

IN THE SUPREME COURT OF FLORIDA

Supreme Court Case No.: SC19-1545

CATHERINE ELIZABETH CZYZ,

Respondent/Appellant,

vs.

THE FLORIDA BAR ASSOCIATION,

Complainant/Appellee.

APPENDIX (PART III) TO RESPONDENT'S/APPELLANT'S
AMENDED MOTION TO VACATE FINAL JUDGMENT
OF JANUARY 6, 2022

Catherine E. Czyz

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RECEIVED, 01/30/2023 03:42:23 PM, Clerk, Supreme Court

APPENDIX (PART III)

1. EXHIBIT “H”, DEPOSITION OF RICHARD AKIN, ESQ. WITH
EXHIBITS.

RESPECTFULLY SUBMITTED,

/s/ Catherine E. Czyz

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I HEREBY CERTIFY that a true and correct copy of the
foregoing has been furnished by e-courts on January 30, 2023

to:

Shanee L. Hinson, Esq. and

Tiffany Roddenberry, Esq. and

Kevin Cox, Esq. and/or the attorneys listed as counsel of
record at this time.

By: ___/s/ Catherine E. Czyz_____

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EXHIBIT “H”

1 IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL
2 CIRCUIT IN AND FOR LEE COUNTY, FLORIDA

3 CASE NO.: 2019 CA 002440

4 CATHERINE E. CZYZ, ESQ., THE
5 CZYZ LAW FIRM, P.A. and THE CZYZ
6 LAW FIRM, PLLC,

7 Plaintiffs,

8 vs.

9 ERIN BETH NEITZELT,

 Defendant.

10
11 DEPOSITION OF RICHARD B. AKIN, ESQ.

12 Monday, January 13, 2020

13 1:00 p.m. - 3:00 p.m.

14 Veritext Legal Solutions
15 5237 Summerlin Commons Boulevard
16 Fort Myers, Florida

17 Stenographically Reported By:
18 Tracie Thompson, RMR, CRR, FPR, TX CSR
19 Registered Merit Reporter
20 Certified Realtime Reporter
21 Florida Professional Reporter
22 Texas Certified Shorthand Reporter

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APPEARANCES:

On behalf of Plaintiffs:

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931 Village Boulevard
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On behalf of Deponent:

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Witness DIRECT CROSS REDIRECT RECROSS
RICHARD AKIN, ESQUIRE
By Ms. Czyz 5

* * * * *

EXHIBITS

| Number | Description | Marked |
|------------|--|--------|
| Exhibit 1 | Re-Notice of Taking Deposition of Richard B. Akin, Esq. (Duces Tecum) Set by Court Order | 6 |
| Exhibit 2 | Objection to Cross Re-Notice of Taking Deposition of Richard Akin, Esquire | 6 |
| Exhibit 3 | E-mail dated 10-29-15 | 27 |
| Exhibit 4A | E-mail dated 4-9-17 | 51 |
| Exhibit 4B | E-mail dated 2-10-17 | 56 |
| Exhibit 4C | E-mail dated 2-24-17 | 68 |
| Exhibit 4D | E-mail dated 3-3-17 | 72 |
| Exhibit 4E | E-mail dated 3-13-17 | 72 |
| Exhibit 4F | E-mail dated 3-14-17 | 73 |

(Continued)

EXHIBITS

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| Number | Description | Marked |
|-----------|--|--------|
| Exhibit 5 | Letter dated 12-23-16 | 59 |
| Exhibit 6 | Florida Bar Complaint | 66 |
| Exhibit 7 | Plaintiff's, Erin Neitzelt's, Re-Notice of Mailing Addresses | 85 |
| Exhibit 8 | MEAC Opinions - Conflicts of Interest | 90 |
| Exhibit 9 | Rule 4-1.7. Conflict of Interest; Current Clients | 91 |

* * * * *

1 Thereupon,
2 the following proceedings began at 1:00 p.m.:

3 RICHARD B. AKIN, ESQ.,
4 having been first duly sworn testified as follows:

5 DIRECT EXAMINATION

6 BY MS. CZYZ:

7 Q All right. Could you please state your
8 name for the record?

9 A My name is Richard Barton Akin, II.

10 Q Can you spell your name, please.

11 A All of it or just the last name?

12 Q The last name.

13 A A-K-I-N.

14 Q All right. I think I had a misspelling on
15 the notice. I apologize for that.

16 A That's okay. It happens.

17 Q And your occupation, Mr. Akin?

18 A I'm an attorney.

19 Q All right. So I don't think I need to
20 explain to you being here the rules for a deposition
21 or the penalty for perjury or anything like that,
22 right?

23 A I think we're good.

24 Q Okay. Today with the notice of taking
25 deposition it shows a renotece duces tecum. You were

1 asked to bring some documents today.

2 MS. CZYZ: I'm going to mark this renotice
3 as Exhibit 1.

4 (Thereupon, Re-Notice of Taking Deposition of Richard
5 B. Akin, Esq. (Duces Tecum) Set by Court Order was
6 marked Exhibit 1 for identification.)

7 MS. CZYZ: Just for the record, today your
8 attorney handed me what appears to be a 2-inch
9 black flash drive.

10 Would that be accurate?

11 MR. GELMAN: Flash drive, zip drive,
12 whatever you want to call it.

13 MS. CZYZ: Zip drive with all of the
14 documents on it. We do not have any hard
15 documents to review today.

16 There is also an objection to the documents
17 that were filed in both cases, I believe, and
18 we're going to make that Exhibit 2.

19 (Thereupon, Objection to Cross Renotice of Taking
20 Deposition of Richard Akin, Esquire was marked
21 Exhibit 2 for identification.)

22 MS. CZYZ: And so I'm going to reserve the
23 right to re-depose you once these objections are
24 heard and these documents are reviewed.

25 MR. GELMAN: I'm going to place an

1 objection on that. We do have a laptop here.
2 If you want to plug the zip drive in, you'll be
3 able to review those documents as if they were
4 printed.

5 MS. CZYZ: Well, I'm going to still reserve
6 the right because there's objections and I'm
7 sure that there are documents that aren't
8 produced. In fact, let's go down the list of
9 what's not produced.

10 BY MS. CZYZ:

11 Q Number one, I asked for the entire file
12 that you have on Erin Beth Neitzelt versus Rachel
13 Gould and the Lee County School District.

14 Did you produce all that on this flash
15 drive?

16 A Is that question to me or my attorney?

17 Q To you.

18 A No, I think there was an objection filed.
19 My entire file would include a number of things that
20 would be privileged as I think is asserted in that
21 objection. Attorney-client, work product, all kinds
22 of stuff which you're not entitled to.

23 Q All right. Did you file a privilege log?

24 MR. GELMAN: He's not a party of the
25 action. I've placed the objection. I'm glad to

1 have the Court address that issue. It is
2 privileged.

3 BY MS. CZYZ:

4 Q All right. So number 2 was any and all
5 e-mails to and from Catherine Czyz and Richard B.
6 Akin, Esquire regarding the case of Erin Neitzelt
7 versus Rachel Gould and the Lee County School
8 District.

9 Did you produce that on here?

10 A Yes.

11 Q Okay. Any and all e-mails between Richard
12 Akin, Esquire and Jason Gunter. I'll say number 3 to
13 get this moving a little quicker.

14 Did you produce all of number 3 on here?

15 A You'll have to read for me what it is. But
16 if those are the e-mails between myself and Mr.
17 Gunter that relate to the Neitzelt file, the answer
18 is yes.

19 Q Number 4, any and all emails between
20 Richard Akin and Scott Atwood regarding Erin Neitzelt
21 before he joined Henderson?

22 A There are no such e-mails.

23 Q Okay.

24 A That I'm aware of anyway.

25 When you say between me and Scott, let me

1 be clear. I'm sure I have an e-mail somewhere
2 between myself and Scott on some other case that he
3 would have been opposing counsel on years ago, but I
4 am not aware of any e-mails between Scott Atwood and
5 myself regarding the Neitzelt matter.

6 Q All right. Number 5, any and all
7 e-mails -- it was written twice -- between Richard --
8 Akin and Scott Atwood regarding Neitzelt after he
9 joined Henderson.

10 A Again, I don't think there are any.

11 Q Number 6, any and all e-mails between
12 Richard Akin and the Florida Bar association
13 regarding Erin Neitzelt and/or Catherine Czyz?

14 A There aren't any.

15 Q Any and all time logs for time expended on
16 Erin Beth Neitzelt versus Rachel Gould and the Lee
17 County School District?

18 A I'm pretty sure that was objected to.

19 MR. GELMAN: Yeah, that would have been
20 objected to.

21 BY MS. CZYZ:

22 Q Any and all records of any and all
23 discussions between Richard Akin and the Florida Bar
24 regarding Catherine Czyz?

25 A There are none.

1 Q Any and all internal notes, record,
2 e-mails, or documents whatsoever regarding liability
3 for legal malpractice/professional negligence
4 regarding the representation of Erin Beth Neitzelt?

5 A I mean I don't know if that was objected
6 to.

7 MR. GELMAN: Yes.

8 THE WITNESS: I certainly wouldn't have
9 any -- I never represented Erin Beth Neitzelt,
10 there wouldn't be any documents in my possession
11 on that.

12 BY MS. CZYZ:

13 Q Are there any documents from Henderson?

14 A I'm not Henderson Franklin. I'm Richard
15 Akin. So you'd have to ask them.

16 MR. GELMAN: Insofar as it relates to
17 Henderson Franklin, that's an objection.

18 BY MS. CZYZ:

19 Q All right. Number 10, any and all conflict
20 logs that the Henderson, et al. -- I'm going to refer
21 to it as Henderson to move things along.

22 MR. GELMAN: That's fine.

23 BY MS. CZYZ:

24 Q -- has regarding the representation of Erin
25 Neitzelt and the representation of Rachel Gould and

1 the Lee County School District or board.

2 MR. GELMAN: That would be an objection
3 also.

4 BY MS. CZYZ:

5 Q Number 11, any and all documents that show
6 the time period that Susan M. Boy, Esquire, the
7 current attorney for Rachel Gould, and Margaret
8 Walters worked for Henderson law firm.

9 MR. GELMAN: That would be an objection.

10 THE WITNESS: To the extent it's directed
11 to me, again, I don't have any such records.

12 I'm not Henderson Franklin. I'm Richard Akin.

13 BY MS. CZYZ:

14 Q Any and all documents that show Scott E.
15 Atwood took over the job of Susan Boy at Henderson
16 law firm?

17 MR. GELMAN: Objection.

18 THE WITNESS: Again, that's an objection,
19 but also I would say that, again, I'm Richard
20 Akin and I don't have any such documents. I'm
21 sure that Henderson Franklin may, but I don't.

22 BY MS. CZYZ:

23 Q Okay. Any and all conflict logs of Scott
24 Atwood, Richard Akin, and Susan Boy in the
25 representation of Erin Beth Neitzelt, Rachel Gould

1 and the Lee County School District.

2 MR. GELMAN: That would have been part of
3 the objection also.

4 THE WITNESS: Yeah, so to be clear on
5 number 13, again, I have never represented
6 Ms. Neitzelt. To the extent you're asking for
7 conflict logs that I would have had from the
8 time that I represented the Lee County School
9 Board and Ms. Gould in the underlying lawsuit,
10 those would be privileged documents.

11 BY MS. CZYZ:

12 Q Okay. A copy of any check issued to Erin
13 Beth Neitzelt, both front and back.

14 A I don't see that.

15 MR. GELMAN: I don't see that.

16 THE WITNESS: At any rate, I have never
17 issued any check to Ms. Neitzelt. The check
18 from the school board, I don't have a copy of
19 that to my knowledge.

20 I don't have that on the list here, but I
21 can double-check the file to see if that's in
22 there. It is what it is.

23 BY MS. CZYZ:

24 Q Any checks issued to Jason Gunter or his
25 law firm for settlements on behalf of any party he

1 represented against any client represented by
2 Henderson, Franklin, Starnes & Holt?

3 MR. GELMAN: Catherine, I think you're
4 reading from a portion that we don't have. So
5 I'll permit Richard to answer that, but --

6 THE WITNESS: Ours ends at 13. So
7 anything -- the document production that we have
8 ends at number 13. So any of these others, I
9 don't have.

10 MS. CZYZ: Okay. This is the refilled one
11 that I had to reupload and I obviously uploaded
12 a copy and I served it by e-mail.

13 Did you get that?

14 MR. GELMAN: No. This is what I have. But
15 feel free to listen through --

16 BY MS. CZYZ:

17 Q I'll continue and we'll see what you've
18 got.

19 A Can I read it? It makes it a whole lot
20 easier for me to read them.

21 Thirteen was checks issued to Jason Gunter
22 and his law firm -- any checks issued to Jason
23 Gunter. We're looking at 15.

24 I will say that I -- I don't have that on
25 the thumb drive. There would have been a -- I'm sure

1 there was a check that was issued and I don't know
2 how it was issued in the Neitzelt case, all right. I
3 don't know who it was made out to. I don't know any
4 of that.

5 As far as checks made out to Mr. Gunter or
6 his law firm for other settlements, I've had other
7 cases against Mr. Gunter, so I'm sure that there have
8 been some settlement checks, but I would simply
9 assert that that's not relevant in any way to this
10 case and might be privileged for other reasons,
11 subject to other confidentiality provisions and other
12 settlement documents.

13 So to the extent it's beyond this case, I
14 would object to it. To the extent it has to do with
15 this case, if I had in my file a copy of that
16 settlement check, I think I could probably produce
17 that.

18 BY MS. CZYZ:

19 Q Sixteen.

20 A So 16 you're asking for documents
21 evidencing employment payments made to Mr. Gunter or
22 his firm for work either as an employee, an
23 independent contractor or any type of direct or
24 indirect employment by Henderson Franklin.

25 Again, I'm not aware of any. But I am

1 Richard Akin, not Henderson Franklin, so I am not
2 aware of any.

3 Seventeen, you're asking for any documents
4 evidencing any payments made by Jason Gunter or his
5 law firm to any person related in any way to
6 Henderson Franklin.

7 I'm not aware of any as I sit here right
8 now, but, again, I'm Richard Akin, not Henderson
9 Franklin.

10 Eighteen, any documents evidencing any
11 payments or money transfers made in any way including
12 gifts by Henderson Franklin to anyone employed by the
13 Lee County Court.

14 I'm not aware of any. But, again, I'm
15 Richard Akin not Henderson Franklin.

16 Q Last one.

17 A Nineteen, any documents evidencing any
18 payments or money transfers made in any way including
19 gifts by Henderson Franklin to anyone employed by the
20 Florida Bar Association.

21 Again, that's a question to Henderson
22 Franklin, not to me.

23 MR. GELMAN: Yeah.

24 BY MS. CZYZ:

25 Q Okay. All right. Let's continue. How

1 long have you practiced as an attorney?

2 A I'm not 100 percent sure. I believe I was
3 admitted to the bar in 2009. I want to say October
4 of 2009. I graduated from law school in May of '09.
5 I believe I was admitted in October of '09. So that
6 would mean approximately 10 years, a little more than
7 10 years.

8 Q And where did you go to high school?

9 A Bishop Verot High School, Fort Myers,
10 Florida.

11 Q And college?

12 A I graduated from Florida State University
13 in 2002 with an undergraduate degree in business
14 management. Anticipating your next question, I
15 graduated from Florida State University College of
16 Law in 2009.

17 Q Any other degrees?

18 A I don't think so.

19 Q Any other training?

20 A I mean obviously I've had to take CLE for
21 the Bar, things of that nature. I'm a lawyer. I
22 don't have any other professional certifications or
23 anything like that.

24 A driver's license. That's about it.

25 Q We had interaction as attorneys before,

1 correct?

2 A Yes, ma'am, we did.

3 Q What was that regarding?

4 A You represented Ms. Neitzelt, and I don't
5 know if I'm saying that correctly, in a case that
6 was -- I believe it was a Title 7 lawsuit against the
7 Lee County School Board. And I represented the Lee
8 County School Board, and I believe you also
9 individually sued the principal, Ms. Gould. I
10 represented her as well.

11 Q All right. You're going to have to give me
12 a second because I did bring some documents.

13 We had some e-mails that went back and
14 forth between us, correct?

15 A We did.

16 Q Also, there were some e-mails that went
17 back and forth between your secretary and myself,
18 correct?

19 A I believe that is correct.

20 Q You were talking about Jason Gunter.

21 How many interactions have you had with him
22 over the years?

23 MR. GELMAN: Objection to the form.

24 THE WITNESS: It would be difficult to say.

25 Mr. Gunter practices employment, plaintiff's

1 litigation, primarily here in Southwest Florida.
2 I do a fair amount of employment defense work.
3 So, therefore, from time to time he will be
4 opposing counsel on a file.

5 I had one case last year that I can think
6 of off the top of my head against Mr. Gunter.
7 Before that I believe this would have been the
8 other -- the prior one I had. I believe. I'm
9 not 100 percent sure.

10 BY MS. CZYZ:

11 Q I'm going ask to ask that in another way --

12 A Okay.

13 Q -- since there was an objection.

14 While you've been working at the -- oh, how
15 long have you worked for Henderson Franklin?

16 A I believe that I started at Henderson
17 Franklin in 2012, sometime I think August of 2012,
18 maybe.

19 Q Who did you work for before that?

20 A A Firm in Tallahassee, Florida. It was
21 Messer Caparello & Self.

22 Q How long did you work there?

23 A From the time I left law school until the
24 time I came to Henderson Franklin.

25 Q What type of practice did they have?

1 A They did a lot of things.

2 Q Full service?

3 A I don't know that I would say full service.
4 They had about 20 lawyers and they did a lot of
5 things.

6 Q Did any of that encompass employment law?

7 A Yes.

8 Q What kind of practice did you do there?

9 A I did a number of things. Employment law
10 was one of them. I was an associate there, so I was
11 working under the direction of other attorneys. And
12 I would say that a percentage of my practice -- I'm
13 not sure what percentage that would be going back
14 that far, but I did a fair amount of employment
15 defense work there as well.

16 Q And fair amount, would that be more than
17 1,000 cases that you worked on?

18 A I have no idea.

19 Q Less than 100?

20 A Not less than 100.

21 Q Okay. And on average, when you were
22 working on those case, what was your caseload?

23 MR. GELMAN: Objection to the form.

24 THE WITNESS: Are we talking about back
25 in --

1 BY MS. CZYZ:

2 Q Back when you worked at that firm, did you
3 always have 10 cases to work on at a time? 100 cases
4 to work on at a time?

5 A It would have been more than 10, less than
6 100.

7 Q Okay. What about at Henderson, what type
8 of cases do you work on there?

9 A Well, so it depends on the time frame that
10 you're asking about, right. What I do today is not
11 exactly the same as what I did a few years ago. So
12 when do you want to know?

13 Q Let's start from 2012 to present date.

14 A Well, it's going to be next to impossible
15 for me to tell you what I've done year by year
16 because I just -- time goes by and you get busy. I
17 will tell you throughout the course of my practice at
18 Henderson Franklin what I have done is done a fair
19 amount of insurance defense type work, whether it's
20 personal injury, a little bit of property, not much
21 property, but a little bit of PI defense, and a fair
22 amount of employment as well. There's been some
23 other stuff scattered in there, some administrative
24 work. I do some administrative work.

25 My practice now is evolving. I'm doing a

1 little bit of land use and environmental work and
2 doing less insurance defense but, I still do some of
3 the other stuff as well.

4 Q Do you like land use?

5 A I do. I enjoy it.

6 Q What about the PI?

7 A The personal injury defense work?

8 Q Yes.

9 A It's fine. It's a good way to get in court
10 and try some cases.

11 Q Do you have experience in both federal and
12 state court?

13 A Yes, ma'am.

14 Q And are you licensed in both federal and
15 state court?

16 A I am. So I'm licensed by the Florida Bar,
17 the state of Florida, all Florida courts. I know I
18 am current in the Middle District of Florida. I
19 couldn't tell you whether I have -- I have at times
20 been admitted in the Southern and Northern District
21 of Florida. Whether those are current, I could not
22 tell you. I don't know.

23 Q So you don't know whether the northern and
24 southern is current, but you're sure the middle where
25 you practice, your law firm is located, is current?

1 A Yes, ma'am.

2 Q Now if you wanted to make it current, how
3 long do you think that would take you to do?

4 A To get in the Southern and the Northern
5 District?

6 Q Yeah.

7 A A day.

8 Q A day. That quickly?

9 A I think it might not even take that long.

10 Q Really? Do you know what the procedure is?

11 MR. GELMAN: Just going to place an
12 objection to form.

13 But go ahead.

14 THE WITNESS: Do I know what the procedure
15 is? Are we talking about -- let me say this:
16 Off the top of my head, I do not know the
17 procedure for being admitted in any of the
18 District Courts in the State of Florida. That
19 being said, you can go to any of their websites
20 and find it very easily.

21 BY MS. CZYZ:

22 Q Okay. I'm looking for a certain document
23 that I wanted to give you to start with.

24 So back to the employment cases, how many
25 employment discrimination cases would you say you've

1 worked on from 2012 until present?

2 A I don't know.

3 Q Would it be more than 10?

4 A I would say it's more than 10.

5 Q More than 100?

6 A I'm not sure. I'd have to guess and I'm
7 not going to do that.

8 Q Okay. I don't want you to guess.

9 Were any of those cases that you had with
10 Mr. Gunter as opposing counsel?

11 A Yes, probably.

12 Q Do you know how many?

13 A I do not.

14 Q Okay. What about when you worked at the
15 other firm, did you have Mr. Gunter there as an
16 opposing counsel?

17 A Not to my knowledge. That firm was in
18 Tallahassee. I don't believe I knew Mr. Gunter at
19 any time before I came to work at Henderson Franklin.
20 It's certainly possible that I've forgotten, but I
21 don't believe so.

22 Q I'm going to look for this one more time.
23 If I don't find it, we're going to move on.

24 When Ms. Neitzelt came to me, she presented
25 me during my representation of her with a

1 class-action lawsuit with black people against the
2 school board for Lee County.

3 Do you have any knowledge about that kind
4 of case?

5 MR. GELMAN: Objection to the form.

6 Go ahead.

7 THE WITNESS: I'm familiar that there was
8 such a case that had been filed at one time, I
9 believe. It rings a bell.

10 BY MS. CZYZ:

11 Q Okay. Were you assigned to that case at
12 all?

13 A You know, I think I did some work on that
14 case. I believe that Ms. Boy, Susan Boy, who was at
15 our firm, was primarily responsible for it. Let me
16 say this, I'm not certain only because there was a --
17 it rings a bell. If I did, I don't remember anything
18 about it. How about that?

19 Q Okay. Usually legal research is done by
20 whom?

21 MR. GELMAN: Objection to the form.

22 THE WITNESS: In the practice of law? Is
23 that what you're asking me?

24 BY MS. CZYZ:

25 Q Yes. Usually, when somebody is doing legal

1 research, what is your occupation?

2 A Well, I would say lots of people probably
3 do legal research on a daily basis. If they have an
4 issue they can do legal research by Googling
5 something. I would say part of my profession, as an
6 attorney, I do legal research quite commonly. It's a
7 common part of my profession.

8 Q Right.

9 It's usually not a teacher or principal
10 looking up case law, right?

11 A I don't know that. I'm not a teacher or
12 principal. I mean, sometimes people have a need to
13 do legal research on their own and they'll Google
14 things. I wouldn't go to a principal for legal
15 advice, if that helps you.

16 Q All right. That's safe to say, I'm sure.

17 Do you have any knowledge or reason to
18 believe that Erin Neitzelt would have conspired with
19 anybody to -- in the legal profession or otherwise,
20 to make up facts for a case to come to me with it?

21 MR. GELMAN: Objection to the form.

22 THE WITNESS: I have no knowledge of
23 anything regarding what Ms. Neitzelt has done or
24 might have done. Never met her, never spoken to
25 her, never communicated with her in any way.

1 BY MS. CZYZ:

2 Q Do you want me to ask that kind of question
3 again?

4 So you don't have any kind of knowledge
5 about Erin Neitzelt as far as whether she talked to
6 anybody or colluded with anybody to bring false facts
7 to me to make up a case?

8 MR. GELMAN: Objection to the form.

9 THE WITNESS: No. I have absolutely no
10 knowledge of what Ms. Neitzelt did or didn't do.
11 Certainly, no, I've never met the woman, never
12 spoken to her.

13 BY MS. CZYZ:

14 Q Okay. If Erin Neitzelt did conspire with
15 anybody or talk to anybody or in any way consult with
16 anyone, including a legal professional to come up
17 with certain facts to bring a case to me to make me
18 think that she had a case, do you know of anybody who
19 may have that information?

20 A No.

21 MR. GELMAN: Objection to the form.

22 THE WITNESS: I would guess Ms. Neitzelt
23 might.

24 BY MS. CZYZ:

25 Q I don't want you to guess, unless you have

1 direct knowledge.

2 MS. CZYZ: Let's mark this as the next
3 exhibit, please.

4 (Thereupon, E-mail dated 10-29-15 was marked Exhibit
5 3 for identification.)

6 BY MS. CZYZ:

7 Q I'm going to hand you what we've marked as
8 Exhibit 1C. This was to Rachel Gould's deposition.
9 We're going to mark it as 3 here. You've probably
10 already seen that.

11 Have you seen that document before?

12 MR. GELMAN: He's still reviewing it.

13 BY MS. CZYZ:

14 Q Okay.

15 A We're looking at a couple of e-mails here
16 from October of 2015. Have I ever seen this before?
17 I don't know if I have seen it, it would have -- the
18 only place I could have seen it would have been if I
19 had seen it in the underlying case that we had where
20 I might have gotten documents from my client and
21 reviewed them. Whether this was one I got and
22 reviewed at that time, I could not tell you.

23 Q Okay. But should the file that Ms. Gould
24 had have been part of your file for the case?

25 A In what sense? I'm not sure what you're

1 asking.

2 Q Should the file that was produced to me
3 from the school board for Rachel Gould's deposition
4 have been in your possession for the defense of the
5 school board's case?

6 MR. GELMAN: Objection to the form.

7 Go ahead.

8 THE WITNESS: That's not something I can
9 answer at this time. There's a lot of reasons
10 for that. Number one, what I believe should or
11 should not have been in my file or what I may or
12 may not have asked my client for would be based
13 on my mental impressions and my work product.

14 BY MS. CZYZ:

15 Q All right. Let's ask this: When you have
16 a Title 7 employment action and you're a plaintiff,
17 all right, can you tell me, if the employer has a
18 non-discriminatory reason to terminate the employee,
19 does that employee then have a cause of action?

20 MR. GELMAN: Objection to the form.

21 THE WITNESS: If you're asking me a legal
22 opinion, look, the law under Title 7 is what it
23 is. You've stated part of it. The bottom line
24 is under Title 7, my understanding of the law is
25 that you have to show that you were

1 terminated -- a plaintiff must show that they
2 were terminated based upon a protected
3 characteristic. If a defendant can show that
4 that's not why they were terminated, obviously,
5 they would prevail. That's a simplistic way of
6 looking at it, yes.

7 BY MS. CZYZ:

8 Q Okay. What about a forced termination?
9 That's harder to even prove, correct?

10 MR. GELMAN: Same objection.

11 Go ahead.

12 THE WITNESS: When you say "a forced
13 termination," do you mean if they force somebody
14 to resign? Is that what you're talking about?

15 BY MS. CZYZ:

16 Q Yes.

17 A So the claim being one of a constructive
18 termination. The plaintiff would be acknowledging,
19 hey, they didn't fire me, I resigned, but my claim is
20 they made me resign?

21 Is that what we're talking about, that type
22 of scenario?

23 Q Yes.

24 A It can be. It might not be. Depends on
25 the facts. That's totally fact dependent.

1 Q That's another hurdle to get over if you
2 weren't actually terminated. There's certain
3 elements you have to prove for every type of case.

4 For this type of case, in particular,
5 having to prove a forced termination or constructive
6 termination would be just one more hurdle on the
7 scale of things to prove a case?

8 A It could be, yeah. I mean, it certainly --
9 in a Title 7 case, you have to show an adverse
10 employment action of some kind. I agree with that.

11 Q Okay. So let's get to this e-mail that I
12 handed you as Exhibit 3.

13 All right. In here is where Ms. Neitzelt
14 is talking about -- "Short of me cutting loose and
15 going ape crap on them, the discipline in this class
16 is not working."

17 Now, would a teacher saying such a thing in
18 an e-mail to her boss be grounds for termination?

19 MR. GELMAN: Objection to the form.

20 THE WITNESS: Well, there's a couple things
21 here. So, number one, I don't know what someone
22 might consider grounds for termination, in a
23 general sense.

24 In a more specific sense, as you asked me
25 about this e-mail, I can tell you that I cannot

1 comment on what would or would not have been
2 grounds for termination in that case because,
3 number one, I'm not the decision-maker.

4 Number two, you're also asking me to talk
5 about what would be my mental impressions of a
6 case I handled on behalf of a client, which is,
7 therefore, work product, and other information
8 that I might have gotten from my client would be
9 attorney-client privilege. So I can't comment
10 on that.

11 BY MS. CZYZ:

12 Q We never even got there on this case,
13 right?

14 A We did not.

15 Q Okay. But certainly this would have been
16 an issue, right, whether or not there was a reason
17 for termination?

18 A It would be an issue in any Title 7 case.

19 Q Right. Well, you've got this document.

20 Wouldn't you be flying this around in the
21 air and putting this onto something for possibly her
22 deposition or motion for summary judgment or motion
23 to dismiss?

24 MR. GELMAN: I'm just going to object to
25 form. Again, that's privileged.

1 THE WITNESS: Yeah, I think what I would or
2 wouldn't have done in that case is entirely
3 privileged. Plus it would be speculation at
4 this point because, like you said, we never got
5 there.

6 BY MS. CZYZ:

7 Q Did the board -- did the Lee County School
8 Board have grounds to terminate Erin Neitzelt?

9 MR. GELMAN: Objection to the form.

10 THE WITNESS: Yeah, again, I'll say -- I
11 know he's objected, but I'll say two things to
12 reiterate. Number one, I'm not -- I don't have
13 any personal knowledge as to why the school
14 board did or didn't do anything regarding
15 Ms. Neitzelt because I wasn't the
16 decision-maker, I was the attorney representing
17 them in a subsequent case, so I don't know,
18 okay? What I will say, though, is to the extent
19 a client told me, or I might have developed
20 certain impressions about the case, those are
21 both privileged work product and
22 attorney-client.

23 BY MS. CZYZ:

24 Q All right. So you're not going to answer?

25 A Yes, ma'am, that's correct.

1 MR. GELMAN: I'm going to state I believe
2 he did answer to the extent he could.

3 MS. CZYZ: He's restated objections quite
4 well, I'll say that.

5 BY MS. CZYZ:

6 Q Decision-maker. Who would the
7 Decision-maker for terminating Erin Neitzelt be? And
8 the last name is Neitzelt.

9 A Yeah. Instead of restating it, the same
10 thing I answered to your last question would be the
11 same answer this time.

12 Q Same objection?

13 A And same answer.

14 MR. GELMAN: Yeah.

15 THE WITNESS: I don't have any personal
16 knowledge. That decision-maker -- I'm -- I'm
17 the attorney representing somebody. I'm not the
18 underlying individuals or actors, okay?

19 BY MS. CZYZ:

20 Q Do you know who the decision-maker for the
21 board is about who decides to terminate teachers?

22 MR. GELMAN: Then or now?

23 BY MS. CZYZ:

24 Q Then.

25 MR. GELMAN: Okay.

1 THE WITNESS: Let me say this --

2 MR. GELMAN: Objection to the form.

3 THE WITNESS: Yeah, I don't know off the
4 top of my head. I can think about it. To the
5 extent I did know, it would be based only on
6 attorney-client privileged information. If I
7 did know, I couldn't tell you.

8 BY MS. CZYZ:

9 Q So you're not going to tell me based upon
10 an objection? There's a difference here because this
11 probably will come up, or it may come up in front of
12 a judge. I just want to be clear for the record.
13 You do know, but you're objecting and not telling me?

14 A No, I didn't tell you that I do know. I
15 said I don't know if I know. I don't think I know.
16 I'd have to probably guess. Even if I did, it would
17 be attorney-client privilege. How could I possibly
18 know the answer to that question unless it was based
19 on something my client told me?

20 Q All right. If Erin Neitzelt removed the
21 Title 7 count of her complaint, could the case have
22 been sent back to the state court?

23 MR. GELMAN: Objection to the form.

24 There's still a privilege objection on this.

25 THE WITNESS: Hold on.

1 MR. GELMAN: Go ahead.

2 THE WITNESS: Foundationally, I don't
3 remember what claims were pled in there so I
4 couldn't answer it without knowing what claims
5 were in the complaint.

6 BY MS. CZYZ:

7 Q Do you remember removing it to federal
8 court from state court?

9 A Yes, ma'am.

10 Q Do you remember when you did that?

11 A Within the deadline required to do so.

12 Q Okay. You don't remember what month or
13 what year?

14 A No, ma'am.

15 Q All right. Do you remember when you did
16 that -- you do it online, correct, when you file a
17 pleading in the federal court?

18 A You do. Although, when you remove the
19 case, typically -- I don't remember the procedure in
20 Middle District. I believe that you have to walk it
21 over to the clerk. I don't believe you can remove
22 the case online. At least at that time I think you
23 had to walk it over there.

24 Q Okay. But you do have to serve it, right
25 and you have to file a Certificate of Service?

1 A Yes, the notice of removal has one, yes.

2 Q All right. So do you remember how you
3 served that?

4 A Whatever the Certificate of Service case.

5 Q Okay. At any time while you were working
6 on this Neitzelt case in the Middle District, did you
7 notice that I, Catherine Czyz, was not on the service
8 list for electronic e-filing?

9 MR. GELMAN: Objection to the form.

10 THE WITNESS: In the Middle District of
11 Florida?

12 BY MS. CZYZ:

13 Q Yes.

14 A I don't know if I -- I can't remember.

15 Q You can't remember.

16 Don't you remember that being an issue
17 between us?

18 A I remember there being several issues. I
19 remember the primary one that -- you raised an issue
20 that you thought you weren't getting some documents.
21 So I remember that I sent you -- I had my
22 assistant -- I saw this e-mail in the stuff that I
23 went through -- send you everything that had been
24 filed in the case. I remember that being an issue.
25 I don't remember the details of what you believed you

1 were or were not getting.

2 I remember -- didn't you file a motion for
3 sanctions against me for removing the case or
4 something like that?

5 I believe there was also an issue about you
6 weren't admitted in the Middle District so you
7 couldn't file anything and you filed some sort of an
8 emergency motion to get admitted, I believe. I
9 believe that's correct. I could be wrong.

10 Those are the general issues that I
11 remember. I remember there being a lot of sort of
12 unnecessary creating -- almost creating work. Just a
13 lot of back and forth was stuff that I felt like
14 could have been pretty easily resolved that really
15 had nothing to do with the merits of the case.

16 Q Actually, I think I might agree with you on
17 that. There's probably some things that could have
18 been resolved easily because -- well, as far as the
19 paperwork that needed to be filed with the Court and
20 the time constraints and whatnot.

21 In federal court there are specific time
22 constraints, are there not?

23 A Yes, ma'am.

24 Q Right.

25 And if you don't -- all right.

1 As far as federal court as opposed to state
2 court, most things are online and most things are
3 just pleadings in federal court, right?

4 A I think what you're saying is that most
5 things in federal court are resolved by the Court
6 without the attorneys having to have a hearing. If
7 that's what you're saying, I agree with that.

8 Q And the time constraints in federal court,
9 as far as if you miss filing any kind of pleading
10 within a certain amount of time, then an order can be
11 issued by the Court quite quickly, right?

12 A I suppose it can be. I've typically seen
13 the federal courts enter orders to show cause and
14 give attorneys more time if they've missed something
15 in a response time. Sure, I suppose under the rules
16 they could be.

17 Q All right. We could have agreed to more
18 time, right?

19 MR. GELMAN: Objection to the form.

20 THE WITNESS: More time -- and when you say
21 more time here, just so I understand, you're
22 talking about more time for you to respond to a
23 motion to dismiss that I filed? Is that what
24 we're talking about?

25 BY MS. CZYZ:

1 Q What we're talking about is for more time
2 to get all of the documents and the fees and the
3 whatnot that is necessary to get waived in to the
4 Middle District done.

5 MR. GELMAN: Objection to the form.

6 THE WITNESS: I just want to make sure -- I
7 want to understand. I'm not sure whether you're
8 asking whether you and I could have agreed for
9 additional time for me to remove the case to
10 Federal District Court or more time for you to
11 get admitted.

12 BY MS. CZYZ:

13 Q Let's start with the first one.

14 A More time to remove it? No, we could not
15 have.

16 Q Because there is a certain time?

17 A We could not have. The removal deadline
18 is, my understanding of it anyway, is a pretty hard
19 deadline. And agreement between counsel won't extend
20 that deadline, I do not believe.

21 Q Right.

22 There's certain documents that have to be
23 filed when you do that removal, correct?

24 A Yes, ma'am.

25 Q Okay. Do you know what they are?

1 A We have to double-check, look at the Rules
2 of Federal Procedure. I believe you have to file a
3 notice of removal that states the basis for the
4 federal court's jurisdiction, okay? You also have --
5 you must file the complaint and copy of the
6 complaint. Along with it you must attach that to
7 your notice of renewal. And then you also have to
8 attach any other pleadings filed in the state court
9 case. So all of the pleadings to date in the state
10 court case must be attached to that notice of removal
11 and you attach it and you file it. There's also a
12 removal that must be done in the State Court. It's
13 just a notice of removal. You file that notice with
14 the State Court so that the State Court knows that
15 the case is no longer on their docket. There may be
16 some other things. You can look at the rule and see
17 that.

18 Q Right.

19 If I'm not admitted to the Court and you're
20 filing all these things, how do I know whether you're
21 doing it appropriately if I can't get service?

22 MR. GELMAN: Objection to the form. I'm
23 not sure he can answer.

24 Go ahead.

25 THE WITNESS: I believe -- and I'd have to

1 go back and look at this case specifically. My
2 understanding was that there were -- I know that
3 every document was served on you, even though it
4 might not have been coming through the filing
5 portal in Federal Court. The e-mail address
6 would have been serving the documents.

7 BY MS. CZYZ:

8 Q All right. Do you remember whether or not
9 you did this removal around Christmas? New Year's?

10 A That sounds familiar, yes, right before
11 Christmas, I want to say.

12 Q The Court itself was closed at that time,
13 wasn't it?

14 A I have no idea.

15 Q All right. Have you ever filed pleadings
16 before -- at Christmastime?

17 A I'm sure I have.

18 Q All right. The day of Christmas?

19 A I doubt I've ever filed anything on
20 Christmas Day, but it's possible.

21 Q Isn't there a time period there that the
22 courthouse is actually closed?

23 A I'm sure that the Court closes at some
24 point in time, but I don't know their schedule.

25 Q All right. Wouldn't you agree that's

1 difficult for me to get paperwork to get waived in to
2 that jurisdiction when the courthouse is closed?

3 MR. GELMAN: Objection to the form.

4 THE WITNESS: I wouldn't, only because all
5 of the paperwork that you need to be admitted in
6 the Middle District is online on their website.
7 That website doesn't shut down.

8 BY MS. CZYZ:

9 Q Right.

10 But there's also a process, right? But you
11 haven't had to waive in from the Southern District to
12 the Middle District before, correct?

13 A I had to get admitted in the Middle
14 District when I moved here and started working here,
15 sure.

16 Q Right. It's still not the same process.
17 There's more of an involved process. Let's just, for
18 sake of argument, say that I requested 30 or 60 days
19 to get everything with the fees and the work that had
20 to be done online for all of their requirements. And
21 see, since you're not in the Southern District, I
22 don't expect you to know this, but there are other
23 requirements online and testing that you have to do,
24 as far as being administratively able to use their
25 software, that has to be done.

1 So all that time, would you say 30 or 60
2 days might have been reasonable?

3 MR. GELMAN: Form.

4 THE WITNESS: Well, so I think you're
5 asking me a couple of different things there.
6 So number one, there is a test in the Southern
7 District that I remember that you have to take
8 to get admitted. There's not like a test in the
9 Middle District. There is not one. You have to
10 register for the e-filing. You have to register
11 for that, but there's not like a written test or
12 online test like there is in the Southern
13 District, just to make that clear.

14 Secondly -- at least to the best of my
15 knowledge, that's my recollection of it.

16 Secondly, if you're asking me if additional
17 time would have been necessary, let me say this,
18 I can't think of very many times or really any
19 off the top of my head that I've ever refused
20 another attorney an extension of time in order
21 to file a response, do something that was
22 needed. Whether that amount of time that
23 they've requested is reasonable or not -- I
24 mean, look, if they ask me for six months,
25 that's probably not reasonable. But as long as

1 it's somewhere in that range, I typically would
2 grant it.

3 I know specifically -- let's talk
4 specifically about this case. If you look
5 through the files that I've produced to you, and
6 probably your own, there are numerous e-mails
7 that are sent by not only me, but others in my
8 office, offering you an extension of time to the
9 response that you had to file to my motion to
10 dismiss after I removed it, offering you an
11 extension of time in order to get admitted in
12 the Middle District.

13 I looked through this yesterday and I saw a
14 couple of e-mails where I asked if you needed an
15 extension of time. I saw an e-mail I believe
16 from an attorney in my office that was sent on
17 my behalf asking the same thing. I also know
18 that I followed up with you at one point in time
19 after you said you would like an extension, and
20 I specifically said, great, how long would you
21 like. That's not the direct quote. E-mail may
22 have something like that, something else.

23 The bottom line is you acknowledged that
24 you would like one, and I asked how much time do
25 you need. To the extent you're asking me in

1 this case whether it would have been reasonable
2 for you to ask for additional time to get
3 admitted, yeah, I don't think that would be an
4 unreasonable ask, especially around the
5 holidays. I was certainly more than willing, as
6 the e-mail showed, to make that happen.

7 I think several times I even indicated --
8 because you weren't admitted, so you couldn't
9 file documents. I indicated I would make a
10 filing where I would note in there that I had
11 agreed to give you a certain amount of time
12 because I could file. I may have actually done
13 that at one point. I don't remember.

14 BY MS. CZYZ:

15 Q Okay. Well, I brought just about --
16 several of our e-mails that I could collect.

17 What we're going to do is, we will mark
18 this as a composite exhibit. I actually did print
19 out a lot of the e-mails between us. We'll go
20 through them and specifically talk about the ones
21 that you're talking about.

22 A It would be a whole lot easier if we open a
23 computer up and I can pull it off the thumb drive
24 that I produced.

25 Q Do you have a computer with you?

1 A Yes, ma'am, I brought it.

2 Q Okay. You don't want to look through these
3 and see if there is one in here?

4 MR. GELMAN: He can look through. I am
5 just hopping in. I'm not sure if you have a
6 complete copy. He knows what he has.

7 THE WITNESS: I don't particularly want to
8 look through a stack of what looks like 100 or
9 so e-mails to find something that's not
10 organized.

11 BY MS. CZYZ:

12 Q Is that the exact same one that I have
13 here?

14 A Yes, ma'am.

15 MR. GELMAN: Yes.

16 MS. CZYZ: Do you want to mark this as
17 Composite 4?

18 THE WITNESS: Is there something you
19 specifically want me to do with this stack of
20 documents?

21 BY MS. CZYZ:

22 Q Yes, you were just answering a question. I
23 would like you to look through there and find what
24 you were talking about.

25 A You want me to look through this stack of

1 documents that you have here to see if I can find the
2 e-mail that you described to me?

3 Q Yes.

4 A If you want to point me to an e-mail, I am
5 happy to read it. I'm not going to spend all
6 afternoon going through a bunch of documents for you.

7 Q So you're refusing to look through what
8 I've marked as Exhibit 4?

9 MR. GELMAN: Go ahead. You can finish. I
10 didn't want to cut you off.

11 MS. CZYZ: I'm just noting for the record
12 that the witness is refusing to go through
13 Exhibit 4.

14 MR. GELMAN: You could refer him to any and
15 he's happy to answer questions on any of those
16 documents if you show him it. He's not refusing
17 to answer questions on them.

18 MS. CZYZ: Well, I disagree. I believe
19 that's a refusal. I asked the man to look
20 through these documents. It's a stack about --
21 it's less than an inch and it's pretty much, I
22 believe, the total of e-mails between us. I'm
23 going to proceed, okay, because I don't recall
24 in here anything where he agreed to give me
25 extensions. So let me go on to the next

1 question.

2 MR. GELMAN: I just want to make a
3 statement on it. We started this deposition
4 where you couldn't find one of your own e-mails
5 to start the questioning. I don't think it's
6 fair that Mr. Akin has got to spend time on an
7 inch of documents to do the same. I don't know
8 if that's a complete set of documents
9 representing the e-mails between himself and
10 you. He's happy to answer questions if you show
11 him a specific e-mail. I just wanted to state
12 that for the record.

13 THE WITNESS: I would echo that. Let me
14 say one other thing. I've been able to pull up
15 some e-mails between you and I. Here I have one
16 January 10, 2017 at 4:01 p.m. This is to you
17 from me, copying my assistant Denise Lunsford
18 and my associate, Kyle Dudek.

19 I say, "Ms. Czyz" -- is that how you
20 pronounce your last name, ma'am?

21 MS. CZYZ: Yes.

22 THE WITNESS: -- "allow me to respond with
23 the hope that we can clear this up. If there is
24 something you cannot open, we will resend the
25 attachments. I will have my assistant resend

1 everything to you now. What format do you
2 prefer, PDF or Word?"

3 I said, "I am not aware of any requirement
4 that I mail pleadings. I have e-mailed them to
5 you pursuant to Florida and Federal Rules of
6 Civil Procedure. I will place all of the
7 filings I have made in this matter in the U.S.
8 mail to you this afternoon, just for your
9 convenience."

10 I then say, "I still do not understand the
11 suggestion that I did something wrong by filing
12 my motion to dismiss pursuant to the Court's
13 rules. I appreciate your suggestion that I
14 could have asked for an extension, but at the
15 time I simply wanted to get everything filed and
16 off my desk. You are correct that I will not
17 withdraw the motion to dismiss. However, as I
18 have now offered at least three times, I will
19 provide you with any reasonable extension to
20 respond to the motion to dismiss. What length
21 extension do you need? Also, do you need me to
22 file a motion with the Court asking that you be
23 given an extension given that you are not yet
24 admitted? I will be happy to do so, but I need
25 to hear from you that you would like me to file

1 the motion and I need to know how much
2 additional time you would like. Please keep in
3 mind that the Court must grant the extension.
4 It is not enough for me to agree to it."

5 Then I put in parenthesis, "I am sure the
6 Court will agree but we need to file a motion,"
7 closed parenthesis, period.

8 "It is not my intention to hamstring you in
9 any way. I am more than happy to work with you
10 in any way that I can to make sure that you get
11 admitted and no deadlines are missed. If you
12 would like to get on the phone to discuss any of
13 these issues further, please let me know. I
14 should be in the office most the day tomorrow
15 but I'm out Thursday and Friday in mediations
16 and depositions. Sincerely."

17 BY MS. CZYZ:

18 Q All right. So on February 9th, do you
19 recall that I did ask for a motion to be attached to
20 an order -- response to an order to show cause when
21 the Court had issued the order? These are the
22 February 9th --

23 A All right. What you've got as Exhibit 4,
24 I'm looking at an e-mail that says February --

25 MS. CZYZ: Actually, let me -- we'll make

1 this -- what I'm handing him, let's make this
2 4A. This is the February 9th, 2017 e-mails.
3 (Thereupon, E-mail dated 4-9-17 was marked Exhibit 4A
4 for identification.)

5 THE WITNESS: I mean I see an e-mail chain.
6 Did you have a specific question about it?

7 BY MS. CZYZ:

8 Q Yes. At that time weren't you supposed to
9 notify the Court that there was a motion to stay the
10 case to allow me time to either get admitted or to
11 get another counsel, co-counsel on the case?

12 MR. GELMAN: Objection to the form.

13 THE WITNESS: I mean, I don't see that in
14 here. I see a copy -- I see where it looks like
15 I'm e-mailing you a copy of a motion to allow
16 you us to conduct the Rule 26 conference by
17 telephone.

18 Isn't that what we're talking about?

19 I see you've referenced the motions, but it
20 doesn't say regarding what. Here is an e-mail
21 that I sent to you on February 9 at 10:50. And
22 I say, "Ms. Czyz, from your last e-mail, I
23 understand that you would like to stipulate to
24 extend the time to file the joint report.

25 However, as you can see from the below order I

1 received today, that is not an option. Please
2 advise when you are available today or tomorrow
3 to schedule a telephone conference to prepare
4 the report. I will file a motion allowing us to
5 conduct the conference by telephone."

6 Then you say, "Please file a Motion for
7 Continuance," which I've already told you I
8 can't do because the judge already said they're
9 not going to do that.

10 BY MS. CZYZ:

11 Q Actually, I think that was before. That
12 was your response.

13 A Might have been, yeah. Could be just
14 backwards. So I mean that's what the e-mails say.

15 Q Right.

16 But this is also asking me about whether or
17 not I was still representing Erin Neitzelt, correct?

18 A If you want to point that out to me, I'll
19 be happy to --

20 Q 1:55 p.m., same day.

21 A Yes. I'm responding to your e-mail.

22 Q Do you know why you kept asking me if I was
23 representing Erin Neitzelt on February 9th?

24 A Yeah, because you've sent me an e-mail
25 right here that says, "Clearly my motion to appear on

1 Erin Neitzelt's behalf was denied. Clearly, she
2 filed a motion for stay pro se, which means she
3 represents herself, because I cannot at this time.
4 She would like a continuance. I will tell her to
5 write a response to the Court."

6 You just told me you didn't represent her
7 in the e-mail.

8 Q That's how you understand that?

9 A "Clearly, she filed a motion for state pro
10 se, which means she represents herself, because I
11 cannot at this time."

12 I understood that to mean literally exactly
13 what it says.

14 Q Now, you just used the word "withdrawal."
15 Do you remember talking to me on this day?

16 MR. GELMAN: Objection. Misstating the
17 witness's testimony.

18 BY MS. CZYZ:

19 Q Okay. I'll ask that again. Let me start
20 with the first question.

21 Did you just testify that I withdrew on
22 this e-mail?

23 A No, I did not say that you withdrew.
24 That's not what I said. I said that you're asking me
25 about why I sent that e-mail up there to you earlier.

1 I'm saying this is what you sent to me.

2 Q In response, at 4:50 p.m., after you had
3 sent multiple requests asking me whether or not I am
4 representing her and whether you can call her or not,
5 correct?

6 A No.

7 Q All right. Well, the exhibit speaks for
8 itself.

9 So do you remember talking to me on the
10 9th of February, 2017?

11 A In person, or on the telephone?

12 Q On the telephone.

13 A I don't remember. It could have happened,
14 sure.

15 Q Okay. I believe it did because I remember
16 it.

17 Don't you remember saying that you called
18 three times and that it went to voicemail in this
19 e-mail. Then you asked me to call you, so I
20 responded that I'll be leaving the office in two
21 minutes and I'll call you?

22 MR. GELMAN: Objection to the form.

23 THE WITNESS: I just told you I don't
24 remember having talked to you that day, but I'm
25 not saying it didn't happen.

1 BY MS. CZYZ:

2 Q Okay. Do you ever recall me saying that I
3 withdraw from Erin Neitzelt's case?

4 A I want to say at one point in time after
5 this, eventually you sent me an e-mail that said she
6 was going to get another counsel. I think somewhere
7 along the lines there's an e-mail of that.

8 Q That wasn't the question.

9 A Okay. You said ever.

10 Q Did I ever say I withdrew?

11 A I don't remember.

12 Q Do you remember any correspondence that
13 said I withdrew?

14 A I don't remember.

15 Q Certainly, if I withdrew, that has to be in
16 writing, right?

17 MR. GELMAN: Objection to the form.

18 THE WITNESS: I don't know.

19 BY MS. CZYZ:

20 Q You don't know?

21 A Well, I don't think you were ever attorney
22 of record in the federal case only because you
23 weren't admitted, right? So you're still trying to
24 get admitted. I don't know that you can withdraw
25 from a case that you weren't record of because you

1 didn't get admitted, if that makes sense.

2 MS. CZYZ: Okay. Let's look at the next
3 day's e-mail, which was February 10th. Let's
4 mark this as 4B.

5 (Thereupon, E-mail dated 2-10-17 was marked Exhibit
6 4B for identification.)

7 BY MS. CZYZ:

8 Q Okay. Do you recall this and me asking you
9 to upload a motion for stay, and your response there?

10 A Yeah. I mean, I see the e-mail. It looks
11 like at 11:21 you sent me something and asked me to
12 upload it for Ms. Neitzelt. And it looks like I said
13 I will attach it to my response.

14 Q The motion for stay?

15 A I don't know what it is. I just know this
16 is what -- I can read the e-mail.

17 Q Do you know if you have that in your file?

18 A Have what in my file?

19 Q The motion for stay.

20 A I am not certain.

21 Q Do you know if you actually did upload it
22 to the Court file in the federal court?

23 A I'm not certain.

24 Q If you didn't do that, do you believe that
25 that would be unethical?

1 MR. GELMAN: Objection to the form.

2 THE WITNESS: Well, no. I mean, look, if I
3 didn't do it, it would have been a mistake if I
4 said I was going to. If I said I was going to,
5 I would have, probably. I just don't know.

6 BY MS. CZYZ:

7 Q All right. This defendant's response to
8 Court's February 9, 2017 Order To Show Cause, is this
9 something that you drafted yourself? It's attached
10 to the 4B.

11 A Yeah, probably. I mean, I certainly would
12 have looked at it. It's got my signature on it.

13 Q Can you tell me why there isn't an Exhibit
14 A attached there?

15 A I don't know.

16 Q Are you the one who attaches the exhibits
17 or does the secretary grab it and attach the
18 exhibits?

19 MR. GELMAN: Objection to the form.

20 THE WITNESS: It can happen any number of
21 ways. Sometimes I will -- usually when I get
22 ready to file something, I'll say hey, this is
23 an exhibit.

24 BY MS. CZYZ:

25 Q All right. Okay. This one is really

1 important because apparently what you were attaching
2 is the e-mails between us. And I didn't get a copy
3 of that to see if what you were attaching was
4 accurate. So I just wanted to know who would have
5 been responsible for sending me this and why I
6 wouldn't get the attachment.

7 MR. GELMAN: Objection to the form.

8 THE WITNESS: I'm not sure there's a
9 question I can really answer in there.

10 BY MS. CZYZ:

11 Q Okay. Number 3, you said, "Given that
12 Ms. Czyz is located on the East Coast of Florida" --
13 actually, at this time, I was getting everything in
14 New Jersey.

15 Is there any certain reason why you put the
16 East Coast of Florida on here?

17 A My understanding is that's where you were.

18 Q Were you getting the correspondence that I
19 sent?

20 MR. GELMAN: Objection to the form.

21 THE WITNESS: I don't know.

22 BY MS. CZYZ:

23 Q You don't recall?

24 A I mean, I was e-mailing you for sure.

25 Q Right. But because I wasn't admitted, I

1 was having to send things by regular mail, right, as
2 far as what was going to court?

3 A I don't know what you were having to do.

4 Q Do you know if you have any copies of
5 letters from me in your file?

6 A I don't know.

7 MS. CZYZ: Okay. Let's mark this as 5.
8 (Thereupon, Letter dated 12-23-16 was marked Exhibit
9 5 for identification.)

10 BY MS. CZYZ:

11 Q This is a December 23rd, 2016 letter.

12 Do you remember seeing this letter?

13 A I don't remember specifically receiving it.
14 That's not to say I didn't. This is from December of
15 2016.

16 Q Right.

17 What's the mailing address on there?

18 A There's one in the left-hand corner that
19 says West Palm Beach.

20 Q Right.

21 But what does the mailing address say?

22 A There's another one that says New Jersey on
23 there. There's two.

24 Q Right.

25 Does it say mailing address in New Jersey?

1 A It does.

2 Q And it also says there a phone number if
3 you need to reach me.

4 Do you recall that phone number?

5 A I don't specifically recall any phone
6 number, no.

7 Q Okay. Well, this is the direct line for
8 me.

9 You don't remember whether you were calling
10 three times the office phone or the direct line?

11 A I couldn't tell you at this time what
12 number I was calling.

13 Q You don't remember if we actually did
14 speak?

15 A Off the top of my head, I don't remember
16 whether I spoke to you in December of 2016, no.

17 Q Well, what about in February, when I was --
18 on February 9th specifically?

19 A Yeah, my answer is the same. I don't
20 remember whether I specifically talked to you in
21 February of 2017. I just don't have that kind of
22 recollection going that far back.

23 Q Okay. Because I think that was a really
24 important conversation because you kept e-mailing me,
25 e-mailing me, e-mailing me, asking me whether or not

1 I'm still representing Erin Neitzelt. And then I
2 talked to you to tell you that I was, and I was
3 trying to get admitted and to go ahead and put this
4 motion for stay, which I sent you the next day on
5 February 10th, onto this defendants' response. And
6 the thing is I never got a revised defendants'
7 response with the motion attached as an exhibit.

8 Was it actually redone and there was an
9 Exhibit A and Exhibit B?

10 MR. GELMAN: Objection to the form.

11 THE WITNESS: I don't remember.

12 BY MS. CZYZ:

13 Q Who would know?

14 A Well, I mean, I don't think that -- as far
15 as who would know, I think you could probably -- can
16 you pull the docket and see what was on there?

17 Q No, I can't, because I'm not admitted in
18 the Middle District. I was relying on you.

19 So do you know whether or not you actually
20 redid it and put it on as Exhibit B, like you said in
21 this February 10th e-mail?

22 A No.

23 MR. GELMAN: Objection to the form.

24 THE WITNESS: No. I mean, I'm sure if I
25 said -- here is the problem. You're asking me

1 what I remember off the top of my head about
2 cases I haven't done anything with since
3 February of 2017, three years ago. I don't
4 remember off the top of my head what happened.
5 The only thing I have to go by is what I see in
6 the documents. I can read the e-mail and say
7 okay. I just don't off the top of my head know.
8 You may remember a phone call that we had years
9 ago. I don't remember. So that would be the
10 best answer I could give you.

11 BY MS. CZYZ:

12 Q Okay. What about if you had all your time
13 sheets in front of you, would that help you refresh
14 your recollection?

15 A Probably not.

16 Q Don't you think that the time that we
17 talked on the phone would have to be logged on your
18 time sheet?

19 MR. GELMAN: Objection to the form.

20 THE WITNESS: I mean, typically I do write
21 those down, yes.

22 BY MS. CZYZ:

23 Q You bill for it?

24 A So here -- Ms. Czyz, let me -- because now
25 that I've been able to pull up some of my stuff, I

1 can tell you from looking at the docket that those
2 things I said I would attach, they're attached.

3 Q Okay. Thank you.

4 Do you know when that was done by looking
5 at the docket?

6 A When it was filed, which looks like it was
7 on or about February 10th, maybe, I think.

8 Q Of 2017?

9 A '17.

10 So I see that I attached as Exhibit B
11 Plaintiff Erin Neitzelt's Response to Endorsed Order,
12 which is what you asked me to attach.

13 Q So it's the motion for stay?

14 A Yes.

15 Q All right.

16 A Well, when you say "motion for stay," it's
17 titled a Response to Endorsed Order. And what it
18 says is -- I mean, it's Plaintiff Erin Neitzelt's
19 Response to the Endorsed Order, and it says she is
20 the plaintiff. It notes that she filed her own
21 motion for stay with the Court, but that's not been
22 ruled on by the Court, so on and so forth.

23 Q There was an order issued thereafter?

24 A I don't know. Let me see what I can find.
25 Yeah, it looks like on February 13th of 2017 there

1 is an order that says Plaintiff Erin Neitzelt's
2 emergency motion to stay the case filed on February
3 2nd is granted, I believe is what it says, because
4 I didn't oppose it.

5 Q Okay. It was granted?

6 A It appears that way.

7 Q Do you think there is any way you can get
8 me a copy of that?

9 A It's granted in part. Matter is stayed for
10 30 days. Plaintiff shall have up to and including
11 March 15th, 2017 to retain counsel who is admitted
12 to practice in the Middle District of Florida. By
13 this date plaintiff's counsel shall file a notice of
14 appearance and respond to defendants' motion to
15 dismiss. In the alternative, if Plaintiff choses to
16 proceed pro se, she shall be bound by the same
17 deadline for filing a response to the motion to
18 dismiss, and there's some other stuff.

19 Q Okay. Again, is there any way you can get
20 me a copy of that, do you think?

21 A What's your e-mail address?

22 Q Catherine Czyz at icloud.com.

23 A C-A-T-H-E-R-I-N-E.

24 Q C-Z-Y-Z at icloud.com.

25 Do you remember ever sending that to me?

1 MR. GELMAN: Hang on.

2 THE WITNESS: I don't remember ever sending
3 it to you, no.

4 BY MS. CZYZ:

5 Q Do you know why you didn't sent that to me?

6 A I don't know whether I did or didn't send
7 it to you.

8 Q I went through my e-mails and I do not have
9 that between -- February 10th, 2017, and the next
10 correspondence I have with you is February 24th,
11 2017. So I don't have that order from you, and I'm
12 just wondering why you didn't send it?

13 A It wouldn't be my practice to send orders
14 to counsel.

15 Q But you know I wasn't getting anything.

16 A Well, that's not true.

17 MR. GELMAN: Objection to the form.

18 THE WITNESS: I don't know what you are or
19 are not getting, but there's numerous ways for
20 you to get a copy of it.

21 Number one, and we can look at the order if
22 you want, I don't know who it was served on,
23 but -- in fact, I can probably pull it up right
24 now. It's not my practice to send an order to
25 opposing counsel.

1 BY MS. CZYZ:

2 Q Sure.

3 Because usually they're getting served on
4 eCourt, right?

5 A That would be one reason. You say that you
6 don't have access to the electronic docket, but you
7 do realize any member of the public can get the
8 docket. You don't have to be an admitted attorney to
9 do that.

10 MS. CZYZ: Let's mark this as 6.

11 (Thereupon, Florida Bar Complaint was marked Exhibit
12 6 for identification.)

13 BY MS. CZYZ:

14 Q This is for a Florida Bar complaint against
15 me on Erin Neitzelt.

16 Can you read the highlighted portion there?

17 I'm sorry, can your attorney see that as
18 well? Sorry I didn't hand that to you first.

19 A It says, "On February 9, 2017, Respondent
20 represented to the school district that she no longer
21 represented Neitzelt. Based upon this representation
22 the Court deemed Neitzelt to be proceeding pro se."

23 Q Do you know anything about that?

24 A I do not.

25 Q I don't know anything about that either.

1 From what you just read, that's not what
2 the Court said in the order, correct?

3 A The Court stayed the case.

4 Q Well, when they're saying the school
5 district, you were representing the school district
6 on February 9th?

7 A I was.

8 Q And I did not say to you that I no longer
9 represented Neitzelt, right?

10 A I don't know what -- I don't remember what
11 you said back then. Again, I don't remember whether
12 we had a conversation. We can look at the e-mails.

13 Q Right.

14 And the e-mails don't say that I withdrew.

15 A They do say that you're not representing
16 her. We did read that e-mail, right? We can agree?

17 Q What it's saying specifically is she was
18 filing documents pro se because I couldn't because I
19 wasn't admitted, not that I had withdrawn or wasn't
20 representing her or didn't want to. It's just that I
21 was not -- as you know, trying to either get admitted
22 or get somebody to co-counsel who was admitted.

23 MR. GELMAN: Objection to the form.

24 BY MS. CZYZ:

25 Q So I just want to make sure we're clear

1 that you know I didn't say I withdrew.

2 A Unfortunately, I think we're anything but
3 clear.

4 Q Okay. That's a problem.

5 So let's continue.

6 MS. CZYZ: Now, I said -- the next e-mail
7 that I have, that I know of that we had
8 together, looking back, was February 24th,
9 2017. If we can mark this one 7. I take that
10 back. We can't mark that 7. This is a
11 different pile. This is going to be 4C.

12 (Thereupon, E-mail dated 2-24-17 was marked Exhibit
13 4C for identification.)

14 THE WITNESS: By the way, you're showing me
15 something from the Bar. I read what's there,
16 but I've never seen that.

17 And also, I don't know if it's worth
18 telling you this, I know you haven't asked me
19 this question, but for some reason you assume
20 that I reported you to the Bar, which I didn't
21 do.

22 BY MS. CZYZ:

23 Q I didn't ask if you reported me to the Bar.
24 So I want to make sure that -- that wasn't a question
25 or I'm not misunderstanding.

1 A Okay.

2 Q I did not ask if you reported me to the
3 bar. What I did ask, and I'll ask it again, and I
4 don't know if it was objected to. The question is:
5 Did you speak to the Florida Bar about me, Catherine
6 Czyz?

7 A I did not.

8 Q There we go.
9 Did you send any e-mails back and forth to
10 the Florida Bar?

11 A Not as far as I know. I think I would
12 know. I certainly don't have a recollection of
13 anything like that.

14 Q All right. So this still would have been
15 within the 30 days, February 24, 2017.

16 Do you recall that e-mail?

17 A I think this is one of the ones that I saw
18 the other day when I was looking through some of
19 these e-mails. So you're saying to me on February 24
20 at 9:37, "Dear, Counsel, Ms. Neitzelt advised me
21 yesterday that she retained new counsel for her case.
22 I can no longer receive pleadings from you or from
23 the Court on this case for Ms. Neitzelt. Please
24 advise as soon as her new attorney files a notice of
25 appearance so that I may close my file. Thank you."

1 Q What do you understand that to mean?

2 A She got a new lawyer.

3 Q Right.

4 But certainly -- okay.

5 And I want to make sure we're clear on
6 this, if you thought that I wasn't representing her,
7 why would I be saying this, that I can't accept
8 pleadings at this time?

9 MR. GELMAN: Objection to the form.

10 THE WITNESS: I'm not sure why you're
11 saying anything that you're saying. I can't
12 speak for you.

13 BY MS. CZYZ:

14 Q All right. Let's speak to your response.
15 "Thanks. Can you tell me who she retained?"

16 All right. If you didn't understand what I
17 said, why didn't you write, I don't understand what
18 you're saying?

19 MR. GELMAN: Objection to the form.

20 Mischaracterizes his testimony. I think the
21 document speaks for itself.

22 THE WITNESS: I didn't say I didn't
23 understand your e-mail. I responded to you by
24 saying thanks and asking you who her new counsel
25 that she retained is.

1 BY MS. CZYZ:

2 Q The document does speak for itself.

3 All right. When did you first start
4 talking to Mr. Gunter?

5 A I don't remember specifically.

6 Q Would that be in your file?

7 A There's some e-mails in there that I've
8 produced to you.

9 Q Okay. But do you remember the specific
10 date that you started talking to Mr. Gunter?

11 A I mean, I would venture to say, based upon
12 that e-mail, that it would have been sometime after
13 that e-mail. Because I'm asking you who she's
14 retained, you've told me she retained somebody new
15 and I am asking you who. I wouldn't have been asking
16 you who if I already knew, so sometime after that.

17 Q Okay. So you didn't talk to Mr. Gunter on
18 February 9th.

19 A I don't believe so, no.

20 Q Did you asking me whether or not she was
21 pro se or not or whether I was still representing her
22 have anything to do with Mr. Gunter?

23 A I don't believe so. I think it had to do
24 with what you were saying in your e-mails.

25 Q What was it that I was saying in my e-mails

1 that prompted that?

2 A We've already been through that.

3 Q So you don't want to give a response?

4 A I did give you a response. We've already
5 been through that. We've already walked through all
6 those e-mails.

7 MS. CZYZ: Let's mark this one as 4D,
8 please.

9 (Thereupon, E-mail dated 3-3-17 was marked Exhibit 4D
10 for identification.)

11 BY MS. CZYZ:

12 Q I believe that was our next e-mail.

13 Okay. Do you remember me asking you
14 whether or not he appeared?

15 A I see this e-mail. You sent it to me.

16 Q All right. But you didn't give me a notice
17 of appearance at that time, right?

18 A I'm sorry?

19 Q Did you give me a notice of appearance from
20 him at that time?

21 A It doesn't appear to me that I did. It
22 appears to me I said, yes, her new attorney appeared.

23 Q May I have it back?

24 MS. CZYZ: Let's make this 4E.

25 (Thereupon, E-mail dated 3-13-17 was marked Exhibit

1 4E for identification.)

2 MS. CZYZ: Let's make this 4F.

3 (Thereupon, E-mail dated 3-14-17 was marked Exhibit
4 4F for identification.)

5 BY MS. CZYZ:

6 Q Can you tell me which one you're looking
7 at? Let's look at 4E next.

8 A Yes, so I see 4E. You sent me an e-mail.

9 Q Can you tell me what was the date on that
10 one?

11 A It looks like March 13, 2017, 2:44 p.m.
12 You say, "You told me that Ms. Neitzelt's new
13 attorney filed a notice of appearance on the case. I
14 will need a copy of that and a copy of the notice of
15 voluntary dismissal for my file. Please e-mail me a
16 copy. Thanks."

17 Q And that --

18 A I e-mailed you on March 13, 2017 saying her
19 new attorney's e-mail address is and I gave you Mr.
20 Gunter's e-mail address and I attached a stipulation
21 for dismissal.

22 Q Great.

23 On the next one, can you tell me what that
24 was, the date on that one?

25 A It is March 14, 2017 at 9:06. It looks

1 like I sent you a notice of appearance on behalf of
2 Plaintiff Erin Neitzelt for Jason Gunter.

3 Q Can you tell me the date on the notice of
4 appearance?

5 A Well, according to the little thing at the
6 top, it looks like it was filed on February 28th.

7 Q Okay. And the date on the stipulation for
8 dismissal?

9 A February 20.

10 Q What date did you settle the case with him?

11 A Well, there's some e-mails in there.

12 Again, this goes back to -- I couldn't tell you my
13 recollection -- I don't remember specific dates that
14 far back. So I just don't know, but we can look at
15 the e-mails and see. It looks like I sent him a
16 release on February 27th.

17 Q Okay. Can I get a copy of that release?
18 Is it in this set of documents that you already gave
19 me in the drive?

20 MR. GELMAN: Yes.

21 THE WITNESS: Yes, ma'am.

22 BY MS. CZYZ:

23 Q Can you tell me what the amount was on the
24 release?

25 A I believe it was \$2,500. I'll

1 double-check.

2 Q It was 25 or 28?

3 A I think it's 25, according to my e-mail.

4 Q Why didn't you contact me about a lien?

5 MR. GELMAN: Objection to the form.

6 THE WITNESS: Again, you informed me she
7 had new counsel. He filed a notice of
8 appearance and indicated he did. It was that
9 simple. I was dealing with him.

10 BY MS. CZYZ:

11 Q Why didn't he contact me about a lien?

12 MR. GELMAN: Objection to the form.

13 THE WITNESS: You'd have to ask him.

14 BY MS. CZYZ:

15 Q Did you ask him if he contacted me about a
16 lien?

17 Let me rephrase that.

18 Did you ask Mr. Gunter if he contacted
19 Catherine Czyz about her lien before he signed that
20 release with you?

21 A I don't remember. Probably not.

22 Q Why wouldn't you?

23 MR. GELMAN: Objection to the form.

24 THE WITNESS: It's not an issue for me.

25

1 BY MS. CZYZ:

2 Q When you say it's not an issue for you,
3 don't you have a fiduciary duty to your client to
4 make sure that all liens are resolved?

5 A Well, I believe I have an obligation to my
6 client to do my best job to represent them. Again,
7 if you had a lien, it would be against Ms. Neitzelt's
8 recovery, not a lien against my client. I don't
9 represent Ms. Neitzelt. Never have.

10 Q All right. So does Mr. Gunter have a
11 fiduciary duty to Ms. Neitzelt to make sure that
12 there weren't any liens on the money?

13 MR. GELMAN: Objection to the form.

14 THE WITNESS: You would have to ask him.

15 BY MS. CZYZ:

16 Q Certainly as an attorney on these types of
17 cases you would know whether or not plaintiff's
18 counsel needs to get releases or contact a prior
19 attorney about a lien, right?

20 A Are you asking me my expert opinion?

21 Q No, I'm asking you as an attorney doing
22 these cases whether or not you know because it's
23 routine.

24 MR. GELMAN: I'm going to make an objection
25 to form. It looks like you're seeking an expert

1 opinion when Richard is here as a fact witness.

2 THE WITNESS: I would say I'm here as a
3 fact witness. I can tell you what I factually
4 know and recall. I haven't evaluated whether
5 someone, their standard of care required them to
6 reach out in any particular circumstance. I
7 haven't thought about that, having to evaluate
8 that.

9 BY MS. CZYZ:

10 Q You've settled a lot of cases in your
11 lifetime, right, for 10 years now, right?

12 A A fair amount, yes, ma'am.

13 Q Have any of those cases had prior attorneys
14 on them?

15 A Probably. I don't know. I'd have to look
16 back and see.

17 Q All right. So do you know whether or not
18 you had experience or not with prior attorney liens?

19 A Me personally?

20 Q Yes.

21 A I've never dealt with that issue. Again, I
22 do defense work. So I'm not on the plaintiff's side.

23 Q All right. So --

24 A I don't have any personal experience with
25 resolving attorney liens on the plaintiff's side or

1 even on the defense side. No personal experience.

2 Q So when you do a release, you don't have
3 anything on there about all liens are taken care of?

4 MR. GELMAN: Objection to the form.

5 THE WITNESS: I mean, many times my
6 releases have a lot of different language based
7 upon what we've agreed to in that specific case.

8 BY MS. CZYZ:

9 Q By the way, your client was the school
10 board, correct?

11 A Yes, ma'am.

12 Q All right.

13 A I believe I also represented Ms. Gould as
14 well because you sued her individually.

15 Q Okay. So let's talk about the school
16 board.

17 Were you getting paid by an insurance
18 company, or how does that work? By the state? Who
19 was actually paying the bills?

20 A That would be attorney-client privilege,
21 would it not?

22 MR. GELMAN: Yes. I'll make a privilege
23 objection on that.

24 BY MS. CZYZ:

25 Q All right. Well, the state is a

1 municipality -- I mean the school is considered a
2 municipality, correct?

3 A I don't know whether they're a
4 municipality. I believe they are.

5 Q They're considered a government entity?

6 A There you go. There you go.

7 Q So government entities have funds coming
8 from the state for payments of claims, correct?

9 A I don't --

10 MR. GELMAN: Objection to the form.

11 THE WITNESS: I don't know. I'm not an
12 expert in --

13 BY MS. CZYZ:

14 Q Do you have any fiduciary duty to the
15 people when you're paying out on claims?

16 A Do I? I don't know. Let me just say one
17 other thing. Look, I'm really -- I'm not -- I don't
18 feel comfortable, nor I do think it has any place in
19 this deposition talking about what my duty was. If
20 you want to ask me some fact questions about what I
21 remember happened between you and I and what I did or
22 didn't do, I'm happy to answer those questions to the
23 extent they're not privilege. To the extent you want
24 me to go into what my duties were, that has
25 absolutely no place in this deposition.

1 Q That's your feeling to the questions I'm
2 asking you?

3 MR. GELMAN: I would assert that comment to
4 the record. He's a fact witness. He can answer
5 fact questions.

6 BY MS. CZYZ:

7 Q Okay. He is an attorney, though. He
8 should be able to answer these questions about the
9 case specifically and liens. So I'll start asking
10 you more about Mr. Gunter.

11 Did you ask Mr. Gunter for any
12 documentation from him as far as a lien from the Czyz
13 law firm?

14 MR. GELMAN: Objection.

15 THE WITNESS: I don't remember.

16 MR. GELMAN: Objection. I believe that's
17 been asked and answered also.

18 BY MS. CZYZ:

19 Q Okay. Is it legal malpractice if Mr.
20 Gunter did not contact me about a lien?

21 MR. GELMAN: Again, you're seeking standard
22 of care opinions. You're seeking expert
23 opinions. I'm going to object to form. These
24 aren't proper questions.

25 THE WITNESS: Again, I simply say this.

1 That is an expert opinion question that you're
2 asking me. I simply haven't been asked to
3 render expert opinions. Certainly, I haven't
4 been paid to render any expert opinions and
5 haven't done the evaluation in order to be able
6 to do so. So I am not in a place to answer that
7 question.

8 BY MS. CZYZ:

9 Q Would you give an expert opinion if I paid
10 you a fee?

11 MR. GELMAN: Objection to the form.

12 THE WITNESS: There's a lot of things that
13 go there obviously. In this case, no.

14 BY MS. CZYZ:

15 Q Probably a good answer.

16 Mr. Gunter testified that he had argued
17 transparency as damages for the amount that you
18 settled upon.

19 A Correct.

20 Q Can you recall -- can you tell me what the
21 elements of transparency are?

22 A I'm not even sure I know what transparency
23 is.

24 Q Is transparency a damage in an employment
25 discrimination case?

1 A Maybe it is if you call it by another term.
2 It's not something I'm familiar with. Transparency
3 meaning what exactly?

4 Q That's it. Transparency. It's a damage
5 that he said that he argued to get money.

6 Do you recall him arguing to you about
7 transparency?

8 MR. GELMAN: Objection to the form.

9 THE WITNESS: I don't recall that, no.
10 That's not to say it didn't happen. I don't
11 recall. I don't recall any specific telephone
12 or in-person conversation I had with anyone
13 about this case back in 2017 or 2016.

14 BY MS. CZYZ:

15 Q Okay. Well, in 2017 when you settled the
16 case with him, do you recall what he did argue to you
17 to get value on the case?

18 A I do.

19 Q Do you recall corresponding with me and
20 telling me that your client did not want to settle at
21 this time?

22 A I do not, but it may have happened.

23 Q Give me a minute.

24 A Are you asking about an e-mail about
25 settlement? Is that what you're talking about?

1 Q Right.

2 A I'm not saying it didn't happen. If it
3 did, it did, I just don't remember.

4 Q Well, it did a couple weeks prior to that.
5 I'm just wondering why a couple weeks before you
6 settled with Mr. Gunter Erin Neitzelt's case for
7 \$2,500, that you wrote me in an e-mail that there was
8 no interest in settlement at this time.

9 MR. GELMAN: Objection to the form.

10 THE WITNESS: I mean, first of all, in how
11 you couched that I settled with Mr. Gunter, I
12 didn't settle. The parties would settle the
13 case. So the school board would settle the case
14 with Ms. Neitzelt. Ultimately, it's the school
15 board's decision to settle the case. It's not
16 my decision. Not my call. I'm sure that the
17 school board decided they were willing to pay
18 some amount of money to get a release. I don't
19 know why they did that. I just -- first of all,
20 I don't remember.

21 Second of all, even if I did remember, the
22 only way I would know that would be based upon
23 my conversations with my client which would be
24 attorney-client privilege.

25 MS. CZYZ: I think I'll lay an objection to

1 it being nonresponsive.

2 Then I'm going to try and ask that a
3 different way since the form was objected to.

4 BY MS. CZYZ:

5 Q Was there some miracle that happened
6 between the beginning of February and the end of
7 February where the school board all of a sudden
8 wanted to settle Erin Neitzelt's case?

9 MR. GELMAN: I'm going to place an
10 objection. First of all, it's argumentative.
11 Second of all, it's attorney-client privilege.

12 THE WITNESS: If there was a miracle, I'm
13 not aware of any miracles.

14 BY MS. CZYZ:

15 Q Okay. Are you aware of anything that
16 happened between the beginning of February and
17 the end of February that would have changed Erin
18 Neitzelt's case to warrant it to have damages that
19 would now be something for settlement?

20 MR. GELMAN: Objection on any
21 attorney-client privilege.

22 THE WITNESS: Yeah, again, I think -- let
23 me say this. The changes in the case,
24 obviously, the docket and what happened as far
25 as attorneys appearing and not appearing, speak

1 for themselves.

2 As far as what the school board -- how the
3 school board may have viewed that, that's
4 attorney-client privileged. I cannot disclose
5 that.

6 (Thereupon, Plaintiff's, Erin Neitzelt's, Re-Notice
7 of Mailing Addresses was marked Exhibit 7 for
8 identification.)

9 THE WITNESS: Actually, can we take a break
10 real quick before we get to another question.

11 MS. CZYZ: Sure. Go ahead.

12 (A short break was taken at 2:40 p.m.)

13 BY MS. CZYZ:

14 Q Number 7, I believe it is.

15 A Yes, ma'am.

16 Q Do you recall that at all?

17 A I mean it looks like it's a renotice of
18 mailing addresses. I -- do recall it specifically?
19 I do not.

20 Q All right. Do you know -- you know what
21 the address says on there, correct?

22 A Yes, ma'am.

23 Q It's just that it's in New Jersey, right?

24 A I see that.

25 Q Not that it's a big fundamental error, but

1 I was just wondering if, when you put that I'm on the
2 other side of Florida when I was actually in New
3 Jersey getting mail at the time, whether or not that
4 was just a mistake or if you did that -- you wouldn't
5 have done that on purpose, right?

6 MR. GELMAN: Objection to the form.

7 THE WITNESS: I'm not sure -- I didn't do
8 it on purpose. It was my understanding I was
9 calling a 561 area code, I believe, and maybe
10 that's why I had a belief that you were over
11 there. And I think I Googled you and I saw an
12 address over there on the other side. It was my
13 understanding that you were over there. I
14 understand you have a mailing address in New
15 Jersey. That said, that doesn't necessarily
16 mean that you were there. I understood you were
17 to be on the other coast of Florida. I don't
18 think it mattered for the purposes we are
19 talking about.

20 BY MS. CZYZ:

21 Q Right. Because everything was done via
22 e-mail.

23 A Correct.

24 Q Okay. Have you ever had a Bar complaint
25 against you?

1 MR. GELMAN: Objection to the form. What
2 was the question? I missed the beginning.

3 MS. CZYZ: Have you?

4 THE WITNESS: Ever had a bar complaint was
5 the question. I believe the answer was yes,
6 there was one that I didn't get notice of until
7 after the Bar had dismissed it. I think it was.
8 I think that would be the answer, yes.

9 BY MS. CZYZ:

10 Q That's a good answer.

11 It was dismissed right away, right?

12 A It was -- by the time I got notice of it,
13 it had been dismissed.

14 Q Attorneys get Bar complaints from crazy
15 clients all the time and they get dismissed because
16 sometimes they might complain about somebody having a
17 wrinkled suit or something of that nature.

18 Have you ever known anyone to have one that
19 went beyond getting dismissed right away?

20 A Personally --

21 MR. GELMAN: Objection to the form.

22 THE WITNESS: -- I don't think so. I'm
23 generally aware that they occur. I don't think
24 I personally know anybody who has.

25 BY MS. CZYZ:

1 Q Do you have any knowledge of Mr. Gunter
2 coming up with some kind of exit strategy,
3 quote/unquote, with Erin Neitzelt that would have
4 involved making a false Bar complaint?

5 MR. GELMAN: Objection to the form.

6 THE WITNESS: No.

7 BY MS. CZYZ:

8 Q That was no?

9 A That was a no. I don't have any knowledge
10 of any such thing.

11 Q Do you have any knowledge of him ever
12 saying that he talked with Erin about coming up with
13 some kind of exit strategy?

14 A I have no knowledge of any of that.

15 Q Do you know if Mr. Gunter also knows Mr.
16 Atwood at your firm?

17 MR. GELMAN: Objection to the form.

18 THE WITNESS: I mean, do I know? I believe
19 that they -- I would find it hard to believe
20 that they don't at least know who each other
21 are. They both do employment work and Fort
22 Myers is not a big town. I don't have any
23 personal knowledge of their relationship. How
24 about that?

25 BY MS. CZYZ:

1 Q Do you know if Mr. Atwood was getting work
2 from the Henderson law firm prior to coming on to
3 work for the Henderson law firm?

4 MR. GELMAN: Objection to the form.

5 THE WITNESS: Do I know? As far as I know,
6 he wasn't. But it's possible that he was. I
7 don't know.

8 BY MS. CZYZ:

9 Q Okay. He does do employment law work,
10 right?

11 A That's my understanding.

12 Q I assume before he came on board he was
13 doing plaintiff's employment work?

14 MR. GELMAN: Objection to the form.

15 THE WITNESS: I think you'd have to ask
16 him. That was my belief, as to what Scott did
17 at that time, yes. But I don't know
18 specifically what he did.

19 BY MS. CZYZ:

20 Q Let's ask it this way.

21 A Okay.

22 Q While he was doing plaintiff's work for his
23 own firm, did he have any cases with you as the
24 attorney representing the defendant?

25 A No. I believe he may have mediated a case

1 for me as a mediator a time or two -- one time. But
2 I don't believe I've ever had him as a plaintiff's
3 lawyer on the other side.

4 Q Do you know if he's still mediating?

5 A I don't know.

6 Q Do you know how long he mediated?

7 A I do not.

8 Q Do you know if there's any conflict logs
9 that he maintains now that he's with the law firm so
10 that he's not mediating cases that would cause a
11 conflict of interest?

12 A Do I know? I mean, I know, yes, we would
13 run conflicts. Yes, the firm would.

14 MS. CZYZ: Okay. Let's mark this as an
15 exhibit.

16 (Thereupon, MEAC Opinions - Conflicts of Interest was
17 marked Exhibit 8 for identification.)

18 BY MS. CZYZ:

19 Q Okay. So you are aware that there's
20 conflicts of interest if you're mediating and
21 mediating many cases that are having to do with a law
22 firm that you work at?

23 A Again, let me say this. There are conflict
24 issues out there. As an attorney, I'm generally
25 aware of that. If you're asking me a specific or

1 even any sort of an opinion question about when a
2 conflict would arise or what conflict, I don't know
3 how to answer that question, because I don't think --
4 can there be conflicts in the practice of law or as a
5 mediator? The answer is yes, there can be. How
6 about that?

7 Q Let's talk about conflicts of law since we
8 just started on this now.

9 MS. CZYZ: Let's mark this one, please.
10 (Thereupon, Rule 4-1.7. Conflict of Interest; Current
11 Clients was marked Exhibit 9 for identification.)

12 MR. GELMAN: In all due respect, I think
13 we're getting into areas where, again, you're
14 looking for expert opinion. And secondly, he's
15 here as a fact witness with a certain universe
16 of knowledge on this case. I think we're
17 getting into areas when you're talking about Mr.
18 Atwood that we're running far afield of
19 discoverable evidence or even information that
20 he would possess.

21 So with that in mind, have at it.

22 BY MS. CZYZ:

23 Q Okay. Just handed you number 9. What is
24 number 9?

25 A Well, it appears to be a Rule 4-1.7

1 conflict of interest, current clients, pulled from
2 Westlaw.

3 Q Right.

4 So just as a general attorney question, not
5 as an expert, but working as an attorney and working
6 at the Henderson law firm, you know that there are
7 certain conflicts and you need to keep logs for that,
8 right?

9 MR. GELMAN: Form.

10 THE WITNESS: Yeah. So I mean, as an
11 attorney, are there conflicts and do we keep
12 logs for that? Yeah, that's a practice that
13 many law firms follow, yes.

14 BY MS. CZYZ:

15 Q Did your law firm before you came to this
16 run -- strike that, please.

17 Before you came to Henderson, did the other
18 law firm that you worked at have conflict logs that
19 they kept?

20 A I believe so.

21 Q All right. So what's the general idea of
22 having a conflict log? Why do we do that?

23 A I'm not going to answer questions that are
24 basically opinion questions, and that's what this is.
25 You are asking for my opinion, based on expertise as

1 an attorney, about conflicts. I'm not answering
2 these questions because the bottom line is I'm not an
3 expert in this case. This is not about underlying
4 factual knowledge of this case. I'm not going down
5 this road.

6 MR. GELMAN: I'll place that objection on
7 the record.

8 BY MS. CZYZ:

9 Q Okay. So what we'll do is we can have
10 that -- well, is it that you don't want to talk about
11 conflicts any more at all or on the record, any
12 questions having to do with conflicts that I ask you
13 now? Just so we can get to the point here because I
14 have a few other questions.

15 A The point is very simple. You're asking me
16 general questions about conflicts and how attorneys
17 do conflicts and so on and so forth. That's
18 absolutely 100 percent expert testimony, based upon
19 my experience and expertise as an attorney. That has
20 nothing to do with my knowledge as a fact witness in
21 this case.

22 Q Okay. I got it. I don't want to become
23 harassing.

24 A And I appreciate that.

25 Q I don't. I do have a few more questions,

1 not like a litany of questions, but a few more
2 questions. If you don't want to go down that road,
3 like you just said, I don't want to take you there.

4 A I don't want to go down that road.

5 Q What we will do is I would like to note for
6 the record -- or actually certify the question,
7 because whether or not -- as a fact witness on this
8 particular case, and the underlying -- as an attorney
9 on the underlying case, whether it's appropriate or
10 not for you to answer any of these questions
11 regarding conflict. We'll just have a judge
12 determine that. And if it is, then I'll continue my
13 questioning. But if not, then I'll never talk to you
14 about it again.

15 Fair enough?

16 A Fair enough.

17 Q Let's talk about 57.105. There was a
18 57.105 notice on the Neitzelt case when Scott Atwood
19 had it before he came to the Henderson law firm.

20 Do you have any idea why Henderson would
21 take a case with a 57.105 standing out on it?

22 MR. GELMAN: Objection to the form.

23 THE WITNESS: Yeah, so here is where we go
24 down another road. You're asking me a question
25 as to why Henderson Franklin would have done

1 something. I am an attorney at Henderson
2 Franklin. I am not Henderson Franklin. I do
3 not have any factual knowledge of anything about
4 the current lawsuit in which Mr. Atwood is
5 involved. I have no -- I haven't looked at the
6 docket. I don't know anything. So I don't
7 know, all right?

8 I don't really want to go down that path
9 because my factual knowledge is very limited to
10 my involvement in the lawsuit that you
11 originally filed on behalf of Ms. Neitzelt that
12 was against the Lee County School Board and Ms.
13 Gould.

14 BY MS. CZYZ:

15 Q Let me ask you this so I can at least get
16 some information about who I should be talking to.

17 Is there a person or a board or a panel of
18 people at Henderson Franklin law firm that review
19 files before an attorney is hired on to see if they
20 are actually going to allow the case to come in?

21 MR. GELMAN: Objection to the form.

22 THE WITNESS: Let me say this: On behalf
23 of Henderson Franklin, if you want to take that
24 kind of deposition, you're going to have to go
25 down that road. To the extent you're asking

1 about how the inner workings of the firm go, I
2 don't think that's relevant in any way to this
3 lawsuit that you're here about. I also think
4 that there's certain business reasons why that
5 would be confidential and so on and so forth and
6 not subject to discovery in this case, so I'm
7 not going to talk about that either.

8 BY MS. CZYZ:

9 Q Do you know of anyone that I should direct
10 that to, that kind of question?

11 MR. GELMAN: Objection. I think he's
12 answered it.

13 THE WITNESS: I'm not going to go down that
14 road.

15 MS. CZYZ: Okay. We'll certify that as
16 well.

17 BY MS. CZYZ:

18 Q Did the FBI ever contact you?

19 MR. GELMAN: Objection to the form.

20 THE WITNESS: Not as far as I know.

21 BY MS. CZYZ:

22 Q Do you know what the role of a judge is?

23 A In a civil lawsuit, I think I do.

24 Q And what is that?

25 A There's a lot of responsibilities for a

1 judge in a case, a lot of them.

2 Q Right.

3 They're supposed to be a fair arbiter of
4 the case. Is that fair to say?

5 A Well, I mean, this goes into my opinions as
6 to what I think a judge is supposed to be. The word
7 "fair," I mean, they have an oath. They're not
8 supposed to be biased towards one person and so on
9 and so forth. I think bias is a better word than
10 fair because fair can mean something different to
11 everybody.

12 Q Okay. If there are biases, is that a
13 reason for recusal of a judge?

14 A There are rules and statutes that are
15 specifically on point about recusal. I'd have to
16 read them. Again, those are opinion questions that
17 go right to my being a lawyer that I am not prepared
18 to answer here today.

19 Q Do you know if Scott Atwood knows Judge
20 Shenko personally?

21 MR. GELMAN: Objection to the form.

22 THE WITNESS: I have no idea.

23 BY MS. CZYZ:

24 Q Do you know if anybody -- do you know who
25 would know that?

1 A Probably Scott Atwood.

2 Q Anyone besides Scott Atwood?

3 A Maybe Judge Shenko.

4 Q Anyone besides Judge Shenko?

5 A No idea.

6 Q Okay. What about Judge Hayes or Magistrate
7 Bocelli?

8 A I have no idea.

9 Q Do you know if the firm lobbies in
10 Tallahassee?

11 MR. GELMAN: Objection to the form.

12 THE WITNESS: Henderson Franklin, is that
13 what you were asking?

14 BY MS. CZYZ:

15 Q Yes.

16 A I would go right back to where I was before
17 about not answering questions.

18 MR. GELMAN: Not only is it not relevant,
19 it's not calculated to lead to admissible
20 evidence. It's just far afield of Richard's
21 involvement.

22 BY MS. CZYZ:

23 Q Well, let's talk about --

24 A I think -- I really will say this. I've
25 come here today because I know that you wanted to

1 take my deposition. I tried to be reasonable.

2 Q Right. I don't think there's a pending
3 question.

4 A I'm making a pending statement, and that
5 is, look, if you've got questions that are factually
6 relevant to my involvement in the underlying case,
7 I'm happy to answer them. Otherwise, can we please
8 move on.

9 Q Yeah. I need to know if you have any
10 information as to why I wasn't contacted about my
11 lien on this case.

12 MR. GELMAN: Objection. Asked and
13 answered.

14 THE WITNESS: I think I've answered that as
15 best as I possibly can.

16 BY MS. CZYZ:

17 Q There's nothing else you'd like to add?

18 A No.

19 MS. CZYZ: All right. I guess that's about
20 it.

21 MR. GELMAN: He'll read.

22 (Deposition concluded at 3:00 p.m.)

23 THE COURT REPORTER: Were you going to
24 order this?

25 MS. CZYZ: Can you give me your card?

1 (Thereupon, the proceedings concluded at 3:00 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF LEE

I, Tracie Thompson, RMR, CRR, CLR and
Notary Public for the State of Florida, do hereby
certify that RICHARD B. AKIN, ESQ. personally
appeared before me and was duly sworn on the 13th day
of January, 2020.

Signed this 20th day of October, 2020.



Tracie Thompson
Notary Public
State of Florida
My Commission No. GG 175178
Expires: March 1, 2022

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CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF LEE

I, TRACIE THOMPSON, Registered Merit Reporter,
do hereby certify that I was authorized to and did
stenographically report the foregoing deposition of
RICHARD B. AKIN, ESQ.; pages 1 through 100; that a
review of the transcript was requested; and that the
transcript is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative,
employee, attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the
parties' attorneys or counsel connected with the
action, nor am I financially interested in the
action.

Dated this 20th day of October, 2020.



Tracie Thompson
Notary Public
State of Florida
My Commission No. GG 175178
Expires: March 1, 2022

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

In Re: CZYZ, CATHERINE VS. NEITZELT, ERIN

RICHARD B. AKIN, ESQ.

January 13, 2020

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Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

_____ _____
Date RICHARD B. AKIN , ESQ.

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October 20, 2020
HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
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Post Office Box 280
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RICHARD AKIN, ESQ.
richard.akin@henlaw.com

ATTN: Richard Akin, Esq.

Re: Czyz, Catherine vs. Neitzelt, Erin

Please take notice that on the 13th day of January, 2020, you gave your deposition in the above cause. At that time, you did not waive your signature.

The transcript of your deposition is attached to this e-mail. Please read the transcript. After reading your deposition, please print the attached Errata Sheet, which can be found at the back of the transcript. Complete, sign and date the Errata Sheet and return it to the above-listed address for distribution to all parties.

If you do not read and sign the deposition within 30 days, the original, which has already been forwarded to the ordering attorney, may be filed with the Clerk of the Court.

If you wish to waive your signature now, please sign your name in the blank at the bottom of this letter and return to the address listed below.

Very truly yours,
Tracie Thompson, RMR, CRR, CLR
Veritext Legal Solutions

I do hereby waive my signature.

RICHARD B. AKIN, ESQ.

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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under
rule 1.330(d)(4).

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND
FOR LEE COUNTY, FLORIDA.

CASE NO: 2019 CA 002440

CATHERINE E. CZYZ, ESQ.
THE CZYZ LAW FIRM, P.A., and
THE CZYZ LAW FIRM, PLLC,

Plaintiffs,

vs.

ERIN BETH NEITZELT,

Defendant.

RE-NOTICE OF TAKING DEPOSITION
OF RICHARD B. ATKIN, ESQ.
(DUCES TECUM)

SET BY COURT ORDER

To: Scott E. Atwood, Esq. and Heath E. Gelman, Esq. via
e-courts

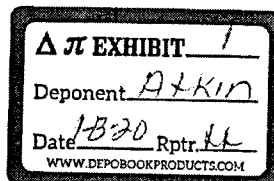
YOU ARE HEREBY NOTIFIED that the undersigned will take the deposition of the
following deponent:

Witness: RICHARD B. ATKIN, ESQ.

Date: Monday, January 13, 2020

Time: 1:00 p.m.

Location: Veritext Court Reporting
@ Premier Executive Suites
5237 Summertin Commons Blvd.



IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND
FOR LEE COUNTY, FLORIDA.

CASE NO: 2018 CA001244

ERIN BETH NEITZELT,

Plaintiff,

vs.

CATHERINE ELIZABETH CZYZ,
THE CZYZ LAW FIRM, P.A., and
THE CZYZ LAW FIRM, PLLC,

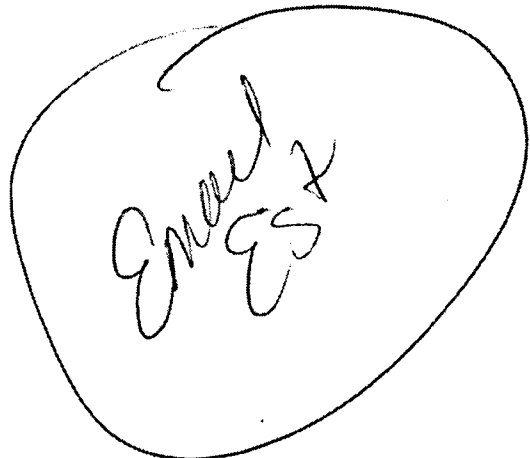
Defendants.

CROSS- RENOTICE OF TAKING DEPOSITION
OF RICHARD B. ATKIN, ESQ.
(DUCES TECUM)
(SET BY COURT ORDER)

To: Scott E. Atwood, Esq. and Heath E. Gelman, Esq. via
e-courts

YOU ARE HEREBY NOTIFIED that the undersigned will take the deposition of the
following deponent:

Witness: RICHARD B. ATKIN, ESQ.
Date: Monday, January 13, 2020
Time: 1:00 p.m.
Location: Veritext Court Reporting
@ Premier Executive Suites
5237 Summertin Commons Blvd.
Ft. Myers, FL 33907

A large, hand-drawn oval containing a handwritten signature in black ink. The signature appears to read "Emad Esz".

Upon oral examination by Veritext Court Reporting, notary public in and for the State of Florida at Large, or some other officer duly authorized by law to take depositions. The deposition is being taken for the purpose of discovery, for use at trial, or both of the foregoing, or for such other purposes as are permitted under the applicable and governing rules of Court.

DOCUMENTS AND ITEMS TO BRING WITH YOU:

1. The entire file that you have for *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
2. Any and all emails to and from Catherine E. Czyz, Esq. and Richard B. Atkin, Esq. regarding the case of *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
3. Any and all e-mails between Richard B. Atkin, Esq. and Jason L. Gunter, Esq. regarding the case of *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
4. Any and all emails between Richard B. Atkin, Esq. and Scott E. Atwood, Esq. regarding Erin Neitzelt before he joined Henderson, et al. P.A..
5. Any and all e-mails Any and all emails between Richard B. Atkin, Esq. and Scott E. Atwood, Esq. regarding Erin Neitzelt after he joined Henderson, et al. P.A..
6. Any and all e-mails between Richard B. Atkin, Esq. and The Florida Bar Association regarding Erin Neitzelt and/or Catherine E. Czyz, Esq.
7. Any and all time logs for time expended on *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
8. Any and all records of any and all discussions between Richard B. Atkin, Esq. and The Florida Bar Association regarding Catherine E. Czyz, Esq..
9. Any and all internal notes, records, emails, or documents whatsoever regarding liability for legal malpractice/professional negligence regarding the representation of Erin Beth Neitzelt.
10. Any and all conflicts logs that the Henderson et al. P.A. law firm has regarding the representation of Erin Beth Neitzelt and the representation of Rachel Gould and/or The Lee County School District.
11. Any and all documents that show the time period that Susan M. Boy, Esq., the current attorney for Rachel Gould and Margaret Walters, worked for the Henderson et al. P.A. law firm.
12. Any and all documents that show Scott E. Atwood, Esq. took over the job of Susan M. Boy, Esq. at the Henderson et al. law firm.
13. Any and all conflict logs of Scott E. Atwood, Esq. Richard B. Atkin, Esq., and Susan M. Boy, Esq. in the representation of Erin Beth Neitzelt and Rachel Gould and The Lee County School District.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-courts, on January 2, 2020 to:

Scott E. Atwood, Esq. and
Heath E. Gelman, Esq. via
e-courts

By: /s/ Catherine E. Czyz

Catherine E. Czyz, Esq.
Florida Bar Number: 105627
The Czyz Law Firm, PLLC
USPS Mailing Address:
931 Village Boulevard, Suite 905-242
West Palm Beach, FL 33409
catherineczyz@icloud.com
561-502-1542- direct
561-628-1044- office

JOHN M. MUNRO and JERRY W. ,
WHITAKER,

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

Plaintiff,
vs.

GENERAL JURISDICTION DIVISION

LEANDRO ASDRUBAL RODRIGUEZ
GARCIA, EL POYO TRUCKING LLC and
A&G TOTAL SERVICE, INC.,

CASE NO.: CACE18018893

Defendants.

NOTICE OF TAKING DEPOSITION
(Please advise if an Interpreter is needed)
(Date & Time cleared w/ Plfs counsel via email)
(MRS. DIAZ-PADRON WILL APPEAR VIA VERITEXT VIRTUAL)

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

Name: John Munro
Date and Time: January 13, 2020 at 10:00am -1105 (R)
Place: Premier Executive Center c/o Veritext Legal Solutions
5237 Summerlin Commons Blvd
Fort Myers, FL 33907

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the above and foregoing was emailed this **10TH** day of **October**, 2019 to Benjamin D. Lusk, Esq. 202 Del Prado Blvd. South Cape Coral, Florida 33990.

Law Office of Cristina Diaz-Padron, P.A.
Attorneys for Defendant
P.O. Box 557037
Miami, Florida 33255-7037
T+(305) 697-8059 F+(305) 675-9304
Email: filing@diaz-padronlaw.com

/s/ Cristina Diaz-Padron, Esq.

By: CRISTINA M. DIAZ-PADRON, ESQ.
Florida Bar No.: 0707201

no da
Mark Drasites

Benjamin D. Lusk, Esq. Via email: blusk@LDTLaw.com; Stephanie@LDTlaw.com;
Rose@LDTlaw.com

Veritext, Via Email (Please set up VERITEXT VIRTUAL)

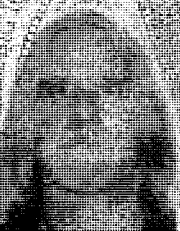

upon oral examination before Veritext and Notary Public, or any other Notary Public or officer authorized by law to take depositions in the State of Florida. The oral examination will continue from day to day until completed. This deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the rules of court.

Florida DRIVER LICENSE

M56D-473-69-055-0

SEX: F
 HAIR: BRN
 EYES: BRN
 HT: 5-07
 WT: 115
 BIRTH: 02/15/1969
 CLASS: E
 END: A-MTRCL A440
 REST: None

STATE OF FLORIDA
 DEPARTMENT OF TRANSPORTATION
 DIVISION OF DRIVER LICENSING

21 0100390913118250


REST: None

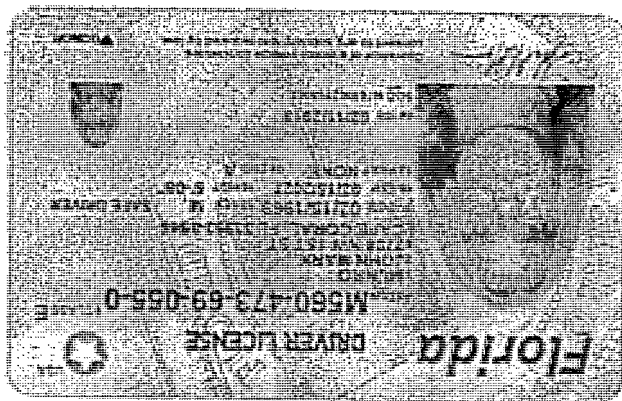
END: A-MTRCL A440

CLASS: E - Any non-commercial veh with a GVWR - 26,001 lbs. or any RV

The state of FL retains all property rights herein

07/15/98





Tracie Thompson <tthompsonrpr@gmail.com>

Trip Cancellation

1 message

American Airlines <no-reply@notify.email.aa.com>
To: "TTHOMPSONRPR@GMAIL.COM" <TTHOMPSONRPR@gmail.com>

Sat, Nov 23, 2019 at 5:37 PM



Your trip is canceled

Record locator: **RJGZFN**

Trip canceled on: November 23, 2019 at 4:36 PM (CT)

Your refund will be processed automatically if you booked at least 2 days before departure and canceled within 24 hours of buying your ticket. Learn about our refund policy and request a refund on aa.com.

[Refunds](#)

CUR to MIA

Curacao to Miami

Sunday, November 24, 2019

Rafaela Del Carmen

Ticket #:0012382328078

[Contact us](#) | [Privacy policy](#)

Get the American Airlines app

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CIVIL DIVISION

CATHERINE E. CZYZ, ESQ., THE CZYZ LAW
FIRM, P.A., and THE CZYZ LAW FIRM, PLLC,

Plaintiffs,

v.

CASE NO. 19-CA-2440.

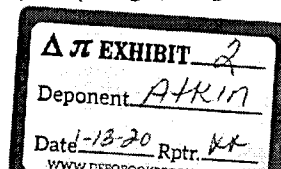
ERIN BETH NEITZELT,

Defendant.

OBJECTION TO CROSS RENOTICE OF TAKING DEPOSITION OF
RICHARD ATKIN, ESQUIRE

Comes Now Richard Akin, Individually and by and through undersigned counsel, pursuant to Rule 1.280, Florida Rules of Civil Procedure, Objects to Portions of Duces Tecum as it relates to the Cross-ReNotice of Taking Deposition of Richard B. Atkin, Esquire (Duces Tecum), and hereby moves this Court to rule on the below objections, and in support thereof states:

1. The deposition of fact witness, Richard Akin, Esq., is scheduled to take place on January 13, 2020. (See Exhibit A: "Cross-Notice of Taking Deposition of Richard B. Atkin (spelling error) (Duces Tecum)(Set by Court Order).
2. As part of the Notice, 13 numbered items were requested of Richard Akin to bring with him to the deposition.
3. By review of the aforementioned list, only e-mail communications between Richard Akin and Catherine Czyz regarding the underlying case of Erin Beth Neitzelt v. Rachel Gould and the Lee County School District, and e-mail communications between Richard Akin and Jason Gunter, Esq. regarding the same case can be produced as they



would not be privileged communications. As such, the undersigned is making efforts to procure those documents and produce them for the deposition.

4. The remainder of the documents sought are subject to work product, attorney-client privilege, or documents that Richard Akin would have no access to.

5. Specifically, the entire file of Erin Beth Neitzelt v. Rachel Gould and the Lee County School District would entail work product and attorney-client communications to which Ms. Czyz is not entitled to.

6. Further, Ms. Czyz seeks documents regarding communications with Scott Atwood, a Henderson Franklin employee, and Susan Boy, for her time she was employed at Henderson Franklin, simply because Mr. Akin is employed by Henderson Franklin. The vast majority of these requested items are something Mr. Akin would not have access to in any capacity.

7. Lastly, some requested items simply do not exist such as records of discussions and e-mails between Mr. Akin and the Florida Bar Association, cannot be produced because these events did not occur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished to the following:

| | |
|--|--|
| Catherine E. Czyz, Esquire CZYZ LAW FIRM, P.A. 777 South Flagler Drive, Suite 800 West Tower, West Palm Beach, FL 33401 Tel: 561-502-1542 Email: Catherineczyz@icloud.com <i>Attorney for Defendants</i> | Scott Atwood, Esquire HENDERSON, FRANKLIN, et al, P.A. P O Box 280 1715 Monroe Street Fort Myers, FL 33901 Tel: 239-344-1287 Email: scott.atwood@henlaw.com <i>Attorney for Plaintiff</i> |
|--|--|

by electronically filing with the Clerk of Court through E-Filing Portal System which will send a notice of electronic filing; email; regular United States Mail, this 8th day of January, 2020.

HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
*Attorneys for Henderson, Franklin, Starnes & Holt,
P.A. and Richard Akin, Esq.*
Post Office Box 280
1715 Monroe Street
Fort Myers, Florida
Tel: 239.344.1273
Fax: 239-344-1589
Primary Email: heath.gelman@henlaw.com
Sec. Email: denise.lunsford@henlaw.com

By: /s/ Heath E. Gelman
Heath E. Gelman, Esquire
Florida Bar No. 163686

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN AND
FOR LEE COUNTY, FLORIDA.

CASE NO: 2019 CA 002440

CATHERINE E. CZYZ, ESQ.
THE CZYZ LAW FIRM, P.A., and
THE CZYZ LAW FIRM, PLLC,

Plaintiffs,

vs.

ERIN BETH NEITZELT,

Defendant.

RE-NOTICE OF TAKING DEPOSITION
OF RICHARD B. ATKIN, ESQ.
(DUCES TECUM)

SET BY COURT ORDER

To: Scott E. Atwood, Esq. and Heath E. Gelman, Esq. via
e-courts

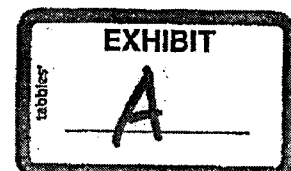
YOU ARE HEREBY NOTIFIED that the undersigned will take the deposition of the
following deponent:

Witness: RICHARD B. ATKIN, ESQ.

Date: Monday, January 13, 2020

Time: 1:00 p.m.

Location: Veritext Court Reporting
@ Premier Executive Suites
5237 Summertin Commons Blvd.



Ft. Myers, FL 33907

Upon oral examination by Veritext Court Reporting, notary public in and for the State of Florida at Large, or some other officer duly authorized by law to take depositions. The deposition is being taken for the purpose of discovery, for use at trial, or both of the foregoing, or for such other purposes as are permitted under the applicable and governing rules of Court.

DOCUMENTS AND ITEMS TO BRING WITH YOU:

1. The entire file that you have for *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
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3. Any and all e-mails between Richard B. Atkin, Esq. and Jason L. Gunter, Esq. regarding the case of *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
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7. Any and all time logs for time expended on *Erin Beth Neitzelt v. Rachel Gould and The Lee County School District*.
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10. Any and all conflicts logs that the Henderson et al. P.A. law firm has regarding the representation of Erin Beth Neitzelt and the representation of Rachel Gould and/or The Lee County School District.
11. Any and all documents that show the time period that Susan M. Boy, Esq., the current attorney for Rachel Gould and Margaret Walters, worked for the Henderson et al. P.A. law firm.
12. Any and all documents that show Scott E. Atwood, Esq. took over the job of Susan M. Boy, Esq. at the Henderson et al. law firm.
13. Any and all conflict logs of Scott E. Atwood, Esq. Richard B. Atkin, Esq., and Susan M. Boy, Esq. in the representation of Erin Beth Neitzelt and Rachel Gould and The Lee County School District.
14. A copy of any check issued to Erin Beth Neitzelt, both back and front.

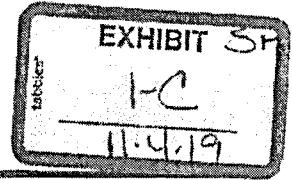
15. Any checks issued to Jason Gunter, Esq. or his law firm for settlements on behalf of any party he represented against any client represented by the Henderson, Franklin, Starnes & Holt, P.A..
16. Any documents evidencing any employment payment(s) made to Jason L. Gunter, Esq. or his firm for work, either as an employee, an independent contractor, or any type of direct or indirect employment by Henderson, Franklin, Starnes & Holt, P.A..
17. Any documents evidencing any payments made by Jason L. Gunter, Esq. or his law firm(s) to any person related to in any way to Henderson, Franklin, Starnes & Holt, P.A..
18. Any documents evidencing any payments or money transfers made in any way, including gifts, by Henderson, Franklin, Starnes & Holt, P.A.. to anyone employed by the Lee County Court.
19. Any documents evidencing any payments or money transfers made in any way, including gifts, by Henderson, Franklin, Starnes & Holt, P.A.. to anyone employed by The Florida Bar Association.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-courts, on January 2, 2020 (resubmitted on January 4, 2020) to:

Scott E. Atwood, Esq. and
Heath E. Gelman, Esq. via
e-courts

By: /s/ Catherine E. Czyz _____

Catherine E. Czyz, Esq.
Florida Bar Number: 105627
The Czyz Law Firm, PLLC
USPS Mailing Address:
931 Village Boulevard, Suite 905-242
West Palm Beach, FL 33409
catherineczyz@icloud.com
561-502-1542- direct
561-628-1044- office



Player, Mitchell

From: Player, Mitchell
Sent: Thursday, October 29, 2015 11:19 AM
To: Neitzelt, Erin
Subject: RE: 1st period class

We can talk tomorrow morning before school to come up with a plan of attack. I will be in lunch duty during your planning today. Let's plan on meeting in your room at 9 AM if that works for you.

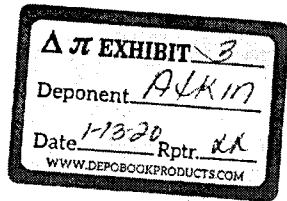
Mitch Player
Assistant Principal
Mariner Middle School
Ideation, Strategic, Arranger, Relator, Self-Assurance

From: Neitzelt, Erin
Sent: Thursday, October 29, 2015 11:12 AM
To: Player, Mitchell <MitchellDPI@LeeSchools.net>
Subject: 1st period class

Dear Mitch,
Are you available to talk with me first, and then come and speak to this class? Nothing is working with this bunch. Extremely bad mix of students in here that fuel each other. I have an aide half of the period, and we never sit down. Always up. They throw items, smash food, switch seats, won't give me the purple cards, sign petitions against me when I sign one of the boys purple cards, girls seek attention from the "bad boys", one says she doesn't have to do any work and her parents will make sure she passes anyway (since she passed grade 5 this way, she added), one stapled his finger today, they never have paper or pencils or charged chromebooks, constant disruptions. I was told by the 6th grade teachers who had these kids last year that I have some of the most challenging behavioral problems all in that one class of mine together. Some of these kids need separated as they fuel each other. Seating changes don't help.

Short of me cutting loose and going ape crap on them, the discipline for this class is not working. Also, I think 9 or 10 of them got F's for grades Q1. Many others got D's. My other class of regular ELA is NOT like this at all in either grades or behavior. I also have gifted ELA, and they are really good in both grades and behavior.

I also do not have many IEP kids in 1st period – so it's not an ESE issue.
Thanks! I need a visit from you here. They will be great when you are here. Rachel came before, also, and they were great when she was here. Can I get cameras in here??? Ugh.
Thanks.



RE: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

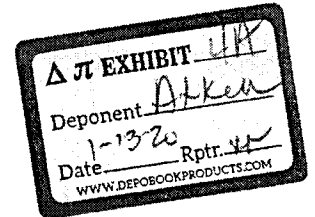
February 9, 2017 at 1:41 PM

From Richard Akin

To 'Catherine Czyz'

📎 [Image001.jpg 4.72 KB, [Image669a7e.JPG 4.72 KB,
[OCS-#2214...Show_Cause.docx 27.99 KB

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com



CONFIDENTIALITY STATEMENT

Henderson, Franklin, Starnes & Holt, P.A.

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Thursday, February 09, 2017 4:40 PM

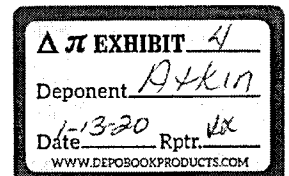
To: Richard Akin

Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

I've still received nothing.

Sent from my iPhone

On Feb 9, 2017, at 4:20 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:



Please let me know by 4:45 whether the Response that I sent you accurately represents your position. It needs to be filed this afternoon.
Thanks

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com



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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyk@icloud.com>]
Sent: Thursday, February 09, 2017 3:40 PM
To: Richard Akin
Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Please email me a copy of the motion so I can see that our objection is noted.
Thanks.

Sent from my iPhone

On Feb 9, 2017, at 1:46 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

I need to know asap whether you will consent to conduct the joint conference by phone and whether you can have the conference tomorrow. I must file something by this afternoon with the federal court.

Thanks,

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com

<image6507e5.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to:
administrator@henlaw.com

From: Catherine Czyz [mailto:catherineczyk@icloud.com]
Sent: Thursday, February 09, 2017 12:57 PM
To: Richard Akin
Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Please file a motion for continuance for us and the motion for stay as cause.

Sent from my iPhone

On Feb 9, 2017, at 10:50 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

From your last email, I understand that you would like to stipulate to extend the time to file the Joint Report. However, as you can see from the below order I received today, that is not an option. Please advise when you are available today or tomorrow to schedule a telephone conference to prepare the report. I will file a Motion allowing us to conduct the conference by telephone.


From: cmecf_fimd_notification@fimd.uscourts.gov
[mailto:cmecf_fimd_notification@fimd.uscourts.gov]
Sent: Thursday, February 09, 2017 10:29 AM

RE: Neitzelt

February 9, 2017 at 1:55 PM

From Richard Akin

To 'Catherine Czyz'

 Image72a816.JPG 4.72 KB

So you do not represent Ms. Neitzlet at this time? If so, may I have her number so that I may call her and speak to her about this? Is there any way that you can call me and we can talk because clearly something is being lost in our email communication.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

richard.akin@henlaw.com

www.henlaw.com



Henderson|Franklin
ATTORNEYS AT LAW

CONFIDENTIALITY STATEMENT

Henderson, Franklin, Starnes & Holt, P.A.

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Thursday, February 09, 2017 4:50 PM

To: Richard Akin

Subject: Re: Neitzelt

No, I don't agree with anything you stated. Clearly, my motion to appear on Erin Neitzelt's behalf was denied. Clearly, she filed a motion for stay pro se, which means she represents herself because I cannot at this time. She would like a continuance. I will tell her to write a response to the Court.

Sent from my iPhone

On Feb 9, 2017, at 4:45 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com

<image309529.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com


<DOCS-#2214796-v1-RBA_Neitzelt-Response_to_Show_Cause.docx>

RE: Neitzelt

February 9, 2017 at 2:00 PM

From Richard Akin

To 'Catherine Cxyz'

 [naged0b1e.JPG 4.72 KB]

So you do or do not represent Ms. Neitzelt at this time? You are unwilling to call me? I have called your office 3 times this afternoon and it goes to voicemail each time.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

richard.akin@henlaw.com

www.henlaw.com



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From: Catherine Cxyz [mailto:catherinecxyz@icloud.com]
Sent: Thursday, February 09, 2017 4:59 PM
To: Richard Akin
Subject: Re: Neitzelt

I'm leaving the office in two minutes.

Sent from my iPhone

On Feb 9, 2017, at 4:55 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

So you do not represent Ms. Neitzelt at this time? If so, may I have her number so that I may call her and speak to her about this? Is there any way that you can call

me and we can talk because clearly something is being lost in our email communication.

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com

<image72a816.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyk@icloud.com>]
Sent: Thursday, February 09, 2017 4:50 PM
To: Richard Akin
Subject: Re: Neitzelt

No, I don't agree with anything you stated. Clearly, my motion to appear on Erin Neitzelt's behalf was denied. Clearly, she filed a motion for stay pro se, which means she represents herself because I cannot at this time. She would like a continuance. I will tell her to write a response to the Court.

Sent from my iPhone

On Feb 9, 2017, at 4:45 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182

Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com

<image309529.JPG>

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administrator@henlaw.com

<DOCS-#2214796-v1-RBA_Neitzelt-Response_to_Show_Cause.docx>

Legal Secretary to Richard B. Akin
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1106
Fax: 239.344.1200
denise.lunsford@henlaw.com
www.henlaw.com

<image7c1042.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Thursday, December 29, 2016 4:40 PM
To: Denise Lunsford
Subject: Re: Neitzelt, Erin v. Gould, Rachel and LCSB;; SERVICE OF COURT DOCUMENTS, Case No: 2:16-cv-898

Please provide me with the email for the attorney of record. Please forward this message to him. First, I am not receiving pleading from the middle district federal court as I am not a member. Please withdraw any motions until I am waived in. It is the holidays and the court has not contacted me. If a notice of withdrawal is not filed by tomorrow I will have to write the court and ask for sanctions. Also, the letter you sent yesterday was mailed by you to the wrong address. Our service address on the pleadings and mailing address on our letterhead is the same: POBox: 243 Bloomingdale, NJ 07403. Please note that. Also, I do not wish any animosity between us. Do you have time tomorrow afternoon for a telephone conference?

Catherine E. Czyz, Esq.

Sent from my iPhone

On Dec 28, 2016, at 3:06 PM, Denise Lunsford <Denise.Lunsford@henlaw.com> wrote:

Good afternoon,

Please find attached courtesy copies of the recently filed pleadings in *Neitzelt v. Gould*, Case No: 2:16-cv-898, currently pending in the Middle District Court, Fort Myers, Lee County, Florida:

1. Defendants' Motion to Dismiss
2. Defendants' Notice of Pendency
3. Defendants' Certificate of Interested Persons

Thank you, Denise Lunsford
On behalf of Richard Akin, Esquire
239.344.1182

Denise Lunsford
Legal Secretary to Richard B. Akin
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1106
Fax: 239.344.1200
denise.lunsford@henlaw.com
www.henlaw.com

<imageddf7dc.JPG>

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to: administrator@henlaw.com

<Neitzelt #5 Notice of Pendency.pdf>

<Neitzelt #4 motion to dismiss.pdf>

<Neitzelt #6 CIP.pdf>

Neitzelt

March 14, 2017 at 9:06 AM

From Richard Akin

To 'Catherine Czyz'

📎 [image13f3b.JPG 4.72 KB, [3426533] ...to dismiss.pdf 45.46 KB

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ERIN NEITZELT,

Plaintiff,

v.

CASE NO. 2:16-CV-898

RACHEL GOULD and THE SCHOOL
DISTRICT OF LEE COUNTY,

Defendants.

**DEFENDANTS' RESPONSE TO COURT'S FEBRUARY 9, 2017,
ORDER TO SHOW CAUSE**

Defendants, THE SCHOOL DISTRICT OF LEE COUNTY ("School Board") and RACHEL GOULD, by and through their undersigned counsel, file this Response to the Court's February 9, 2017, Order Directing the Parties to Conduct Case Management Conference or Show Cause. (Doc. 17.)

1. On February 9, 2017, the Court entered an Order directing the parties to conduct the Case Management Conference and file a Case Management Report by February 10, 2017, or show cause why they cannot comply with the Order. (Doc. 17).

2. The undersigned counsel for the Defendants has reached out to counsel for the Plaintiff, Catherine Czyz, on at least three separate occasions beginning in January in order to schedule a meeting to prepare the Case Management Report.

3. Given that Ms. Czyz is located on the East coast of Florida, the undersigned offered on several occasions to file a motion to permit the parties to conduct the case management conference by telephone.

4. On or about February 2, 2017, the Plaintiff purportedly filed a Motion to Stay the Case for sixty (60) days, on her own behalf, in order to allow Ms. Czyz sufficient time to be admitted to the Middle District of Florida. Despite that Motion, Ms. Czyz has continued to email the undersigned about this case, and it is the School Board's understanding that the Plaintiff is still represented by counsel (Ms. Czyz).

5. In response to the Court's February 9, 2017, Order, the undersigned again reached out to Ms. Czyz about conducting the Case Management Conference. Ms. Czyz objects to the filing of a Case Management Report due to the currently pending Motion to Stay. A true and correct copy of the correspondence with Ms. Czyz of February 9, 2017, is attached hereto as "Exhibit A."

6. The Defendants, THE SCHOOL DISTRICT OF LEE COUNTY ("School Board") and RACHEL GOULD, are both ready and willing to conduct the Case Management Conference and to file a Case Management Report, however counsel for the Plaintiff is unwilling to participate in such a meeting at this time due to the pending Motion for Stay.

Statement Pursuant to Local Rule 3.01(g)

The undersigned hereby certifies that he has spoken with counsel for the Plaintiff regarding the matters raised in this motion. The parties were unable to resolve the issues regarding the Case Management Report.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been electronically filed with the Clerk of Court using the E-Portal Filing System this _____ day of February, 2017, and a copy of the same will be furnished by electronic mail to the following:

CZYZ LAW FIRM, P.A.
Catherine E. Czyz, Esquire
777 South Flagler Drive,
Suite 800, West Drive
West Palm Beach, FL 33401
Tel: 561.628.1044
Tel: 561.502.1542
info@czyzlawfirm.com
catherineczyz@icloud.com
Attorney for Plaintiff
Florida Bar No. 105627

HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
Attorneys for The School District of Lee County
and Rachel Gould
Post Office Box 280
1715 Monroe Street
Fort Myers, FL 33902-0280
239.344.1182
239.344.1554 Facsimile
Primary email: Richard.akin@henlaw.com
Secondary email: denise.lunsford@henlaw.com

By: /s/ Richard Akin
Richard Akin II
Florida Bar No. 068112

Re: Erin Neitzelt v Rachel Gould et al

February 24, 2017 at 7:29 AM

From Richard Akin

To Catherine Czyz

Cc Denise Lunsford, "cayocsun@yahoo.com"

Thanks. Can you tell me who she has retained?

Richard Akin

Office: (239) 344-1182

Mobile: (239) 564-0867

On Feb 24, 2017, at 9:37 AM, Catherine Czyz <catherineczyz@icloud.com> wrote:

Dear Counsel:

Mrs. Neitzelt advised me yesterday that she retained new counsel for her case. I can no longer receive pleadings from you or from the Court on this case for Mrs. Neitzelt. Please advise as soon as her new attorney files the Notice of Appearance so that I may close my file. Thank you.

Catherine E. Czyz, Esq.

• Sent from my iPhone

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

richard.akin@henlaw.com

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RE:

March 3, 2017 at 8:01 AM

From Richard Akin

To 'Catherine Czyz'

Yes, her new attorney appeared.

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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-----Original Message-----

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Friday, March 03, 2017 10:56 AM
To: Richard Akin
Subject:

Hello Mr. Akin can you please advise if Mrs. nettles new attorney filed a notice of appearance and or pleadings in the case thank you

RE: Erin N., Notice of Appearance and Voluntary Dismissal

March 13, 2017 at 10:59 AM

From Richard Akin

To 'Catherine Czyz'

Her new attorney's email address is jason@gunterfirm.com

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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-----Original Message-----

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Monday, March 13, 2017 2:44 PM

To: Richard Akin

Subject: Erin N., Notice of Appearance and Voluntary Dismissal

Dear Mr. Akin:

You told me that Mrs. Neitzelt's new attorney filed a Notice of Appearance on the case. I will need a copy of that and a copy of the Voluntary Dismissal for my file. Please email me copies. Thanks.

Catherine E. Czyz, Esq.

Sent from my iPhone

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ERIN NEITZELT,

Plaintiff,

vs.

CASE NO.: 2:16-cv-00898

THE SCHOOL BOARD OF LEE COUNTY
and RACHEL GOULD, Individually,

Defendants,
_____ /

JOINT STIPULATION FOR DISMISSAL WITH PREJUDICE

Plaintiff, ERIN NEITZELT, and Defendants, THE SCHOOL BOARD OF LEE COUNTY and RACHEL GOULD, Individually, by and through their undersigned attorneys, and pursuant to the provisions of the Federal Rules of Civil Procedure, Rule 41(a)(1)(ii), hereby jointly stipulate and agree to dismiss the above-styled case *with prejudice*, with each party to bear and be responsible for the payment of their/its own respective costs and attorneys' fees incurred in connection with this action.

Dated this 28th day of February, 2017.

/s/ Jason L. Gunter
Jason L. Gunter, Esq.
Florida Bar No.: 0134694
Conor P. Foley, Esq.
Florida Bar No.: 111977
JASON L. GUNTER, P.A.
jason@gunterfirm.com
conor@gunterfirm.com
1514 Broadway, Suite 101
Fort Myers, Florida 33901
Telephone: (239) 334-7017
Facsimile: (239) 236-8008
Counsel for Plaintiff

/s/Richard Akin
Richard Akin, Esq.
Florida Bar No.: 68112
Richard.akin@henlaw.com
HENDERSON, FRANKLIN, STARNES &
HOLT, P.A
1715 Monroe Street
P.O. Box 280
Fort Myers, Florida 33902
Telephone: (239) 344-1182
Facsimile: (239) 344-1554
Counsel for Defendants


RE: Response Case Number 16cv989

February 10, 2017 at 8:33 AM

From Richard Akin

To 'Catherine Czyz'

Cc: Denise Lunsford

 Image279c22.JPG 4.72 KB

I will attach it to my Response.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyk@icloud.com>]

Sent: Friday, February 10, 2017 11:21 AM

To: Richard Akin

Cc: Denise Lunsford

Subject: Re: Response Case Number 16cv989

Can you please upload this for Mrs. Neitzelt?

Sent from my iPhone

On Feb 10, 2017, at 11:19 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

I do not have Judge Miranda's email address.

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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<image4d9aac.JPG>

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From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Friday, February 10, 2017 11:07 AM
To: Richard Akin; Denise Lunsford; Susan Peters; chambers_FLMD_Chappell@flmd.uscourts.gov; leslie_m_friedmann@flmd.uscourts.gov
Cc: cayocsun@yahoo.com
Subject: Fwd: Response Case Number 16cv989

Please forward this to Magistrate Judge Carol Marando before 5:00pm today as we do not have an email for her. Mrs. Neitzelt applied for a pro se e-filing password but was not given one by the Court yet. Thank you for your courtesy in this regard.

Sent from my iPhone

Begin forwarded message:

From: cayocsun@yahoo.com
Date: February 10, 2017 at 10:40:02 AM EST
To: Catherine Czyz <catherineczyz@icloud.com>
Subject: **Response Case Number 16cv989**
Reply-To: cayocsun@yahoo.com

Re: Erin Neitzelt v Rachel Gould et al

February 24, 2017 at 7:29 AM

From Richard Akin

To Catherine Czyz

Cc Denise Lunsford, "cayocsun@yahoo.com"

Thanks. Can you tell me who she has retained?

Richard Akin

Office: (239) 344-1182

Mobile: (239) 564-0867

On Feb 24, 2017, at 9:37 AM, Catherine Czyz <catherineczyz@icloud.com> wrote:

Dear Counsel:

Mrs. Neitzelt advised me yesterday that she retained new counsel for her case. I can no longer receive pleadings from you or from the Court on this case for Mrs. Neitzelt. Please advise as soon as her new attorney files the Notice of Appearance so that I may close my file. Thank you.

Catherine E. Czyz, Esq.

Sent from my iPhone

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RE: Response Case Number 16cv989

February 10, 2017 at 8:33 AM

From Richard Akin

To 'Catherine Czyz'

Cc Denise Lunsford

 Image279c22.JPG 4.72 KB

I will attach it to my Response.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Friday, February 10, 2017 11:21 AM

To: Richard Akin

Cc: Denise Lunsford

Subject: Re: Response Case Number 16cv989

Can you please upload this for Mrs. Neitzelt?

Sent from my iPhone

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Sent: Friday, February 10, 2017 11:07 AM
To: Richard Akin; Denise Lunsford; Susan Peters; chambers_FLMD_Chappell@flmd.uscourts.gov; leslie_m_friedmann@flmd.uscourts.gov
Cc: cayocsun@yahoo.com
Subject: Fwd: Response Case Number 16cv989

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Begin forwarded message:

From: cayocsun@yahoo.com
Date: February 10, 2017 at 10:40:02 AM EST
To: Catherine Czyz <catherineczyz@icloud.com>
Subject: Response Case Number 16cv989
Reply-To: cayocsun@yahoo.com


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Richard Akin

Attorney

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Sent: Friday, February 10, 2017 11:21 AM

To: Richard Akin

Cc: Denise Lunsford

Subject: Re: Response Case Number 16cv989

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Ms. Czyz,

I do not have Judge Mirando's email address.

Richard Akin
Attorney
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From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Friday, February 10, 2017 11:07 AM
To: Richard Akin; Denise Lunsford; Susan Peters; chambers_FLMD_Chappell@flmd.uscourts.gov; leslie_m_friedmann@flmd.uscourts.gov
Cc: cayocsun@yahoo.com
Subject: Fwd: Response Case Number 16cv989

Please forward this to Magistrate Judge Carol Marando before 5:00pm today as we do not have an email for her. Mrs. Neitzelt applied for a pro se e-filing password but was not given one by the Court yet. Thank you for your courtesy in this regard.

Sent from my iPhone

Begin forwarded message:

From: cayocsun@yahoo.com
Date: February 10, 2017 at 10:40:02 AM EST
To: Catherine Czyz <catherineczyz@icloud.com>
Subject: **Response Case Number 16cv989**
Reply-To: cayocsun@yahoo.com


RE: Response Case Number 16cv989

February 10, 2017 at 8:19 AM

From Richard Akin

To 'Catherine Czyz'

Cc Denise Lunsford

 Page4d9aac.JPG 4.72 KB

Ms. Czyz,

I do not have Judge Miranda's email address.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

richard.akin@henlaw.com

www.henlaw.com



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Subject: Response Case Number 16cv989
Reply-To: cayocsun@yahoo.com

RE: Neitzelt

February 9, 2017 at 2:00 PM

From Richard Akin

To 'Catherine Czyz'

 [Fraged0ba1e.JPG](#) 4.72 KB

So you do or do not represent Ms. Neitzelt at this time? You are unwilling to call me? I have called your office 3 times this afternoon and it goes to voicemail each time.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

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P.O. Box 280

Fort Myers, FL 33902

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Direct Fax: 239.344.1554

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From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Thursday, February 09, 2017 4:59 PM

To: Richard Akin

Subject: Re: Neitzelt

I'm leaving the office in two minutes.

Sent from my iPhone

On Feb 9, 2017, at 4:55 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

So you do not represent Ms. Neitzlet at this time? If so, may I have her number so that I may call her and speak to her about this? Is there any way that you can call

me and we can talk because clearly something is being lost in our email communication.

Richard Akin
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Fort Myers, FL 33902
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Direct Fax: 239.344.1554
richard.akin@henlaw.com
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<image72a816.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyk@icloud.com>]
Sent: Thursday, February 09, 2017 4:50 PM
To: Richard Akin
Subject: Re: Neitzelt

No, I don't agree with anything you stated. Clearly, my motion to appear on Erin Neitzelt's behalf was denied. Clearly, she filed a motion for stay pro se, which means she represents herself because I cannot at this time. She would like a continuance. I will tell her to write a response to the Court.

Sent from my iPhone

On Feb 9, 2017, at 4:45 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

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1715 Monroe Street
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Fort Myers, FL 33902
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Direct Fax: 239.344.1554
richard.akin@henlaw.com
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<image309529.JPG>

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administrator@henlaw.com

<DOCS-#2214796-v1-RBA_Neitzelt-Response_to_Show_Cause.docx>

RE: Neitzelt

February 9, 2017 at 1:55 PM

From Richard Akin

To 'Catherine Czyz'

 [page72a816.JPG 4.72 KB]

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Richard Akin

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<image309529.JPG>

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<DOCS-#2214796-v1-RBA_Neitzelt-Response_to_Show_Causc.docx>

Neitzelt

February 9, 2017 at 1:45 PM

From Richard Akin

To 'Catherine Czyz'

 Page309529.JPG 4.72 KB,  DOCS-#2214...Show_Cause.docx 27.99 KB

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27.99 KB

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To: cmecf_fimd_notices@flmd.uscourts.gov

Subject: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al
Order no pdf

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U.S. District Court
Middle District of Florida

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The following transaction was entered on 2/9/2017 at 10:29 AM EST and filed on 2/9/2017

Case Name: Neitzelt v. Gould et al

Case Number: 2:16-cv-00898-UA-CM

Filer:

Document Number: 17(No document attached)

Docket Text:

ENDORSED ORDER directing parties to file a Case Management Report. The Related Case Order and Track Notice entered in this case on December 29, 2016 (Doc 7) states that "counsel and any and any unrepresented party shall meet within THIRTY (30) DAYS after service of the complaint upon any defendant, or the first appearance of any defendant, to prepare Case Management Report. The parties shall file the Case Management Report, using the attached form, within FOURTEEN(14) DAYS after meeting." To date, the parties have not filed their Case Management Report. This case is set for a Preliminary Pretrial Conference on February 15, 2017 before the undersigned. Thus, the Court directs the parties to file their Case Management Report on or before February 10th by 5:00 p.m. or show cause in writing as to why they are unable to do so. Signed by Magistrate Judge Carol Miranda on 2/9/2017. (WRW)

2:16-cv-00898-UA-CM Notice has been electronically mailed to:

Richard Barton Akin, II richard.akin@henlaw.com,
denise.lunsford@henlaw.com

Kyle Dudek kyle.dudek@henlaw.com,
susan.peters@henlaw.com

**2:16-cv-00898-UA-CM Notice has been delivered by
other means to:**

Catherine E. Czyz
The Czyz Law Firm, P.A.
P.O. Box 243
Bloomington, NJ 07403

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com

<image7d3158.JPG>

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administrator@henlaw.com

DOCS-#2214...Show_Cause

27.99 KB


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RE: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

February 9, 2017 at 1:20 PM

From Richard Akin

To 'Catherine Cxyz'

 [nagaf1eb56.JPG 4.72 KB]

Please let me know by 4:45 whether the Response that I sent you accurately represents your position. It needs to be filed this afternoon.

Thanks

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Cxyz [<mailto:catherinecxyz@icloud.com>]

Sent: Thursday, February 09, 2017 3:40 PM

To: Richard Akin

Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Please email me a copy of the motion so I can see that our objection is noted. Thanks.

Sent from my iPhone

On Feb 9, 2017, at 1:46 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

I need to know asap whether you will consent to conduct the joint conference by phone and whether you can have the conference tomorrow. I must file something by this afternoon with the federal court.

Thanks,

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<image6507e5.JPG>

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From: Catherine Czyz [mailto:catherineczyz@icloud.com]

Sent: Thursday, February 09, 2017 12:57 PM

To: Richard Akin

Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Please file a motion for continuance for us and the motion for stay as cause.

Sent from my iPhone

On Feb 9, 2017, at 10:50 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

From your last email, I understand that you would like to stipulate to extend the time to file the Joint Report. However, as you can see from the below order I received today, that is not an option. Please advise when you are available today or tomorrow to schedule a telephone conference to prepare the report. I will file a Motion allowing us to conduct the conference by telephone.

From: cmecf_flmd_notification@flmd.uscourts.gov
[mailto:cmecf_flmd_notification@flmd.uscourts.gov]
Sent: Thursday, February 09, 2017 10:29 AM
To: cmecf_flmd_notices@flmd.uscourts.gov
Subject: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

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Filer:
Document Number: 17(No document attached)

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to:

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P.O. Box 243
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Richard Akin
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RE: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

February 9, 2017 at 1:10 PM

From Richard Akin

To 'Catherine Czyz'

📎 Pageae320d.JPG 4.72 KB, 📎 OCS-#2214...Show_Cause.docx 27.99 KB

Ms. Czyz,

I am not sure I understand your position. Please review the attached and let me know if I have accurately stated your position. There is no point in filing a Motion to conduct the conference by phone if you object.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

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Sent from my iPhone

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Filer:
Document Number: 17(No document attached)

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denise.lunsford@henlaw.com

Kyle Dudek kyle.dudek@henlaw.com, susan.peters@henlaw.com

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To 'Catherine Czyz'

 Image6507e5.JPG 4.72 KB

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Richard Akin

Attorney

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Direct Fax: 239.344.1554

richard.akin@henlaw.com

www.henlaw.com



Henderson|Franklin
ATTORNEYS AT LAW

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Thursday, February 09, 2017 12:57 PM

To: Richard Akin

Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Please file a motion for continuance for us and the motion for stay as cause.

Sent from my iPhone

On Feb 9, 2017, at 10:50 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

From your last email, I understand that you would like to stipulate to extend the time to file the Joint Report. However, as you can see from the below order I received today, that is not an option. Please advise when you are available today or tomorrow to schedule a telephone conference to prepare the report. I will file a Motion allowing us to conduct the conference by telephone.

From: cmecf_flmd_notification@flmd.uscourts.gov
[mailto:cmecf_flmd_notification@flmd.uscourts.gov]
Sent: Thursday, February 09, 2017 10:29 AM
To: cmecf_flmd_notices@flmd.uscourts.gov
Subject: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

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U.S. District Court
Middle District of Florida

Notice of Electronic Filing

The following transaction was entered on 2/9/2017 at 10:29 AM EST and filed on 2/9/2017

Case Name: Neitzelt v. Gould et al
Case Number: 2:16-cv-00898-UA-CM
Filer:
Document Number: 17(No document attached)

Docket Text:

ENDORSED ORDER directing parties to file a Case Management Report. The Related Case Order and Track Notice entered in this case on December 29, 2016 (Doc 7) states that "counsel and any and any unrepresented party shall meet within THIRTY (30) DAYS after service of the complaint upon any defendant, or the first appearance of any defendant, to prepare Case Management Report. The parties shall file the Case Management Report, using the attached form, within FOURTEEN(14) DAYS after meeting." To date, the parties have not filed their Case Management Report. This case is set for a Preliminary Pretrial Conference on February 15, 2017 before the undersigned. Thus, the Court directs the parties to file their Case Management Report on or before February 10th by 5:00 p.m. or show cause in writing as to why they are unable to do so. Signed by Magistrate Judge Carol Mirando on 2/9/2017. (WRW)

2:16-cv-00898-UA-CM Notice has been electronically mailed to:

Richard Barton Akin, II richard.akin@henlaw.com, denise.lunsford@henlaw.com

Kyle Dudek kyle.dudek@henlaw.com, susan.peters@henlaw.com

2:16-cv-00898-UA-CM Notice has been delivered by other means to:

Catherine E. Czyz
The Czyz Law Firm, P.A.
P.O. Box 243
Bloomingdale, NJ 07403

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
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<image7d3158.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

email from attorney Atkin

February 9, 2017 at 10:07 AM

From Catherine Czyz

To catherineczyk@icloud.com

📎 Image7d3158.JPG 4.72 KB

Erin, this attorney wants to go forward with filling out the case management report by phone. I asked him to file a motion for continuance for us. He has not responded yet.

Subject: FW: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Ms. Czyz,

From your last email, I understand that you would like to stipulate to extend the time to file the Joint Report. However, as you can see from the below order I received today, that is not an option. Please advise when you are available today or tomorrow to schedule a telephone conference to prepare the report. I will file a Motion allowing us to conduct the conference by telephone.

From: cmecf_fimd_notification@fimd.uscourts.gov
[mailto:cmecf_fimd_notification@fimd.uscourts.gov]

Sent: Thursday, February 09, 2017 10:29 AM

To: cmecf_fimd_notices@fimd.uscourts.gov

Subject: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

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U.S. District Court
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Case Number: 2:16-cv-00898-UA-CM

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2:16-cv-00898-UA-CM Notice has been electronically mailed to:

Richard Barton Akin, II

Kyle Dudek

2:16-cv-00898-UA-CM Notice has been delivered by other means to:

Catherine E. Czyz
The Czyz Law Firm, P.A.
P.O. Box 243
Bloomingdale, NJ 07403

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
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RE: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

February 9, 2017 at 9:59 AM

From Richard Akin

To 'Catherine Czyz'

 Image02c6ce.JPG 4.72 KB

I will not file a Motion for Continuance of the Joint Conference since there is no reason why we cannot get together and discuss a joint report. I will file a Motion to conduct it by telephone and we can schedule a call for tomorrow. Is that acceptable?

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

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From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Thursday, February 09, 2017 12:57 PM

To: Richard Akin

Subject: Re: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

Please file a motion for continuance for us and the motion for stay as cause.

Sent from my iPhone

On Feb 9, 2017, at 10:50 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

From your last email, I understand that you would like to stipulate to extend the time to file the Joint Report. However, as you can see from the below order I received today, that is not an option. Please advise when you are available today or tomorrow to schedule a telephone conference to prepare the report. I will file a Motion allowing us to conduct the conference by telephone.

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Kyle Dudek kyle.dudek@henlaw.com, susan.peters@henlaw.com

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<image7d3158.JPG>

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FW: Activity in Case 2:16-cv-00898-UA-CM Neitzelt v. Gould et al Order no pdf

February 9, 2017 at 7:50 AM

From Richard Akin

To 'Catherine Czyz'

 Image7d3158.JPG 4.72 KB

Ms. Czyz,

From your last email, I understand that you would like to stipulate to extend the time to file the Joint Report. However, as you can see from the below order I received today, that is not an option. Please advise when you are available today or tomorrow to schedule a telephone conference to prepare the report. I will file a Motion allowing us to conduct the conference by telephone.

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Case Number: 2:16-cv-00898-UA-CM
Filer:

Document Number: 17(No document attached)

Docket Text:

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as to why they are unable to do so. Signed by Magistrate Judge Carol Miranda on 2/9/2017. (WRW)

2:16-cv-00898-UA-CM Notice has been electronically mailed to:

Richard Barton Akin, II richard.akin@henlaw.com, denise.lunsford@henlaw.com

Kyle Dudek kyle.dudek@henlaw.com, susan.peters@henlaw.com

2:16-cv-00898-UA-CM Notice has been delivered by other means to:

Catherine E. Czyz
The Czyz Law Firm, P.A.
P.O. Box 243
Bloomington, NJ 07403

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
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RE: Neitzelt, Erin v. Gould, Rachel and LCSB;; Joint Atty Meeting

February 2, 2017 at 2:08 PM

From Richard Akin

To 'Catherine Czyz'

Cc Denise Lunsford

 [hageddc261.JPG 4.72 KB]

Ms. Czyz,

There has been no order issued on the Motion to Stay. If I see one I will send it do you at this email address.

In the meantime, do you have an objection to me filing a motion to conduct the Rule 26 meeting by phone so that we do not get an order showing us both to show cause? Please let me know.

Sincerely,

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [mailto:catherineczyz@icloud.com]
Sent: Thursday, February 02, 2017 5:06 PM
To: Richard Akin
Subject: Re: Neitzelt, Erin v. Gould, Rachel and LCSB;; Joint Atty Meeting

I sent a letter today to the court. I just served it. As you know, I'm not licensed yet with the Court and would need permission to go forward. If an order was issued on the stay motion please advise. Thanks.

Sent from my iPhone

On Feb 1, 2017, at 4:03 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Good afternoon Ms. Czyz,

According to the Related Case Order in the Neitzelt matter, we must attend an in-person meeting and prepare a joint case management report, which then must be filed with the Court within 14 days of that meeting. Due to our different locations, I am offering to prepare a motion with the Court requesting the Court's permission, allowing us to prepare our joint case mgmt report via telephone conference. Please advise if you are in agreement with me preparing such a motion. If you are in agreement, please also advise if you have any of the following dates available for such telephone conference:

February 7th – open
February 8th – open
February 9th – open

Thank you, Denise Lunsford
On behalf of Richard Akin, Esquire

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
www.henlaw.com

<imageda0b65.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com


Neitzelt, Erin v. Gould, Rachel and LCSB;; Joint Atty Meeting

February 1, 2017 at 1:03 PM

From Richard Akin

To 'Catherine Czyz', "czyzlawfirm@aol.com"

Cc Richard Akin

 [mageda0b65.JPG 4.72 KB]

Good afternoon Ms. Czyz,

According to the Related Case Order in the Neitzelt matter, we must attend an in-person meeting and prepare a joint case management report, which then must be filed with the Court within 14 days of that meeting. Due to our different locations, I am offering to prepare a motion with the Court requesting the Court's permission, allowing us to prepare our joint case mgmt report via telephone conference. Please advise if you are in agreement with me preparing such a motion. If you are in agreement, please also advise if you have any of the following dates available for such telephone conference:

February 7th – open

February 8th – open

February 9th – open

Thank you, Denise Lunsford
On behalf of Richard Akin, Esquire

Richard Akin
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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

RE: W-2

February 1, 2017 at 11:21 AM

From Richard Akin

To 'Catherine Czyz'

Ms. Czyz,

At this time I have not heard anything about the W-2. Ms. Neitzelt may want to call human resources to find out where it was sent. The client will not talk to someone other than Ms. Czyz about her financial information, therefore there is little that I can do.

The school board does not wish to discuss settlement at this time.

Sincerely,

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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-----Original Message-----

From: Catherine Czyz [mailto:catherineczyz@icloud.com]
Sent: Wednesday, February 01, 2017 1:59 PM
To: Richard Akin
Subject: Re: W-2

Did your client respond about the W2? Also, can you see if they would like to discuss settlement of the case? Please let me know. Thanks.

Sent from my iPhone

On Jan 26, 2017, at 2:05 PM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

I do not have your client's W-2. I will forward your message on to the client.

•Richard Akin
Office: (239) 344-1182
Mobile: (239) 564-0867

On Jan 26, 2017, at 1:05 PM, Catherine Czyz <catherineczyz@icloud.com> wrote:

My client didn't receive her W-2 from Lee County Schools. Can you email it to me?
Thank you.

Sent from my iPhone

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
•P.O. Box 280
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Re: W-2

January 26, 2017 at 11:05 AM

From Richard Akin

To Catherine Czyz

Cc Denise Lunsford, Susan Peters

Ms. Czyz,

I do not have your client's W-2. I will forward your message on to the client.

Richard Akin

Office: (239) 344-1182

Mobile: (239) 564-0867

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RE: Orders

January 26, 2017 at 10:39 AM

From Denise Lunsford

To 'Catherine Czyz'

Cc Kyle Dudek, Richard Akin

📎 [14 Neitze...ncy Motion.pdf 250.34 KB, [13 Order ...ly to Pift.pdf 49.36 KB

Good afternoon,

Please find attached the most recent Orders from the Court in the Neitzelt matter. To our knowledge, the Court has not ruled on the Motion to Dismiss at this time.

Thank you, Denise Lunsford

Denise Lunsford
Legal Secretary to Richard B. Akin
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1106
Fax: 239.344.1200
denise.lunsford@henlaw.com
<http://www.henlaw.com>

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administrator@henlaw.com

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

From: Catherine Czyz [mailto:catherineczyz@icloud.com]
Sent: Thursday, January 26, 2017 1:07 PM
To: Denise Lunsford; Richard Akin; Susan Peters
Subject: Orders

I have not received any orders from the Court. Please advise if the court ruled on the motion to dismiss

Sent from my iPhone

RE: Orders

January 26, 2017 at 10:39 AM

From Denise Lunsford

To 'Catherine Czyz'

Cc Kyle Dudek, Richard Akin

📎 14 Neitze...ncy Motion.pdf 250.34 KB, 13 Order ...ly to Pift.pdf 49.36 KB

Good afternoon,

Please find attached the most recent Orders from the Court in the Neitzelt matter. To our knowledge, the Court has not ruled on the Motion to Dismiss at this time.

Thank you, Denise Lunsford

Denise Lunsford
Legal Secretary to Richard B. Akin
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1106
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-----Original Message-----

From: Catherine Czyz [mailto:catherineczyk@icloud.com]
Sent: Thursday, January 26, 2017 1:07 PM
To: Denise Lunsford; Richard Akin; Susan Peters
Subject: Orders

I have not received any orders from the Court. Please advise if the court ruled on the motion to dismiss

Sent from my iPhone


RE: Response Case Number 16cv989

February 10, 2017 at 8:33 AM

From Richard Akin

To 'Catherine Czyz'

Cc Denise Lunsford

 Page279c22.JPG 4.72 KB

I will attach it to my Response.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

richard.akin@henlaw.com

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Henderson|Franklin
ATTORNEYS AT LAW

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]

Sent: Friday, February 10, 2017 11:21 AM

To: Richard Akin

Cc: Denise Lunsford

Subject: Re: Response Case Number 16cv989

Can you please upload this for Mrs. Neitzelt?

Sent from my iPhone

On Feb 10, 2017, at 11:19 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:

Ms. Czyz,

I do not have Judge Miranda's email address.

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
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<image4d9aac.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Friday, February 10, 2017 11:07 AM
To: Richard Akin; Denise Lunsford; Susan Peters; chambers_FLMD_Chappell@flmd.uscourts.gov; leslie_m_friedmann@flmd.uscourts.gov
Cc: cayocsun@yahoo.com
Subject: Fwd: Response Case Number 16cv989

Please forward this to Magistrate Judge Carol Marando before 5:00pm today as we do not have an email for her. Mrs. Neitzelt applied for a pro se e-filing password but was not given one by the Court yet. Thank you for your courtesy in this regard.

Sent from my iPhone

Begin forwarded message:

From: cayocsun@yahoo.com
Date: February 10, 2017 at 10:40:02 AM EST
To: Catherine Czyz <catherineczyz@icloud.com>
Subject: Response Case Number 16cv989
Reply-To: cayocsun@yahoo.com

RE: Response Case Number 16cv989

February 10, 2017 at 8:33 AM

From Richard Akin

To 'Catherine Czyn'

Cc Denise Lunsford

📎 Page279c22.JPG 4.72 KB

I will attach it to my Response.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyn [mailto:catherineczyn@icloud.com]

Sent: Friday, February 10, 2017 11:21 AM

To: Richard Akin

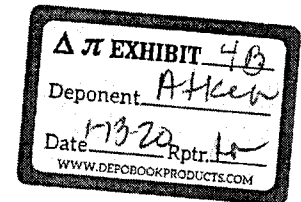
Cc: Denise Lunsford

Subject: Re: Response Case Number 16cv989

Can you please upload this for Mrs. Neitzelt?

Sent from my iPhone

On Feb 10, 2017, at 11:19 AM, Richard Akin <Richard.Akin@henlaw.com> wrote:



Ms. Czyz,

I do not have Judge Miranda's email address.

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
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<image4d9aac.JPG>

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Friday, February 10, 2017 11:07 AM
To: Richard Akin; Denise Lunsford; Susan Peters; chambers_FLMD_Chappell@flmd.uscourts.gov; leslie_m_friedmann@flmd.uscourts.gov
Cc: cayocsun@yahoo.com
Subject: Fwd: Response Case Number 16cv989

Please forward this to Magistrate Judge Carol Marando before 5:00pm today as we do not have an email for her. Mrs. Neitzelt applied for a pro se e-filing password but was not given one by the Court yet. Thank you for your courtesy in this regard.

Sent from my iPhone

Begin forwarded message:

From: cayocsun@yahoo.com
Date: February 10, 2017 at 10:40:02 AM EST
To: Catherine Czyz <catherineczyz@icloud.com>
Subject: Response Case Number 16cv989
Reply-To: cayocsun@yahoo.com


RE: Response Case Number 16cv989

February 10, 2017 at 8:19 AM

From Richard Akin

To 'Catherine Cxyz'

Cc Denise Lunsford

 raged4d9aac.JPG 4.72 KB

Ms. Cxyz,

I do not have Judge Miranda's email address.

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

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Direct Dial: 239.344.1182

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To reply to our e-mail administrator directly, please send an e-mail to: administrator@henlaw.com

From: Catherine Cxyz [mailto:catherinecxyz@icloud.com]

Sent: Friday, February 10, 2017 11:07 AM

To: Richard Akin; Denise Lunsford; Susan Peters; chambers_FLM_D_Chappell@flmd.uscourts.gov;

leslie_m_friedmann@flmd.uscourts.gov

Cc: cayocsun@yahoo.com

Subject: Fwd: Response Case Number 16cv989

Please forward this to Magistrate Judge Carol Marando before 5:00pm today as we do not have an email for her. Mrs. Neitzelt applied for a pro se e-filing password but was not given one by the Court yet. Thank you for your courtesy in this regard.

Sent from my iPhone

Begin forwarded message:

From: cayocsun@yahoo.com
Date: February 10, 2017 at 10:40:02 AM EST
To: Catherine Czyz <catherineczyz@icloud.com>
Subject: Response Case Number 16cv989
Reply-To: cayocsun@yahoo.com

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ERIN NEITZELT,

Plaintiff,

v.

CASE NO. 2:16-CV-898

RACHEL GOULD and THE SCHOOL
DISTRICT OF LEE COUNTY,

Defendants.

**DEFENDANTS' RESPONSE TO COURT'S FEBRUARY 9, 2017,
ORDER TO SHOW CAUSE**

Defendants, THE SCHOOL DISTRICT OF LEE COUNTY ("School Board") and RACHEL GOULD, by and through their undersigned counsel, file this Response to the Court's February 9, 2017, Order Directing the Parties to Conduct Case Management Conference or Show Cause. (Doc. 17.)

1. On February 9, 2017, the Court entered an Order directing the parties to conduct the Case Management Conference and file a Case Management Report by February 10, 2017, or show cause why they cannot comply with the Order. (Doc. 17).

2. The undersigned counsel for the Defendants has reached out to counsel for the Plaintiff, Catherine Czyz, on at least three separate occasions beginning in January in order to schedule a meeting to prepare the Case Management Report.

3. Given that Ms. Czyz is located on the East coast of Florida, the undersigned offered on several occasions to file a motion to permit the parties to conduct the case management conference by telephone.

4. On or about February 2, 2017, the Plaintiff purportedly filed a Motion to Stay the Case for sixty (60) days, on her own behalf, in order to allow Ms. Czyz sufficient time to be admitted to the Middle District of Florida. Despite that Motion, Ms. Czyz has continued to email the undersigned about this case, and it is the School Board's understanding that the Plaintiff is still represented by counsel (Ms. Czyz).

5. In response to the Court's February 9, 2017, Order, the undersigned again reached out to Ms. Czyz about conducting the Case Management Conference. Ms. Czyz objects to the filing of a Case Management Report due to the currently pending Motion to Stay. A true and correct copy of the correspondence with Ms. Czyz of February 9, 2017, is attached hereto as "Exhibit A."

NO EXHIBIT "A" ATTACHED TO E-MAIL

6. The Defendants, THE SCHOOL DISTRICT OF LEE COUNTY ("School Board") and RACHEL GOULD, are both ready and willing to conduct the Case Management Conference and to file a Case Management Report, however counsel for the Plaintiff is unwilling to participate in such a meeting at this time due to the pending Motion for Stay.

Statement Pursuant to Local Rule 3.01(g)

The undersigned hereby certifies that he has spoken with counsel for the Plaintiff regarding the matters raised in this motion. The parties were unable to resolve the issues regarding the Case Management Report.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been electronically filed with the Clerk of Court using the E-Portal Filing System this _____ day of February, 2017, and a copy of the same will be furnished by electronic mail to the following:

CYZY LAW FIRM, P.A.
Catherine E. Czyz, Esquire
777 South Flagler Drive,
Suite 800, West Drive
West Palm Beach, FL 33401
Tel: 561.628.1044
Tel: 561.502.1542
info@czyzlawfirm.com
catherineczyz@icloud.com
Attorney for Plaintiff
Florida Bar No. 105627

HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
Attorneys for The School District of Lee County
and Rachel Gould
Post Office Box 280
1715 Monroe Street
Fort Myers, FL 33902-0280
239.344.1182
239.344.1554 Facsimile
Primary email: Richard.akin@henlaw.com
Secondary email: denise.lunsford@henlaw.com

By: /s/ Richard Akin
Richard Akin II
Florida Bar No. 068112

Re: Erin Neitzelt v Rachel Gould et al

February 24, 2017 at 7:29 AM

From Richard Akin

To Catherine Czyz

Cc Denise Lunsford, "cayocsun@yahoo.com"

Thanks. Can you tell me who she has retained?

Richard Akin
Office: (239) 344-1182
Mobile: (239) 564-0867

On Feb 24, 2017, at 9:37 AM, Catherine Czyz <catherineczyz@icloud.com> wrote:

Dear Counsel:

Mrs. Neitzelt advised me yesterday that she retained new counsel for her case. I can no longer receive pleadings from you or from the Court on this case for Mrs. Neitzelt. Please advise as soon as her new attorney files the Notice of Appearance so that I may close my file. Thank you.

Catherine E. Czyz, Esq.

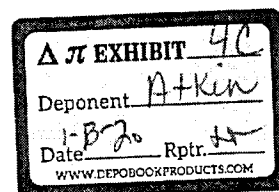
• Sent from my iPhone

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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RE:

March 3, 2017 at 8:01 AM

From Richard Akin

To 'Catherine Czyz'

Yes, her new attorney appeared.

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
richard.akin@henlaw.com
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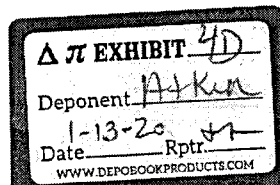
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-----Original Message-----

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Friday, March 03, 2017 10:56 AM
To: Richard Akin
Subject:

Hello Mr. Akin can you please advise if Mrs. nettles new attorney filed a notice of appearance and or pleadings in the case thank you



RE: Erin N., Notice of Appearance and Voluntary Dismissal

March 13, 2017 at 10:59 AM

From Richard Akin

To 'Catherine Czyz'

Her new attorney's email address is jason@gunterfirm.com

Richard Akin
Attorney
Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, FL 33902
Direct Dial: 239.344.1182
Direct Fax: 239.344.1554
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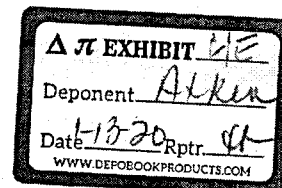
To reply to our e-mail administrator directly, please send an e-mail to:
administrator@henlaw.com

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

From: Catherine Czyz [<mailto:catherineczyz@icloud.com>]
Sent: Monday, March 13, 2017 2:44 PM
To: Richard Akin
Subject: Erin N., Notice of Appearance and Voluntary Dismissal

Dear Mr. Akin:



You told me that Mrs. Neitzelt's new attorney filed a Notice of Appearance on the case. I will need a copy of that and a copy of the Voluntary Dismissal for my file. Please email me copies. Thanks.

Catherine E. Czyz, Esq.

Sent from my iPhone

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ERIN NEITZELT,

Plaintiff,

vs.

CASE NO.: 2:16-cv-00898

THE SCHOOL BOARD OF LEE COUNTY
and RACHEL GOULD, Individually,

Defendants,

JOINT STIPULATION FOR DISMISSAL WITH PREJUDICE

Plaintiff, ERIN NEITZELT, and Defendants, THE SCHOOL BOARD OF LEE COUNTY and RACHEL GOULD, Individually, by and through their undersigned attorneys, and pursuant to the provisions of the Federal Rules of Civil Procedure, Rule 41(a)(1)(ii), hereby jointly stipulate and agree to dismiss the above-styled case *with prejudice*, with each party to bear and be responsible for the payment of their/its own respective costs and attorneys' fees incurred in connection with this action.

Dated this 28th day of February, 2017.

/s/ Jason L. Gunter
Jason L. Gunter, Esq.
Florida Bar No.: 0134694
Conor P. Foley, Esq.
Florida Bar No.: 111977
JASON L. GUNTER, P.A.
jason@gunterfirm.com
conor@gunterfirm.com
1514 Broadway, Suite 101
Fort Myers, Florida 33901
Telephone: (239) 334-7017
Facsimile: (239) 236-8008
Counsel for Plaintiff

/s/Richard Akin
Richard Akin, Esq.
Florida Bar No.: 68112
Richard.akin@henlaw.com
HENDERSON, FRANKLIN, STARNES &
HOLT, P.A.
1715 Monroe Street
P.O. Box 280
Fort Myers, Florida 33902
Telephone: (239) 344-1182
Facsimile: (239) 344-1554
Counsel for Defendants

Netzelt

March 14, 2017 at 9:06 AM

From Richard Akin

To 'Catherine Cxyz'

📎 [nage24t6t.JPG 4.72 KB, [B426532] ..NOA Gunter.pdf 42.75 KB

Richard Akin

Attorney

Henderson, Franklin, Starnes & Holt, P.A.

1715 Monroe Street

P.O. Box 280

Fort Myers, FL 33902

Direct Dial: 239.344.1182

Direct Fax: 239.344.1554

richard.akin@henlaw.com

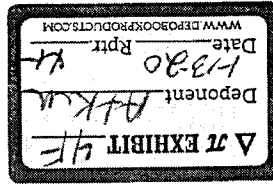
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ERIN NEITZELT,

Plaintiff,

vs.

CASE NO.: 2:16-cv-00898

THE SCHOOL BOARD OF LEE COUNTY
and RACHEL GOULD, Individually,

Defendants,
_____ /

**NOTICE OF APPEARANCE ON BEHALF OF
PLAINTIFF ERIN NEITZELT**

NOTICE IS HEREBY given that Jason L. Gunter, Esq. and Conor P. Foley, Esq., of Jason L. Gunter, P.A. enter their appearance as counsel on behalf of Plaintiff, Erin Neitzelt, and request that all future pleadings and other documents be served on the undersigned.

By: /s/ Jason Gunter, Esq.

Jason L. Gunter
Fla. Bar. No. 0134694
Conor P. Foley, Esq.
Fla. Bar No. 111977
JASON L. GUNTER, P.A.
1514 Broadway, Suite 101
Fort Myers, FL 33901
Tel. No.: (239) 334-7017
Fax No.: (239) 236-8008
Email: Jason@gunterfirm.com
Email: Conor@gunterfirm.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system this 28th day of February, 2017.

/s/ Jason Gunter, Esq.

Jason L. Gunter, Esq.

Phillips Point
777 S. Flagler Drive
Suite 800, West Tower
W. Palm Beach, FL 33401

The Czyz Law Firm, P.A.

Mailing Address:
P.O. Box: 243
Bloomingdale, NJ 07403
Telephone: (561) 628-1044
Email: info@czyzlawfirm.com

Catherine E. Czyz, Esq.

December 23, 2016

VIA US MAIL

Judge Sheri Polster Chappell
U.S. Courthouse and Federal Building
2110 First Street
Fort Myers, FL 33901

RE: Erin Neitzelt v. Rachel Gould and Lee County School District
Case Number: 2016CA004119A001CH

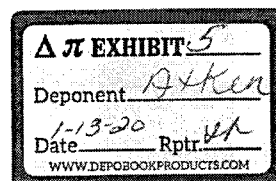
Dear Judge Chappell:

This law firm represents Erin Neitzelt in a case filed in November, 2016 against Rachel Gould and Lee County School District in the Circuit Court of Lee County, Florida. The Complaint alleges seven (7) counts, six (6) are state claims and one (1) is a federal claim. Concurrent jurisdiction allows the federal claim to be ruled upon by the state Court.

On December 22, 2016, via e-mail only, we received a one page letter to Your Honor dated December 21, 2016 from Lee County School District's counsel, stating that it was hand delivered on December 21, 2016 with multiple pleadings enclosed. The letter clearly states that the pleadings were not served upon us (cc: Catherine Czyz w/o enclosure). The letter also incorrectly advises the Court that the style of our case is, "Neitzelt v. Lee County School District, case number: 2:16-ex-898-FIM-99". As no pleadings were served, we cannot file a responsive pleading to whatever unknown pleadings were filed with the Court.

Furthermore, as Lee County School District purposely filed pleading without serving them upon us, and as the letter was not served upon us until December 22, 2016, just before Christmas, done so with the intent of this Honorable Court issuing an Order without our notice to the Court of these violations, please accept this letter as a Motion for Sanctions striking the filed pleadings and awarding us seven hundred and fifty dollars (\$750.00) in attorney's fees and costs for time and expense in preparing this letter/motion. The law firm's U.S. P. S. mailing address for correspondence and pleadings is:

The Czyz Law Firm, P.A.



Phillips Point
777 S. Flagler Drive
Suite 800, West Tower
W. Palm Beach, FL 33401

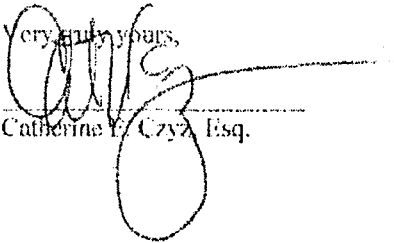
The Czyz Law Firm, P.A.

Mailing Address:
P.O. Box: 243
Bloomington, NJ 07403
Telephone: (561) 628-1044
Email: info@czyzlawfirm.com

Catherine E. Czyz, Esq.

P.O. Box: 243
Bloomington, NJ 07403

Our e-mail addresses are catherineczyz@icloud.com and info@czyzlawfirm.com. If you need to reach me directly, please call 561-502-1542.

Very truly yours,

Catherine E. Czyz, Esq.

CEC/cc
cc: Richard B. Aklo

Kyle Dudek

From: Denise Lunsford
Sent: Friday, December 30, 2016 12:09 PM
To: Kyle Dudek
Subject: FW: Neitzelt, Erin v. Gould, Rachel and LCSB;; SERVICE OF COURT DOCUMENTS, Case No: 2:16-cv-898

From: Catherine Czyz [mailto:catherineczyz@icioud.com]
Sent: Friday, December 30, 2016 11:47 AM
To: Denise Lunsford
Cc: Richard Akin
Subject: Re: Neitzelt, Erin v. Gould, Rachel and LCSB;; SERVICE OF COURT DOCUMENTS, Case No: 2:16-cv-898

Dear Me. Akin:

Your secretary responded to my email but specifically did not respond to whether or not you will withdraw the motions. This is the second time I am going to advise you that I am NOT a member of the Middle District federal court, therefore, I am not getting pleadings from the court nor may I file pleadings with the court. Again for the second time to the fact that you are filing these pleadings during The Christmas and new year holidays I am not getting any response from the court to my calls. At this point it's just sanctionable it's also an ethical if you do not withdraw your motions and pleadings. I want to response from you directly I don't want to hear from your secretary to let me know if you're going to withdraw them today by 5 PM. If not I won't just contact the court I will also contact the Florida bar next week to make a complaint against you to let them know that you're knowing proceeding against my client who cannot respond to the pleadings in a dubious manner to get the case dismissed before I can get admitted and/or advise the Court of the problem.

Sent from my iPhone

On Dec 30, 2016, at 8:40 AM, Denise Lunsford <Denise.Lunsford@henlaw.com> wrote:

Good morning Ms. Czyz,

Please be advised that Mr. Akin is out of the office until January 2, 2017. If you would like to schedule a conference call for next week, I will be happy to do so. The email address for Mr. Akin is Richard.Akin@henlaw.com, which has been provided on all pleadings, in state court and federal court. I have copied him on this email as well. Regarding the letter we sent you, all correspondence with you up to this point has been via email, and any physical address we have for you came from the Amended Complaint. Thank you for providing a new address and I will note our file. However, our primary delivery of correspondence is email. If I can be of further assistance, please let me know.

Thank you, Denise Lunsford

Denise Lunsford



FLORIDA BAR COMPLAINT

pleadings and awarding plaintiff attorney's fees under 57.105. This motion was drafted by respondent.

27. Respondent billed Neitzelt 3 hours, at \$500 per hour, to research case law in preparation for drafting the emergency motion, despite their amended agreement.

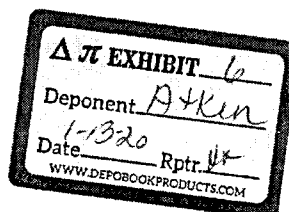
28. On January 18, 2017, the court denied the motion in its entirety, stating:

"[Czyz's] request for sanctions is without basis. Defendants do not have to wait for opposing counsel to complete her application to practice in the Middle District of Florida prior to filing for removal or continue litigating their case. Defendants' removal and subsequent motions are properly filed; therefore, sanctions are not appropriate."

29. On February 2, 2017, Neitzelt filed a pro se Motion to Stay, again drafted by respondent, requesting an additional 60 days for respondent to be admitted to the District Court or, in the alternative, for Neitzelt to obtain new counsel.

30. On February 9, 2017, respondent represented to [the school district] that she no longer represented Neitzelt. Based on this representation, the court deemed Neitzelt to be proceeding pro se.

31. On February 9, 2017, Neitzelt emailed respondent and asked for, at least, a partial refund of fees she had previously paid. Respondent refused.



**NITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

CASE NO: 2:16-cv-898-FtM-99

ERIN NEITZELT

Plaintiff,

vs.

RACHEL GOULD

And

LEE COUNTY SCHOOL BOARD,

Defendant.

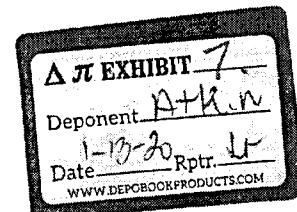
PLAINTIFF'S, ERIN NEITZELT'S, RE-NOTICE OF MAILING ADDRESSES

COMES NOW, the Plaintiff, Erin Neitzelt, and files, this, her re-notice of mailing addresses as follows:

1. E-mail: catherineczyz@icloud.com (primary)
info@czyzlawfirm.com (secondary)
czyzlawfirm@aol.com (secondary)

2. US Mail: Catherine E. Czyz, Esq,
The Czyz Law Firm, P.A.
P.O.Box: 243
Bloomingdale, NJ 07403

CERTIFICATE OF SERVICE



I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail this 2nd day of February, 2017 to:

Richard Akin, II and Kyle C. Dudek
Henderson, Franklin, Starnes & Holt, P.A.
POBox: 280
1715 Monroe Street
Ft. Myers, FL 33902-0280

RESPECTFULLY SUBMITTED BY:

By: /s/ Catherine E. Czyz
Catherine E. Czyz, Esq.

The Czyz Law Firm, P.A.
US mailing address:
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Catherine E. Czyz, Esq.

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Bloomingdale, NJ 07403
Telephone: (561) 628-1044
Email: info@czyzlawfirm.com

2017
February 2, 2016

VIA E-MAIL AND US MAIL

Attn: Civil Clerk of Court - Pleadings
U.S. Courthouse and Federal Building
2110 First Street
Fort Myers, FL 33901

RE: Erin Neitzelt v. Racheal Gould and Lee County School District
Case Number: 2:16-cv-898-FtM-99

Dear Civil Clerk of Court:

We have advised the Court previously that we are not receiving any correspondence or Orders from the Court. Enclosed is a Re-Notice of our e-mail and US mailing addresses. Please note that these addresses are listed with the Florida Bar, the Florida Courts e-portal filing system, and on our letterhead. The e-mail address is also on our website. We do not list a US mailing address on our website.

We were advised last week by a Court Clerk that an Order was issued but mailed to our physical address where we do not receive any mail. Please send any and all Orders or other correspondence to our e-mail addresses listed in the Re-Notice enclosed as soon as possible.

If for any reason the Orders and/or correspondence must be sent via US mail, please contact Catherine E. Czyz, Esq. directly at **561-502-1542**, and we will supply a pre-addressed stamped envelope. Thank you.

Very truly yours,
/s/ Catherine E. Czyz

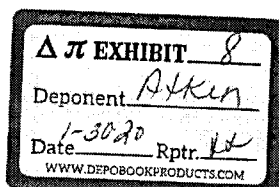
Catherine E. Czyz, Esq.

CEC/cc
Enclosure: Re-Notice of Addresses
cc: counsel of record

MEAC Opinions - Conflicts of Interest

If you want to FIND a specific opinion or decision or a particular rule in this section, press the Ctrl+F (CONTROL + FIND) keys and enter the information that you want to find in the window that appears at upper left.

| Opinion | Subject Matter | Current Cites |
|-----------------|---|---|
| <u>2018-003</u> | A mediator is obligated to disclose any relationship that compromises or appears to compromise the mediator's impartiality. | Rule 10.340, Florida Rules for Certified and Court-Appointed Mediators MEAC Opinion 2004-008 |
| <u>2018-001</u> | Settlement agreement language inserted into an agreement by the mediator regarding a mediator's compliance with the ethical rules does not promote or respond to the needs and interests of the parties, may create an obstacle to the parties signing the agreement which otherwise memorializes their agreed upon terms, and may result in the parties feeling coerced to agree to additional substantive language regarding ethical issues extraneous to their dispute in order to obtain a written agreement. | Rules 10.230(b), 10.300, 10.310(a) and (b), and 10.420(c), Florida Rules for Certified and Court-Appointed Mediators MQAP 1997-005 |
| <u>2017-021</u> | Consistent with MEAC Opinion 2017-002, a mediator shall not perform the dual roles of mediator and oral interpreter for a deaf party. | Rules 10.330(a), 10.340(d), and 10.410, Florida Rules for Certified ad Court-Appointed Mediators MEAC Opinion 2017-002 |
| <u>2017-018</u> | The MEAC answers several questions about conflicts of interest involving a circuit court ADR unit and also regarding the unit's mediators maintaining mediation confidentiality when the unit is supervised by an administrative magistrate. | Section 44.405, Florida Statutes Rules 10.330(a), 10.340(a) - (c), and 10.910(a), Florida Rules for Certified and Court-Appointed Mediators MEAC Opinion 2005-005 |



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| <p><u>2017-016</u></p> | <p>As required of any person, a mediator has a statutory obligation to immediately report a reasonable suspicion of abuse or neglect involving a vulnerable adult to the central abuse hotline under section 415.1034(1)(a), Florida Statutes. In some circumstances, after making a mandatory report, the mediator should decline a case or withdraw from a case being mediated.</p> | <p>Rule 10.330(a) and (b), Florida Rules for Certified and Court-Appointed Mediators</p> <p>Sections 39.201(1)(f), 415.1034(1)(a), and 415.107, Florida Statutes</p> <p>MEAC Opinion 2012-007</p> |
| <p><u>2017-015</u></p> | <p>Disclosure of a conflict of interest shall be made as soon as practical after the mediator becomes aware of the interest or relationship giving rise to the potential conflict of interest. A mediator who is a member of a law firm representing a party who is adverse to a party at mediation has a clear conflict of interest which may not be waived by the parties.</p> | <p>Rule 10.340, Florida Rules for Certified and Court-Appointed Mediators, and Committee Note</p> <p>MEAC Opinions 2002-005 and 2008-007.</p> |
| <p><u>2017-009</u></p> | <p>Prior consultation with a party to a mediation by a member of the mediator's law firm requires disclosure by the mediator, but is a waivable if the parties agree.</p> | <p>Rules 10.330(a), and 10.340(a) – (c), Florida Rules for Certified and Court-Appointed Mediators</p> <p>MEAC Opinion 2011-014</p> |
| <p><u>2017-008</u></p> | <p>If a mediator is a party in case A, it would be a clear conflict of interest which would compromise the mediator's impartiality for the mediator to mediate case B which involves the mediator's attorney and the attorney and opposing party in case A.</p> | <p>Rules 10.330(a) and 10.340(a), Florida Rules for Certified and Court-Appointed Mediators</p> |
| <p><u>2017-002</u></p> | <p>Consistent with MEAC Opinions 2011-017 and 2014-004, a mediator shall not perform the dual role of a mediator and translator or interpreter.</p> | <p>Rules 10.220; 10.310; 10.330(a) & (b); 10.340(d) and the Committee Note to rule 10.340; 10.370(a); 10.410; and 10.420(b), Florida Rules for Certified and Court-Appointed Mediators</p> <p>MEAC Opinions 2011-017 and 2014-004</p> |

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| <p><u>2015-003</u></p> | <p>The Florida Rules for Certified and Court-Appointed Mediators do not contain a prohibition against a mediator serving as an arbitrator in a case the mediator previously mediated. The mediator must ensure the parties have a complete understanding of how the mediator's role will change and they must waive the conflict of interest and confidentiality of the mediation.</p> | <p>Rule 10.310, Committee Note, MEAC Opinion 2009-002</p> |
| <p><u>2014-009</u></p> | <p>A trainee observing a mediation to fulfill mentoring requirements for initial mediator certification may not serve in the dual capacities of trainee and language translator or interpreter.</p> | <p>Section 44.403(2), Florida Statutes In re: Procedures Governing Certification of Mediators, Fla. Admin. Order No. AOSC11-1 (January 10, 2011) MEAC Opinion 2011-017</p> |
| <p><u>2013-011</u></p> | <p>The Notice of Vendor Expectations (Notice) the mediator is questioning creates a non-waivable conflict of interest because of the language it contains.</p> | <p>Rules 10.310(a), 10.330(a), 10.340(a), 10.360(b), 10.520 and 10.620</p> |
| <p><u>2013-010</u></p> | <p>It is a clear conflict of interest for a mediator to mediate a case when a party's attorney is or was previously related to the mediator. A clear conflict of interest cannot be waived regardless of disclosure.</p> | <p>Rules 10.330(a), 10.340(a) and (c) MEAC Opinion 2004-008</p> |
| <p><u>2012-006</u></p> | <p>Under certain circumstances, an attorney who conducted a joint representation of a couple in an adoption or in working with them on an estate plan, may, upon both parties' request, subsequently serve as their mediator in an unrelated legal proceeding.</p> | <p>Rules 10.200, 10.300, 10.330, 10.340, 10.370</p> |

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| <p><u>2012-004</u></p> | <p>Question One: In a case in which a mediator's former law partner is representing a party as an advocate subsequent to the mediator leaving the law firm, there is no pre-determined amount of time that must elapse before the mediator may mediate such cases. In conflict of interest cases, each case must be evaluated individually through a series of filters to determine if the conflict is waivable or a "clear" conflict and therefore non waivable.</p> <p>Question Two: It is a clear conflict of interest for a mediator to mediate a case in which his/her former law partners represented any of the parties while the partnership was in effect. This would be a non waivable conflict.</p> | <p>Rules 10.330, 10.340 Committee Note to Rule 10.340 MEAC Opinions 2002-005, 2008-007, 2009-009</p> |
| <p><u>2012-003</u></p> | <p>In this example, the conflict is resolvable with appropriate mediator disclosures and party agreement as outlined in the Committee Note to Rule 10.340, Conflicts of Interest, Florida Rules for Certified and Court-Appointed Mediators.</p> | <p>Rule 10.340 (a)-(c) with Committee Note, Florida Rules for Certified and Court-Appointed Mediators</p> |
| <p><u>2011-017</u></p> | <p>A mediator is prohibited from taking on the dual role of mediator and interpreter or translator.</p> <p>The responsibilities of a Residential Mortgage Foreclosure Mediation Program (RMFMP) and the actions of a RMFMP manager are outside the jurisdiction of the MEAC.</p> | <p>Rule 10.340(d) and Committee Note MEAC Opinions 2011-004, 2010-004, 2007-005, 2004-004</p> |
| <p><u>2011-016</u></p> | <p>It is beyond the jurisdiction of the MEAC to render an opinion as to attorney obligations.</p> | <p>Rule 10.340 and Committee Note</p> |
| <p><u>2011-014</u></p> | <p>A mediator who is a member of a law firm or professional organization is obliged to disclose any past or present client relationship that firm or organization may have with any party involved in the mediation. There is no dispensation if the conflict is caused by a member of a law firm for which the mediator works or with whom the mediator is affiliated.</p> <p>Whether the conflict can be waived by the parties in order to allow the mediator to conduct the mediation will depend on the factors of the particular case.</p> | <p>Rules 10.340 (a) – (d) and 10.340 Committee Note, MEAC Opinions (<i>listed in order as referenced in question</i>): 2010-008, 2003-006, 2002-005, 2008-007, 2009-009 and 2004-007</p> |

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| <p><u>2011-011</u></p> | <p>The questions presented relate to the Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes and not the Florida Rules for Certified and Court-Appointed Mediators.</p> | <p>Rules 10.330, 10.340, 10.520, 10.620 MEAC Opinions 2005-002, 1999-009, 1999-006</p> |
| <p><u>2011-004</u></p> | <p>The Committee remains confident in the continuing correctness of MEAC 2010-004 which states in part, "a mediator is prohibited from taking on the dual role of mediator and notary."</p> | <p>MEAC Opinion 2010-004, 2007-005 and 2004-004 Rule 10.340(d), Note to Rule 10.340</p> |
| <p><u>2010-009</u></p> | <p>Answer to Question One: No, it is not appropriate for a court-appointed mediator to act as plaintiff's representative during the pre-trial process.</p> <p>Answer to Question Two: A court-ordered mediation begins when the court refers the case to mediation. In this scenario, actions undertaken prior to a court referral to mediation would be outside the mediation process.</p> | <p>Rules 10.330, 10.340(a), and 10.420(a)</p> |

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| <p><u>2010-008</u></p> | <p>Answer to Question One: A mediator assigned through the Residential Mortgage Foreclosure Mediation Programs (RMFMP) or in any other mediation venue may not use the mediation conference to solicit future business from the parties during the mediation conference.</p> <p>Answer to Question Two: It is not appropriate for a mediator to use a RMFMP mediation conference (or any other mediation conference) to solicit and remove the mediation to his office for private mortgage foreclosure mediation.</p> <p>Answer to Question Three, Part A: A mediator should recuse himself/herself from a mediation conference when he/she has represented defendants against a specific financial institution that is a party at a current mediation conference. This is a non waivable conflict.</p> <p>Answer to Question Three, Part B: A mediator should not declare an impasse simply because one or both parties feel there is a conflict of interest with the mediator and one of the parties has requested a different, neutral mediator.</p> <p>Answer to Question Three, Part C: The actions of a Program Manager of a RMFMP are outside of the jurisdiction of the MEAC which is charged with providing ethical guidance to certified and court-appointed mediators.</p> | <p>Rules 10.310, 10.330(c), 10.340(a) and (c), 10.510, 10.620</p> <p>Committee Note to Rule 10.340</p> <p>MEAC Opinions 2001-006, 2003-006, 2004-005</p> |
| <p><u>2009-009</u></p> | <p>It is a conflict of interest for a mediator to mediate a case when one of the mediator's law partners is currently performing transactional legal services for the law firm representing the party to the mediation.</p> | <p>Rule 10.340</p> <p>MEAC Opinions 2002-005 and 2008-007</p> |

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| <p><u>2009-004</u></p> | <p>A mediator's impartiality is not necessarily compromised nor is a conflict created simply because a mediator agrees to serve for a reduced fee as a "preferred" provider; however, any mediator who has an ongoing relationship for the provision of mediation services needs to determine whether that relationship affects impartiality or creates a conflict of interest.</p> <p>Agreeing to the terms described and mediating cases scheduled as a result of that agreement does not appear to compromise a mediator's integrity or impartiality nor violate the requirement that mediators respect the professional relationships of other mediators.</p> | <p>Fla. Stat. § 440.25(3)(b) (2008)</p> <p>Rules 10.330, 10.340, 10.380(a) and (e), 10.620, and 10.660</p> <p>MEAC Opinions 96-001 and 98-006</p> |
| <p><u>2009-003</u></p> | <p>A mediator's permissible marketing efforts depend on fact-specific circumstances such as cost and whether intended to cultivate favor with particular potential future clients.</p> | <p>Rules 10.330; 10.340; 10.610, 10.620</p> <p>MEAC Opinions 2001-006 and 2002-004</p> |
| <p><u>2009-002</u></p> | <p>The Rules for Certified and Court-Appointed Mediators do not contain a specific prohibition against mediators serving as an arbiter and interpreter of a settlement agreement the mediator previously mediated; however, engaging in such activity raises serious ethical concerns.</p> | <p>Rules 10.310, 10.310 <i>Committee Note</i>, 10.330(c), 10.370, 10.420(c), 10.620, 10.640</p> <p>MEAC Opinions 1996-002 and 1998-006</p> |
| <p><u>2008-008</u></p> | <p>There is a clear conflict of interest when a mediator, having mediated a dispute, subsequently represents or otherwise takes a position for or against a former party in a related matter.</p> | <p>Rules 10.340 (a)-(c), 10.620, and 10.650</p> <p>MEAC Opinions 94-002, 94-003, 96-002, and 2005-004</p> <p>Rules 4-1.12 and 4-2.4, Rules Regulating the Florida Bar</p> |
| <p><u>2008-007</u></p> | <p>A clear conflict of interest exists whenever a law firm in which a mediator is a partner is part of an adversary process involving a party to the mediation regardless of the size of the law firm, the location of other cases, or the mediator's lack of personal involvement.</p> | <p>Rule 10.340</p> <p>MEAC Opinion 2002-005</p> |

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| 2007-005 | It is not ethically proper to prepare retirement orders after having served as mediator for the case regardless of whether the parties have waived any conflict of interest. | Rules 10.340(d) and 10.620 MEAC Opinions 2004-004, and 2005-004 |
| 2005-006 | A mediator (who is also an attorney) engaged in an ongoing legal relationship with a third party administrator must not serve as a mediator in cases involving the third party administrator because it is a clear, nonwaivable conflict of interest. A mediator (who is also an attorney) may serve in cases involving a reinsurer, even if some of the mediator's legal clients utilize the same re-insurer, if the relationship is disclosed and the parties waive any potential conflict because such a relationship is not a clear conflict of interest. | Rules 10.330, 10.340, and 10.620. MEAC 2003-006 and 2004-007 |
| 2005-004 | It is inappropriate for a mediator to represent either one party or both parties in any dissolution proceeding or in any matter arising out of the subject mediation. There is no ethical obligation under the Florida Rules for Certified and Court-Appointed Mediators for a mediator to report allegations of ethical violations by another mediator. | Rule 10.340(d) MEAC 94-003 and 2004-004 |
| 2005-002 | While your position as a judicial assistant does not automatically prohibit you from mediating, you are still obligated not to mediate a matter that "presents a clear or undisclosed conflict of interest," Rule 10.340(a). You are required to make this determination on a case by case basis. | Rule 10.340(a) MEAC 99-006 |
| 2004-008 | Mediating a case your daughter is personally handling would be a nonwaivable, clear conflict, while her firm's case with which she had no involvement, is a conflict of interest which may be waivable after disclosure. | Rules 10.330(a) and 10.340(a)-(c) |
| 2004-007 | MEAC Opinions are based on the facts presented in the question. Prior representation of a party to a mediation, which involved different parties, a different case or different subject matter would be subject to disclosure and <i>may</i> be waivable based on a case by case determination. | Rule 10.340 MEAC 2003-006 |

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| 2004-004 | <p>A. A mediator may record or memorialize the parties' agreement but, it is not the mediator's role to make substantive decisions for the parties. In recording the parties' agreement, a mediator must observe the ethical rules regarding impartiality, professional advice, and other professions' standards, such as the unauthorized practice of law.</p> <p>B. While a mediator may assist the parties in completing authorized forms, a mediator should stop short of "drafting" the Petition for Dissolution, Answer, or other pleadings.</p> <p>C. Drafting pleadings and providing advice on how to file them would be an inappropriate additional service not directly related to the mediation process.</p> <p>D. It is inappropriate for a mediator to represent either party in a dissolution proceeding or in any matter arising out of the subject mediation.</p> <p>E. The Committee declines to answer the question of whether appearing at a final hearing and eliciting "basic information" is the practice of law. However, such activity is inappropriate for a mediator.</p> | <p>Rules 10.330(a); 10.340(d); 10.420(c); 10.620; 10.650; 12.740(f)(1)</p> <p>Section 44.404(1), Florida Statutes</p> <p>MEAC 94-003, 2000-009, 2001-003</p> |
| 2003-006 | <p>Having once acted as an advocate for one party, it would be unethical for a mediator to subsequently conduct a mediation, irrespective of waivers from all parties, since there would be a clear conflict of interest pursuant to rule 10.340(a).</p> | <p>Rule 10.340(a) and Committee Notes</p> <p>MEAC 94-002, 94-003 and 99-001</p> |
| 2002-005 | <p>Serving as the mediator for a case involving a party to mediation against whom your law firm has cases pending creates a clear conflict necessitating the withdrawal of the mediator, regardless of the express agreement of the parties</p> | <p>Rule 10.340</p> <p>MEAC 2001-009</p> |

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| <u>2001-011</u> | It would be ethically inappropriate to become counsel of record for either party in their pending divorce when the first contact was a joint meeting to discuss mediation. | Rules 10.310, 10.330(a) - (c), 10.360(a), 10.370(b) - (c) MEAC 94-003, 97-009 <i>Note: Changes to the rules in 2006 may impact this opinion.</i> |
| <u>2001-009</u> | A. Referring cases to and receiving referrals from a firm for a fee may constitute a conflict necessitating the mediator's withdrawal. B. A mediator must disclose former associations, such as previous employment, but is not be required to withdraw unless such past relationship constitutes a clear conflict. | Rules 10.330(a), 10.340(a)-(c), Committee Note to rule 10.340 |
| <u>2000-008</u> | A GAL is not expressly prohibited from becoming certified or serving as a mediator in dependency cases. | Rules 10.340(a)-(c) MEAC 99-007 |
| <u>2000-006</u> | A mediator is not precluded from mediating as case in which one of the parties who previously attended a parenting course taught by the mediator. | Rules 10.330, 10.340(a), 10.340(c) MEAC 97-003 and 99-008 |
| <u>99-009</u> | The mediation rules do not prohibit a full-time mediator employed by the county from mediating privately on his/her own time. | Rules 10.330, 10.340, 10.500, 10.620 Chapter 112, Part III, Florida Statutes <i>Note: Changes to the rules in 2000 may impact this opinion.</i> |
| <u>99-008</u> | Providing training to persons who are later parties to a mediation does not preclude a mediator from mediating so long as disclosure is made and parties request the mediator to serve. | Rules 10.340(a) - (c) |
| <u>99-007</u> | A GAL is not expressly prohibited from becoming certified or serving as a mediator in dependency cases. | Rules: 10.340(a) - (c) |

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| <u>99-006</u> | A mediator's employment as a Deputy Clerk do not inherently cause ethical concerns. | Rules 10.330(a), 10.340, 10.620 |
| <u>99-001</u> | It is permissible for an attorney mediator to subsequently serve as an attorney for an individual in an unrelated case against a party who participated in a mediation with this mediator. | Rules 10.330(c), 10.620 MEAC 97-002 |
| <u>98-004</u> | A mediator may disclose that s/he has mediated with an attorney, claims representatives, or other parties previously, but is not required to do so unless there is a "close personal relationship" or other circumstance specifically referenced in the rules. | Rules 10.330(b), 10.340(a)-(b) |
| <u>97-003</u> | Mediating for parties who have been marriage counseling clients is permissible, if both request. | Rules 10.330, 10.340(b), 10.610, 10.620, 10.650 <i>Note: Changes to the rules in 2000 may impact this opinion.</i> |
| <u>97-002</u> | An attorney-mediator may represent a party in a subsequent dissolution of marriage. | Rules 10.330(c), 10.340(d), 10.620 <i>Note: Changes to the rules in 2000 may impact this opinion.</i> |
| <u>96-002</u> | Mediator should decline serving as a Special Master following mediating a case. | Rules 10.360, 10.620; Section 44.405(2), Florida Statutes <i>Note: Changes to the statute in 2004 and rules in 2006 may impact this opinion.</i> |
| <u>94-003</u> | Serving as counsel following service as mediator for the same case is not permitted. | Rules 10.340(d), 10.420(c), and 10.620; 1.730(b) and 12.740(f)(1) |

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| <u>94-002</u> | Serving as co-counsel following service as mediator for the same case is not permitted. | Rules 10.200, 10.330, 10.340, 10.360, 10.620 <i>Note: Changes to the rules in 2006 may impact this opinion.</i> |
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Contact

For additional information please contact The Dispute Resolution Center at 850-921-2910 or at DRCmail@flcourts.org.

Rule 4-1.7. Conflict of Interest: Current Clients, FL ST BAR Rule 4-1.7

West's Florida Statutes Annotated
Rules Regulating the Florida Bar (Refs & Annos)
Chapter 4. Rules of Professional Conduct (Refs & Annos)
4-1. Client-Lawyer Relationship

West's F.S.A. Bar Rule 4-1.7

Rule 4-1.7. Conflict of Interest: Current Clients

Currentness

(a) **Representing Adverse Interests.** Except as provided in subdivision (b), a lawyer shall not represent a client if:

(1) the representation of 1 client will be directly adverse to another client; or

(2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

(c) **Explanation to Clients.** When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

(d) **Lawyers Related by Blood or Marriage.** A lawyer related to another lawyer as parent, child, sibling, or spouse shall not represent a client in a representation directly adverse to a person who the lawyer knows is represented by the other lawyer except upon consent by the client after consultation regarding the relationship.

(e) **Representation of Insureds.** Upon undertaking the representation of an insured client at the expense of the insurer, a lawyer has a duty to ascertain whether the lawyer will be representing both the insurer and the insured as clients, or only the insured, and to inform both the insured and the insurer regarding the scope of the representation. All other Rules Regulating The Florida Bar related to conflicts of interest apply to the representation as they would in any other situation.

The Next Step in the Litigation Process. No. 101 to original D.C. Government of U.S.A.

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| Δ π EXHIBIT 9 |
| Deponent <u>Atkin</u> |
| Date <u>1-13-20</u> Rptr. <u>JK</u> |
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Rule 4-1.7. Conflict of Interest; Current Clients. FL ST BAR Rule 4-1.7

Credits

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); Jan. 23, 2003, effective July 1, 2003 (838 So.2d 1140); March 23, 2006, effective May 22, 2006 (933 So.2d 417).

Editors' Notes

COMMENT

Loyalty to a client

Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person, or from the lawyer's own interests. For specific rules regarding certain conflicts of interest, see rule 4-1.8. For former client conflicts of interest, see rule 4-1.9. For conflicts of interest involving prospective clients, see rule 4-1.18. For definitions of "informed consent" and "confirmed in writing," see terminology.

An impermissible conflict of interest may exist before representation is undertaken, in which event the representation should be declined. If such a conflict arises after representation has been undertaken, the lawyer should withdraw from the representation. See rule 4-1.16. Where more than 1 client is involved and the lawyer withdraws because a conflict arises after representation, whether the lawyer may continue to represent any of the clients is determined by rule 4-1.9. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see comment to rule 4-1.3 and scope.

As a general proposition, loyalty to a client prohibits undertaking representation directly adverse to that client's or another client's interests without the affected client's consent. Subdivision (a)(1) expresses that general rule. Thus, a lawyer ordinarily may not act as advocate against a person the lawyer represents in some other matter, even if it is wholly unrelated. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only generally adverse, such as competing economic enterprises, does not require consent of the respective clients. Subdivision (a)(1) applies only when the representation of 1 client would be directly adverse to the other and where the lawyer's responsibilities of loyalty and confidentiality of the other client might be compromised.

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. Subdivision (a)(2) addresses such situations. A possible conflict does not itself preclude the representation. The critical questions are the likelihood that a conflict will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client. Consideration should be given to whether the client wishes to accommodate the other interest involved.

Consultation and consent

A client may consent to representation notwithstanding a conflict. However, as indicated in subdivision (a)(1) with respect to representation directly adverse to a client and subdivision (a)(2) with respect to material limitations on representation of a client, when a disinterested lawyer would conclude that the client should not agree to the representation under the circumstances, the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client's consent. When more than 1 client is involved, the question of conflict must be resolved as to each client. Moreover, there may be circumstances where it is impossible to make the disclosure necessary to obtain consent. For example, when the lawyer represents different clients in related matters and 1 of the clients refuses to consent to the disclosure necessary to permit the other client to make an informed decision, the lawyer cannot properly ask the latter to consent.

Lawyer's interests

Rule 4-1.7. Conflict of Interest; Current Clients, FL ST BAR Rule 4-1.7

The lawyer's own interests should not be permitted to have adverse effect on representation of a client. For example, a lawyer's need for income should not lead the lawyer to undertake matters that cannot be handled competently and at a reasonable fee. See rules 4-1.1 and 4-1.5. If the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. A lawyer may not allow related business interests to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed interest.

Conflicts in litigation

Subdivision (a)(1) 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 (a), (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. Such conflicts can arise in criminal cases as well as civil. The potential for conflict of interest in representing multiple defendants in a criminal case is so grave that ordinarily a lawyer should decline to represent more than 1 co-defendant. On the other hand, common representation of persons having similar interests is proper if the risk of adverse effect is minimal and the requirements of subdivision (c) are met.

Ordinarily, a lawyer may not act as advocate against a client the lawyer represents in some other matter, even if the other matter is wholly unrelated. However, there are circumstances in which a lawyer may act as advocate against a client. For example, a lawyer representing an enterprise with diverse operations may accept employment as an advocate against the enterprise in an unrelated matter if doing so will not adversely affect the lawyer's relationship with the enterprise or conduct of the suit and if both clients consent upon consultation. By the same token, government lawyers in some circumstances may represent government employees in proceedings in which a government agency is the opposing party. The propriety of concurrent representation can depend on the nature of the litigation. For example, a suit charging fraud entails conflict to a degree not involved in a suit for a declaratory judgment concerning statutory interpretation.

A lawyer may represent parties having antagonistic positions on a legal question that has arisen in different cases, unless representation of either client would be adversely affected. Thus, it is ordinarily not improper to assert such positions in cases pending in different trial courts, but it may be improper to do so in cases pending at the same time in an appellate court.

Interest of person paying for a lawyer's service

A lawyer may be paid from a source other than the client, if the client is informed of that fact and consents and the arrangement does not compromise the lawyer's duty of loyalty to the client. See rule 4-1.8(f). For example, when an insurer and its insured have conflicting interests in a matter arising from a liability insurance agreement and the insurer is required to provide special counsel for the insured, the arrangement should assure the special counsel's professional independence. So also, when a corporation and its directors or employees are involved in a controversy in which they have conflicting interests, the corporation may provide funds for separate legal representation of the directors or employees, if the clients consent after consultation and the arrangement ensures the lawyer's professional independence.

Other conflict situations

Conflicts of interest in contexts other than litigation sometimes may be difficult to assess. Relevant factors in determining whether there is potential for adverse effect include the duration and intimacy of the lawyer's relationship with the client or clients involved, the functions being performed by the lawyer, the likelihood that actual conflict will arise, and the likely prejudice to the client from the conflict if it does arise. The question is often one of proximity and degree.

For example, a lawyer may not represent multiple parties to a negotiation whose interests are fundamentally

antagonistic to each other, but common representation is permissible where the clients are generally aligned in interest even though there is some difference of interest among them.

Conflict questions may also arise in estate planning and estate administration. A lawyer may be called upon to prepare wills for several family members, such as husband and wife, and, depending upon the circumstances, a conflict of interest may arise. In estate administration the identity of the client may be unclear under the law of some jurisdictions. In Florida, the personal representative is the client rather than the estate or the beneficiaries. The lawyer should make clear the relationship to the parties involved.

A lawyer for a corporation or other organization who is also a member of its board of directors should determine whether the responsibilities of the 2 roles may conflict. The lawyer may be called on to advise the corporation in matters involving actions of the directors. Consideration should be given to the frequency with which such situations may arise, the potential intensity of the conflict, the effect of the lawyer's resignation from the board, and the possibility of the corporation's obtaining legal advice from another lawyer in such situations. If there is material risk that the dual role will compromise the lawyer's independence of professional judgment, the lawyer should not serve as a director.

Conflict charged by an opposing party

Resolving questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility. In a criminal case, inquiry by the court is generally required when a lawyer represents multiple defendants. Where the conflict is such as clearly to call in question the fair or efficient administration of justice, opposing counsel may properly raise the question. Such an objection should be viewed with caution, however, for it can be misused as a technique of harassment. See scope.

Family relationships between lawyers

Rule 4-1.7(d) applies to related lawyers who are in different firms. Related lawyers in the same firm are also governed by rules 4-1.9 and 4-1.10. The disqualification stated in rule 4-1.7(d) is personal and is not imputed to members of firms with whom the lawyers are associated.

Representation of Insureds

The unique tripartite relationship of insured, insurer, and lawyer can lead to ambiguity as to whom a lawyer represents. In a particular case, the lawyer may represent only the insured, with the insurer having the status of a non-client third party payor of the lawyer's fees. Alternatively, the lawyer may represent both as dual clients, in the absence of a disqualifying conflict of interest, upon compliance with applicable rules. Establishing clarity as to the role of the lawyer at the inception of the representation avoids misunderstanding that may ethically compromise the lawyer. This is a general duty of every lawyer undertaking representation of a client, which is made specific in this context due to the desire to minimize confusion and inconsistent expectations that may arise.

Consent confirmed in writing or stated on the record at a hearing

Subdivision (b) requires the lawyer to obtain the informed consent of the client, confirmed in writing or clearly stated on the record at a hearing. With regard to being confirmed in writing, such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent. See terminology. If it is not feasible to obtain or transmit the writing at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. See terminology. The requirement of a writing does not supplant the need in most cases for the lawyer to talk with the client, to explain the risks and advantages, if any, of representation burdened with a conflict of interest, as well as reasonably available alternatives, and to afford the client a reasonable opportunity to consider the risks and alternatives and to raise questions and concerns. Rather, the writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence

of a writing.

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- 80 ALR 3rd 1240, Failure to Communicate With Client as Basis for Disciplinary Action Against Attorney.
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- Disciplinary Actions, FL Jur. 2d Attorneys at Law § 143.
- Effect of Family Relationship With Opponent's Attorney, FL Jur. 2d Attorneys at Law § 332.
- Lawyers Related by Blood or Marriage, FL Jur. 2d Attorneys at Law § 140.
- Neglect, Generally, FL Jur. 2d Attorneys at Law § 146.
- Other Member of Law Firm as Witness, FL Jur. 2d Attorneys at Law § 367.
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- Application for Appointment of Replacement, FL Jur. 2d State & Prosec. Attys.; Pub. Defenders § 32.
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Treatises and Practice Aids

- 1 Florida Practice Series § 502.6, Attorney-Client Privilege--Who May Assert.
- 8 Florida Practice Series § 21:2, New Case Intake--Initial Client Contact.
- 9 Florida Practice Series § 2:17, JCC Jurisdiction to Enforce the Florida Rules of Professional Conduct Governing the Behavior of Attorneys.
- 12 Florida Practice Series § 1:20, General Rule.
- 12 Florida Practice Series § 1:21, Joint Representation of Spouse.
- 22 Florida Practice Series § 8:13, The Constitutional Right to Effective Assistance of Counsel--The Right to Conflict-Free Counsel.

Rule 4-1.7. Conflict of Interest; Current Clients. FL ST BAR Rule 4-1.7

Notes of Decisions (172)

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