

VIA US CERTIFIED MAIL, RRR
Article No.: 7010 0780 0000 8981 6467

April 21, 2011

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights - NYAV
Washington, D.C. 20530


Dear DOJ Civil Rights Division:

Please find enclosed a complaint under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Discrimination Complaint Form, OMB No. 1190-0009, related to my lawsuit in the Thirteenth Judicial Circuit, Florida, Gillespie v Barker, Rodems & Cook, et. al, Case No. 05-CA-007205, Circuit Civil Division.

Also enclosed are the following supporting documents:

1. ADA Report by Karin Huffer to Gonzalo B. Casares, ADA Coordinator for the 13th Judicial Circuit, Hillsborough County, Florida. Dr. Huffer is my ADA advocate.
2. Letter of Dr. Karin Huffer, October 28, 2010.
3. ADA Request for Accommodation by Persons with Disabilities to the 13th Judicial Circuit by Neil J. Gillespie.
4. Federal lawsuit complaint, Gillespie v. Thirteenth Judicial Circuit, et. al, Case No. 5:10-cv-503-oc-10DAB, US District Court, Middle District of Florida, Ocala Division, filed September 28, 2010.
5. Notice of Claim against the Thirteenth Judicial Circuit pursuant to § 768.28(6)(a) Fla. Stat.

Sincerely,



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

cc: Dr. Karin Huffer

Enclosures

U.S. Department of Justice
Civil Rights Division
Disability Rights Section

OMB No. 1190-0009

**Title II of the Americans with Disabilities Act
Section 504 of the Rehabilitation Act of 1973
Discrimination Complaint Form**

Instructions: Please fill out this form completely, in black ink or type. Sign and return to the address on page 3.

Complainant: Neil J. Gillespie

Address: 8092 SW 115th Loop

City, State and Zip Code: Ocala, Florida 34481

Telephone: Home:

Business:

Person Discriminated Against:
(if other than the complainant) _____

Address: _____

City, State, and Zip Code: _____

Telephone: Home:

Business:

Government, or organization, or institution which you believe has discriminated:

Name: Thirteenth Judicial Circuit, Florida

Address: 800 E. Twiggs Street

County: Hillsborough

City: TAMPA

State and Zip Code: Florida 33602

Telephone Number: (813) 272-6843

When did the discrimination occur? Date: 2006-2011

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary):

See the accompanying letter from Dr. Karin Huffer, my
ADA Advocate

Have efforts been made to resolve this complaint through the internal grievance procedure of the government, organization, or institution?

Yes No

If yes: what is the status of the grievance?

Has the complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes No

If yes: Federal Lawsuit, Gillespie V. Thirteenth Circuit, Case 5:10-cv-503-OC-10DAB

Agency or Court: US District Court, Middle District Florida, Ocala Division

Contact Person: US District Judge William Terrell Hodges

Address: 207 NW second street

City, State, and Zip Code: Ocala, Florida, 34475

Telephone Number: (352) 369-4860

Date Filed: September 28, 2010

Do you intend to file with another agency or court?

Yes _____ No

Agency or Court: _____

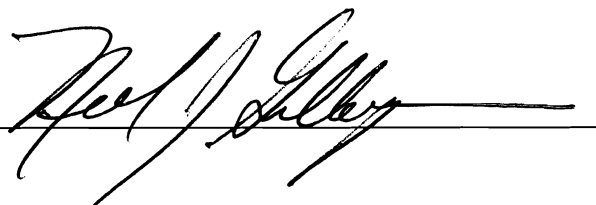
Address: _____

City, State and Zip Code: _____

Telephone Number: _____

Additional space for answers:

A Related complaint was made to Mark J. Kappelhoff, Section Chief, US Department of Justice, Civil Rights Division, Criminal Section, for the Misuse and denial of Judicial Process under the color of Law by the Thirteenth Judicial Circuit Florida

Signature: 

Date: _____

Return to:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights - NYAV
Washington, D.C. 20530

last updated October 3, 2007

DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082
ADAAA Titles II and III Specialist
Counseling and Forensic Psychology
3236 Mountain Spring Rd. Las Vegas, NV 89146
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (*Townsend v. Quasim* (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services." (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.