROFESSIONALISM PROBLEM SOLVING (1998).

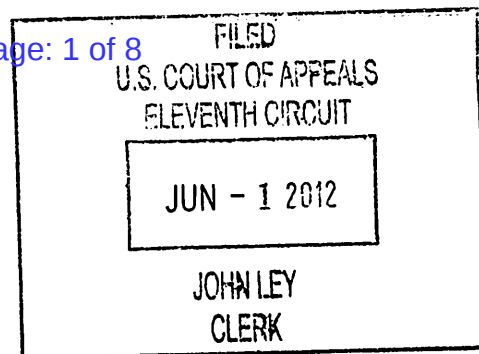
[FN2]. *See* JOINT COMMITTEE OF THE TRIAL LAWYERS SECTION OF THE FLORIDA BAR AND CONFERENCE OF CIRCUIT AND COUNTY JUDGES 1998 HANDBOOK 8-9 (1998).  
28 Stetson L. Rev. 323

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UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,

Plaintiffs/Appellants,

vs.

CASE NO.: 12-11028-B

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

Defendants/Appellees.

NOTICE REGARDING IN FORMA PAUPERIS ON APPEAL

MOTION TO TOLL TIME

Appellants, Neil J. Gillespie ("Gillespie") and Estate of Penelope Gillespie, hereby give notice regarding the motion to proceed in forma pauperis on appeal, and state:

1. On May 7, 2012 this Court denied appellants motion for leave to proceed on appeal *in forma pauperis* because the Court found the appeal frivolous. Pursuant to Eleventh Circuit Rule 42-1(b), the Court notified the appellants that upon expiration of fourteen (14) days, this appeal will be dismissed by the clerk without further notice unless appellants pay to the district court clerk the \$450 docket and \$5 filing fees (total of \$455), with notice to the Court.
2. Gillespie believes the appeal is not frivolous, as set forth in his Motion to Reconsider, Vacate or Modify Order submitted May 30, 2012.
3. Gillespie paid \$50 cash to the District Clerk May 21, 2012 toward the \$455 filing fee. A receipt from the Clerk for the \$50 payment is attached as Exhibit 1. Initially the Clerk would not accept this partial payment, but upon consultation with a supervisor, the Clerk advised Gillespie to submit the payment with a motion, which he did. Gillespie mailed a copy of the motion to this

Court May 21, 2012. The motion moves to extend time to pay the \$405 balance to June 1, 2012 due to Gillespie's indigence and/or insolvency.

4. The District Court denied on May 22, 2012 the motion to extend time to pay the \$405 balance. The District Clerk provided notice to this Court. In the Order, the District Court stated in part "Prior to dismissing the case, the Court provided the *pro se* Plaintiff multiple opportunities to demonstrate how the Court had subject-matter jurisdiction over what was, in essence, a Florida wrongful death action against non-diverse parties." However the record does not support the District Court's claim that Gillespie was provided multiple opportunities, but instead shows conduct by the District Court inconsistent with the effective and expeditious administration of the business of the courts, and conduct prejudicial to the administration of justice, as set forth in Appellants' Motion to Reconsider, Vacate or Modify Order, paragraphs 13-15, submitted May 30, 2012.

5. The Florida courts are unwilling to lawfully resolve this matter. As stated in Appellants' Motion to Reconsider, Vacate or Modify Order, paragraph 8, submitted May 30, 2012:

The Florida Supreme Court denied without comment Gillespie's motion for reconsideration on May 22, 2012. (Exhibit 7). The Florida Supreme Court, now without question, was fully advised of the central issue in this case - Rodems' misconduct - but refused to follow long-settled case law on disqualification, and the Rules Regulating the Florida Bar. Therefore it is clear that the Florida courts never had any intention of lawfully adjudicating Gillespie v. Barker, Rodems & Cook, P.A.. The walk-away settlement agreement of June 21, 2011 is a nullity because the result in this matter was a foregone conclusion, determined in advance by the courts: Gillespie must not prevail. Had Gillespie not signed the agreement, he would have remained in coercive custody indefinitely, and would have been further injured, or killed on some pretext.

6. Chief District Judge Anne C. Conway responded by letter dated April 25, 2012 to Gillespie's earlier correspondence. (Exhibit 2). Chief Judge Conway wrote "I am in receipt of your correspondence dated March 22, 2012. Since this case is not assigned to me there is nothing I can do to assist you." In addition, District Clerk Sheryl L. Loesch has not responded to

Gillespie's communication dated April 5, 2012. Gillespie previously provided to this Court copies of his correspondence to Chief Judge Conway, and District Clerk Loesch, as exhibits to his Consolidated Motion For Accommodation Under The Americans With Disabilities Act submitted April 7, 2012. Gillespie's correspondence to Chief Judge Conway was Exhibit 68, Motion to Amend the Judgment, letter to Chief Judge Anne Conway. Gillespie's correspondence to District Clerk Loesch was Exhibit CLERK, Letter to Ms. Loesch dated April 5, 2012.

7. The federal courts are Gillespie's last hope in resolving this matter. However Gillespie's correspondence to Chief Judge Conway, and District Clerk Loesch, shows conduct by the District Court and the District Clerk inconsistent with the effective and expeditious administration of the business of the courts, and conduct prejudicial to the administration of justice. This would cause a reasonable person to question the fairness and impartiality of the District Court and the District Clerk in this matter.

8. Gillespie moved April 7, 2012 for accommodation under the Americans With Disabilities Act (ADA) in this Court as stated in Appellants' Motion to Reconsider, Vacate or Modify Order, paragraph 19, submitted May 30, 2012:

Gillespie moved for accommodation under the Americans With Disabilities Act (ADA) in this Court of Appeals April 7, 2012. Gillespie is confused as to whether this Court's Order of May 7, 2012 responds to his ADA accommodation request. In any event, on April 10, 2012 Chris Wolpert, Chief Deputy of Operations, U.S. District Court for the Northern District of California, informed Gillespie by email that "My understanding is that the Americans With Disabilities Act does not apply to the Federal Judiciary." Gillespie determined that Mr. Wolpert is correct, the ADA does not apply to the federal judiciary, so it appears Gillespie should be given leave to amend his disability request under the appropriate law.

A review of Title II shows the ADA only applies to a state or local government:

Title 42 - Chapter 126 - Subchapter II - Part A - § 12131

As used in this subchapter:

(1) Public entity

The term "public entity" means—

- (A) any State or local government;
- (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- (C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102 (4) [1] of title 49).

<http://www.law.cornell.edu/uscode/text/42/12131>

On March 16, 2012 Gillespie received a telephone call at 1:43 p.m. about the ADA from Brenda McConnel, a Supervisor with the U.S. Court of Appeals for the Eleventh Circuit. Ms. McConnel was responding to Gillespie's contact with Walter Pollard, the case handler. Ms. McConnel did not inform Gillespie that the ADA did not apply to the federal judiciary. To the contrary, McConnel advised Gillespie to file a motion and provide supporting documentation for his ADA accommodation request. Based on the advice of Ms. McConnel, Gillespie served a motion for accommodation under the ADA in this Court April 7, 2012. Gillespie also made the following ADA requests and/or inquiries in the Eleventh Circuit:

- a. James Leanheart, Court Operations Supervisor, Ocala, prior to and during the litigation
- b. District Clerk Sheryl L. Loesch, by letter dated April 5, 2012
- c. Chief District Judge Anne C. Conway, by copy of the letter to District Clerk Loesch
- d. Blair Patton, Supervisor, Northern District of Florida, by telephone April 3, 2012

None of the above judicial officers or court employees informed Gillespie that ADA did not apply to the federal judiciary. This shows a wide-spread pattern of conduct in the Eleventh Circuit that is inconsistent with the effective and expeditious administration of the business of the courts, and conduct prejudicial to the administration of justice.

9. Because of the foregoing, Gillespie moves the Court to toll time on the payment of the \$405 balance due on the docket and filing fees presently not paid in this appeal, until the Court makes a determination on Appellants' Motion to Reconsider, Vacate or Modify Order, submitted



May 30, 2012. If the Court agrees with Gillespie that the appeal is not frivolous, and can be amended to state a civil action under RICO, then the Court should waive the docket and filing fees on the motion by Appellants for leave to proceed on appeal *in forma pauperis*. In the alternative, if the Court denies Appellants' Motion to Reconsider, Vacate or Modify Order, Gillespie will not pay the docket and filing fees, because it would be futile to proceed given the pattern of conduct cited above that is inconsistent with the effective and expeditious administration of the business of the courts, and conduct prejudicial to the administration of justice. Even if this Court were to grant Gillespie leave to amend his complaint, the case would be remanded to the District Court, where a reasonable person would have cause to question the Court's fairness and impartiality.

10. Under 18 USC § 1965(a), a RICO civil action or proceeding against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs. The ends of justice in this matter may require RICO civil proceedings instituted in a venue outside the Eleventh Circuit.

11. Gillespie moves to toll time.

RESPECTFULLY SUBMITTED May 31, 2012.



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

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was provided May 31, 2012 by email only to Catherine Barbara Chapman (catherine@guildaylaw.com), Guilday, Tucker, Schwartz & Simpson, P.A. 1983 Centre Pointe Boulevard, Suite 200. Tallahassee, FL 32308-7823, counsel for Robert W. Bauer, et al.

  
Neil J. Gillespie

Court Name: Florida Middle District  
Division: 5  
Receipt Number: OCA002336  
Cashier ID: ataylor  
Transaction Date: 05/21/2012  
Payer Name: NEIL J GILLESPIE

-----  
PLRA CIVIL FILING FEE  
For: NEIL GILLESPIE  
Case/Party: D-FLM-5-11-CV-000539-001  
Amount: \$50.00  
-----

CASH  
Amt Tendered: \$50.00  
-----

Total Due: \$50.00  
Total Tendered: \$50.00  
Change Amt: \$0.00

Only when bank clears the check,  
money order, or verify credit of  
funds is the fee or debt officially  
paid or discharged. A NSF fee will  
be charged for a returned check.

**United States District Court**  
Middle District of Florida  
George C. Young Courthouse and Federal Building  
401 West Central Boulevard, Suite 6750  
Orlando, FL 32801-0675

**Anne C. Conway**  
Chief Judge

407-835-4270

April 25, 2012

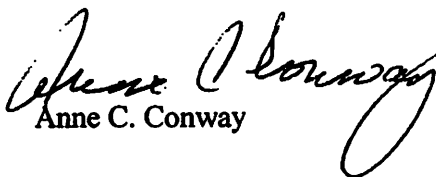
Mr. Neil J. Gillespie  
8092 SW 115<sup>th</sup> Loop  
Ocala, FL 34481

Re: Gillespie v. The Thirteenth Judicial Circuit, Florida, et al.  
Case No. 5:10-cv-503-Oc-10TBS

Dear Mr. Gillespie,

I am in receipt of your correspondence dated March 22, 2012. Since this case is not assigned to me there is nothing I can do to assist you.

Sincerely,

  
Anne C. Conway



**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

John Ley  
Clerk of Court

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[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

June 19, 2012

Neil J. Gillespie  
8092 SW 115TH LOOP  
OCALA, FL 34481

Appeal Number: 12-11028-B  
Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al  
District Court Docket No: 5:11-cv-00539-WTH-TBS

The following action has been taken in the referenced case:

The enclosed order has been ENTERED.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of fourteen (14) days from this date, this appeal will be dismissed by the clerk without further notice unless you pay to the DISTRICT COURT clerk the \$450 docket and \$5 filing fees (total of \$455), with notice to this office.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Melanie Gaddis, B  
Phone #: (404) 335-6187

MOT-2 Notice of Court Action

JUN 19 2012

JOHN LEY  
CLERK

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 12-11028-B

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

Plaintiffs-Appellants,

versus

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

Defendants-Appellees.

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

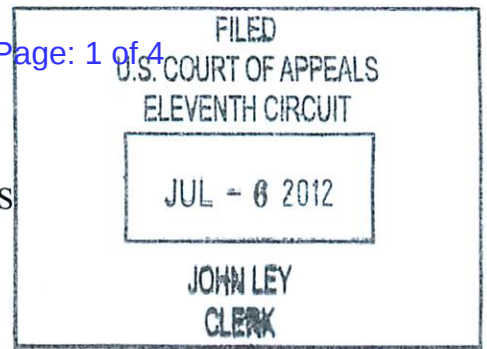
Before WILSON and MARTIN, Circuit Judges.

BY THE COURT:

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



UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



ESTATE OF PENELOPE GILLESPIE,  
NEIL J. GILLESPIE,

Plaintiffs/Appellants,

vs.

CASE NO.: 12-11028-B

THIRTEENTH JUDICIAL CIRCUIT,  
FLORIDA, et al.

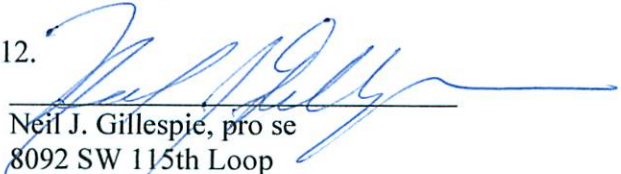
Defendants/Appellees.

RESPONSE TO ORDER

Appellants, Neil J. Gillespie ("Gillespie") and Estate of Penelope Gillespie, hereby respond to the Order of this Court entered June 19, 2012, and state:

1. Gillespie is unable due to indigence and/or insolvency to pay to the District Court Clerk the \$450 docket and \$5 filing fees. On June 8, 2012 Gillespie received Notice of Default and Intent to Foreclose on his home. (Exhibit 1). Gillespie is preparing a defense to the Notice because he cannot pay the \$108,056.19 demanded by RMS. Gillespie has nowhere else to move and would become homeless if his defense to the foreclosure is not successful.
2. Gillespie appreciates that the Court granted his motion for leave to amend his request for disability accommodations. Gillespie plans to submit his amended request for disability accommodations by July 24, 2012, since the Court did not specify a time.

RESPECTFULLY SUBMITTED July 3, 2012.

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



Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing was provided July 3, 2012 by email only to Catherine Earbara Chapman (catherine@guildaylaw.com), Guilday, Tucker, Schwartz & Simpson, P.A. 1983 Centre Pointe Boulevard, Suite 200. Tallahassee, FL 32308-7823, counsel for Robert W. Bauer, et al.

  
Neil J. Gillespie



June 8, 2012

Sent Via Certified Mail

Penelope Gillespie

Loan Number: 69977  
Property Address: 8092 SW 115TH LOOP  
OCALA, FL 34481

**NOTICE OF DEFAULT AND INTENT TO FORECLOSE**

Dear Penelope Gillespie:

Reverse Mortgage Solutions, Inc., (herein as "RMS") is currently servicing your mortgage loan that is secured by the above referenced property. You are hereby formally notified that the mortgage loan associated with the referenced Deed of Trust/Mortgage is in default because of the death of the primary mortgagor and the loan must be paid in full.

To cure this default, you must forward funds in the amount of \$108,056.19 consisting of the principal due, plus all interest and fees through July 8, 2012.

**It is possible that after payment of the amounts detailed above there may be other fees still due and owing, including but not limited to other fees, escrow advances or corporate advances that RMS paid on your behalf or advanced to your account.**

This letter is a formal demand to pay \$108,056.19. If the default is not paid in full by July 8, 2012, RMS will take steps to terminate your ownership in the property by a foreclosure proceeding or other action to seize the property.

**IF YOU ARE UNABLE TO PAY YOUR ACCOUNT IN FULL, RMS offers consumer assistance programs designed to help resolve delinquencies and avoid FORECLOSURE. These services are provided without cost to our customers. You may be eligible for a loan workout plan or other similar alternatives. If you would like to learn more about these programs, you may contact the Loss Mitigation Department at (866) 503-5559, between the hours of 8:30 AM and 5:00 PM CST. WE ARE VERY INTERESTED IN ASSISTING YOU.**

The default above can be cured by payment of the total payoff amount plus any additional fees that become due by July 8, 2012. Note that additional charges, costs and fees may become due during the period between today's date and the date the aforementioned payments are received. Please contact our Collection Department at (866) 503-5559 to obtain updated payoff information.

Please include your loan number and property address with your payment and send to:

Reverse Mortgage Solutions, Inc.  
2727 Spring Creek Drive  
Spring, TX 77373

562439



12-02121-1  
Page 1 of 2

If you wish to dispute the delinquency, or if you dispute the calculation of amount of the delinquency and reinstatement amount, you may contact us by calling (866) 503-5559.

You have the right to bring a court action to assert the non-existence of a default or any other defense to acceleration or foreclosure sale. Failure to respond to this letter may result in the loss of your property. To the extent your obligation has been discharged or is subject to the automatic stay in a bankruptcy case, this notice is for informational purposes only and does not constitute a demand for payment or an attempt to collect a debt as your personal obligation. If you are represented by an attorney, please provide us with the attorney's name, address and telephone number.

**Attention Service members and dependents:** The Federal Service Members' Civil Relief Act ("SCRA") and certain state laws provide important protections for you, including prohibiting foreclosure under most circumstances. If you are currently in the military service, or have been within the last nine (9) months, AND joined after signing the Note and Security Instrument now in default, please notify RMS immediately. When contacting RMS as to your military service, you must provide positive proof as to your military status. If you do not provide this information, it will be assumed that you are not entitled to protection under the above-mentioned Act.

If you are experiencing financial difficulty, you should know that there are several options available to you that may help you keep your home. You may contact HUD Government Counseling which provides free or low-cost housing counseling. You should consider contacting one of these agencies immediately. These agencies specialize in helping homeowners who are facing financial difficulty. Housing counselors can help you assess your financial condition and work with us to explore the possibility of modifying your loan, establishing an easier payment plan for you, or even working out a period of loan forbearance. For your benefit and assistance, there are government approved homeownership counseling agencies designed to help homeowners avoid losing their homes. To obtain a list of approved counseling agencies, please call (800) 569-4287 or visit <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>.

**NO PERSON IN THIS OFFICE WILL GIVE YOU ANY LEGAL ADVICE.** If, at any time, you make a written request to us not to be contacted by phone at your place of employment, we will not do so. If, at any time, you make a written request to us not to contact you, we will not do so, except to send statutorily and/or contractually required legal notice.

You may be eligible for assistance from the Homeownership Preservation Foundation or other foreclosure counseling a. You may call the following toll-free number to request assistance from the Homeownership Preservation Foundation: (888) 995-HOPE (4637). If you wish, you may also contact us directly at (866) 503-5559 and ask to discuss possible options.

This matter is very important. Please give it your immediate attention.

Sincerely,

Reverse Mortgage Solutions, Inc.  
(866) 503-5559

**FEDERAL LAW REQUIRES US TO ADVISE YOU THAT REVERSE MORTGAGE SOLUTIONS, INC. IS A DEBT COLLECTOR AND THAT THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE. TO THE EXTENT YOUR OBLIGATION HAS BEEN DISCHARGED OR IS SUBJECT TO THE AUTOMATIC STAY IN A BANKRUPTCY PROCEEDING, THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A DEMAND FOR PAYMENT OR AN ATTEMPT TO COLLECT AN INDEBTEDNESS AS YOUR PERSONAL OBLIGATION. IF YOU ARE REPRESENTED BY AN ATTORNEY, PLEASE PROVIDE US WITH THE ATTORNEY'S NAME, ADDRESS AND TELEPHONE NUMBER.**



**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

John Ley  
Clerk of Court

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July 16, 2012

Neil J. Gillespie  
8092 SW 115TH LOOP  
OCALA, FL 34481

Appeal Number: 12-11028-B  
Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al  
District Court Docket No: 5:11-cv-00539-WTH-TBS

Enclosed is your "Response to Order", which should go to the Supreme Court of the United States, and is being returned to you. The procedure for filing a notice of appeal from a decision of a United States Court of Appeals was abolished by statute effective September 25, 1988.

Please note that a copy of this court's opinion, the judgment, and any order on rehearing should be attached as an appendix to any petition for writ of certiorari filed in the Supreme Court. See Supreme Court Rule 14.1(i).

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Melanie Gaddis, B  
Phone #: (404) 335-6187

SPCT-5 NOA to SC rtnd to prose

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

John Ley  
Clerk of Court

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July 13, 2012

Sheryl L. Loesch  
United States District Court  
207 NW 2ND ST  
OCALA, FL 34475

Appeal Number: 12-11028-B  
Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al  
District Court Docket No: 5:11-cv-00539-WTH-TBS

The enclosed copy of the Clerk's Entry of Dismissal for failure to prosecute in the above referenced appeal is issued as the mandate of this court. See 11th Cir. R. 41-4.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Melanie Gaddis, B  
Phone #: (404) 335-6187

Enclosure(s)

DIS-2 Letter and Entry of Dismissal

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 12-11028-B

---

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

Plaintiffs - Appellants,

versus

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

Defendants - Appellees.

---

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

---

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

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

by: Melanie Gaddis, B, Deputy Clerk

FOR THE COURT - BY DIRECTION

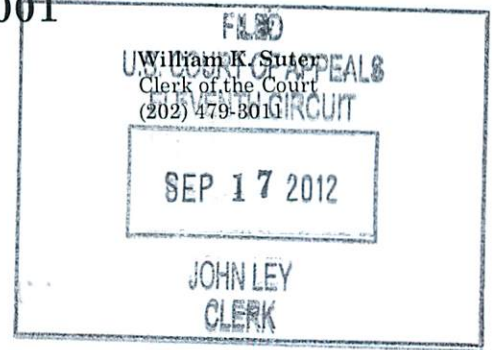
**Supreme Court of the United States**

**Office of the Clerk**

**Washington, DC 20543-0001**



September 13, 2012



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

Re: Neil J. Gillespie  
v. Thirteenth Judicial Circuit, et al.  
Application No. 12A215  
(Your No. 12-11028, 12-11213) -

Dear Clerk:

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

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

Sincerely,

William K. Suter, Clerk

by

*Clayton Higgins*  
Clayton Higgins  
Case Analyst



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

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

**NOTIFICATION LIST**

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

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

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

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

December 14, 2012

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

Re: Neil J. Gillespie  
v. Thirteenth Judicial Circuit of Florida, et al.  
No. 12-7747  
(Your No. 12-11028-B; 12-11213-C)

Dear Clerk:

The petition for a writ of certiorari in the above entitled case was filed on December 10, 2012 and placed on the docket December 14, 2012 as No. 12-7747.

Sincerely,

**William K. Suter**, Clerk

by

Clayton Higgins  
Case Analyst

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

John Ley  
Clerk of Court

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February 21, 2013

Sheryl L. Loesch  
U.S. District Court  
207 NW 2ND ST  
OCALA, FL 34475

Appeal Number: 12-11028-B  
Case Style: Estate of Penelope Gillespie, et al v. Thirteenth Judicial Circuit, F, et al  
District Court Docket No: 5:11-cv-00539-WTH-TBS

The Supreme Court has denied certiorari. The court's mandate having previously issued, no further action will be taken by this court.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Melanie Gaddis, B  
Phone #: (404) 335-6187

MDT-4 Notice of Certiorari Denial to DC

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

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

February 19, 2013

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

Re: Neil J. Gillespie  
v. Thirteenth Judicial Circuit of Florida, et al.  
No. 12-7747  
(Your No. 12-11028-B; 12-11213-C)

Dear Clerk:

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

The petition for a writ of certiorari is denied.

Sincerely,



**William K. Suter, Clerk**

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

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

April 15, 2013

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

Re: Neil J. Gillespie  
v. Thirteenth Judicial Circuit of Florida, et al.  
No. 12-7747  
(Your No. 12-11028-B; 12-11213-C)

Dear Clerk:

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

The petition for rehearing is denied.

Sincerely,

A handwritten signature in black ink that reads "William K. Suter". The signature is written in a cursive, flowing style.

**William K. Suter, Clerk**