



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

JOHN B. THOMPSON,

Plaintiff,

v.

Case No. 07-21256 (Judge Adalberto Jordan)

THE FLORIDA BAR and  
DAVA J. TUNIS,

Defendants.

*Expedited*  
**PLAINTIFF'S EMERGENCY VERIFIED MOTION FOR PRELIMINARY  
INJUNCTION WITH NOTICE TO BOTH DEFENDANTS**

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and moves this court for the entry of a preliminary injunction herein, on an emergency or immediate basis, with full written notice given to opposing parties and their counsel, pursuant to Rule 65(a), Federal Rules of Civil Procedure, stating:

**PREFACE**

1. The Florida Bar for nearly twenty years and most recently and intensely since August 2004, has harassed Thompson with baseless SLAPP (strategic ilitigation against public participation) Bar complaints which have absolutely nothing whatsoever to do with ethics breaches by Thompson. These Bar complaints are merely illegal and unconstitutional efforts by entertainment industry companies and their lawyers, along with their collaborators within the ideologically liberal leadership of The Florida Bar, to punish Thompson by attempting to chill his at times successful First Amendment-protected efforts against the illegal distribution of adult and adult-rated entertainment to children. The Bar has three times now tried to pathologize Thompson's Christian

activism, with the result that Thompson is the only officially Bar-certified sane lawyer in Florida.

## **FLORIDA BAR GOVERNOR BENEDICT P. “BEN” KUEHNE**

2. At the very epicenter of this unconstitutional, illegal use, under color of state law, of The Florida Bar to infringe Thompson’s First Amendment rights to speak out against and actively oppose the harmful distribution of adult entertainment to children is local criminal defense lawyer and Florida Bar Governor Ben Kuehne. He has “served” The Bar, and supposedly Thompson, as the “designated reviewer” in all Bar disciplinary proceedings against Thompson from the time they were recently commenced, in their latest SLAPP iteration, in August 2004, and they continue to this day.

3. As soon as Thompson learned that Kuehne was his “designated reviewer,” whose office is to assure the “fairness” of the disciplinary proceedings, Thompson moved for Kuehne to be recused. Why? Because Kuehne is a gay rights activist, an operative for the American Civil Liberties Union, and an honoree of People for the American Way. The gay rights movement, the ACLU, and the People for the American Way have all gone out of their way to target Thompson for harm over the years. Kuehne can no more assure the “fairness” of Bar proceedings against Thompson than Thompson could credibly serve as a designated reviewer for Kuehne if he were in the dock. Kuehne has made a name for himself in a lot of ways, including stigmatizing Christian conservatives like Thompson who oppose corporate, entertainment industry predation of children for a buck.

4. Mr. Kuehne is entitled to his views. He is *not* entitled to serve as the most important person in a disciplinary assault upon Thompson when the people who have

generated this assault are the very porn-to-kids industry giants for whom Mr. Kuehne is an ideological apologist and facilitator. Kuehne might—might—be able to fairly preside over an alleged trust account violation as to Thompson. He cannot possibly serve when at the core of this assault by The Bar is the meaning and sweep of the First Amendment when it comes to the marketing and sale of adult entertainment and pornography harmful to children.

5. Less than a month ago, after all sorts of harm have been done to Thompson personally and to what is left of his legal career, The Bar’s assistant prosecutor, Sheila Tuma in The Bar’s Orlando office, let slip the fact that Kuehne “recused himself” from these disciplinary matters pertaining to Thompson a few days earlier. Neither Kuehne nor The Bar will disclose why.

6. If a trial court were to recuse itself from a case on the eve of trial, it would a) owe an explanation and b) open the door to reasonable questioning of prior rulings in the case. Plaintiff cannot stress enough the central, crucial role of guaranteeing and certifying the fairness of Bar disciplinary proceedings by the person who is the designated reviewer.

7. Plaintiff has asked for a *de novo* review of these disciplinary proceedings given Kuehne’s prior presence and now his shrouded recusal. The Bar refuses. The Bar is rushing headlong to a trial of Thompson in September with a new designated reviewer, Steven Chaykin. We need not deal here with Mr. Chaykin’s extreme gay rights agenda which considers Thompson, in Chaykin’s words, *an enemy of the core values of The Bar*.

8. Here, however, is the bombshell that should persuade this court that Ben Kuehne’s presence at Ground Zero in these Bar proceedings against Thompson has

polluted the credibility of them, now that Thompson has gone through regulatory Hell for three years on Kuehne's watch and on his direction:

Thompson was told last week by federal investigators and Justice Department lawyers at "Main Justice" in Washington that Ben Kuehne has received a "target letter" for allegedly criminally laundering Medellin cocaine cartel money. Because of this disturbing fact The Florida Bar should not allow Kuehne to continue in his capacity on the Board of Governors of The Florida Bar, let alone allow his judgment as to the "ethics" of the understigned stand unexamined and unreviewed.

Here is a man who is alleged, in light of his receipt of the DOJ "target letter," to have taken money from a drug cartel. Are we not to be suspicious as to whether he may have been influenced by a video game industry which has even more money than the thugs of Medellin? If the video game industry wanted to assure the outcome of a Bar disciplinary proceeding against its chief critic, then the one person it would want to "get to" is the designated reviewer.

9. In point of fact, the full-scale assault upon Thompson by the video game industry, in close collaboration with The Florida Bar, began when Thompson appeared on CBS' *60 Minutes*, interviewed by Ed Bradley. A hugely important wrongful death case filed in Alabama on behalf of three cops' families is what Thompson has fashioned to do harm to this industry. It has been given the green light for trial by the Alabama Supreme Court. Big Tobacco went after Jeffrey Weigand the moment he appeared on *60 Minutes* as well. What the video game industry, through the law firm of Blank Rome, has done to Thompson through The Bar is simply a replay of that strategy.

The shredding of Thompson's constitutional rights by The Bar since that moment he appeared on *60 Minutes*, at the behest of the video game industry and on Kuehne's key watch, has been astounding, to-wit:

**A PARTIAL LISTING OF DUE PROCESS DENIALS BY THE BAR AND  
JUDGE/BAR REFEREE/DEFENDANT HEREIN DAVA J. TUNIS**

10. There has been a denial of all discovery sought by Thompson in the Bar proceedings despite The Bar's own Rules which adopt the rules of discovery under Florida's Rules of Civil Procedure. Because of this, Thompson is unable to prove any of his affirmative defenses, including but not limited to "selective prosecution." See *U.S. v. Armstrong*, 517 U.S. 456 (1996). Included in this denial of discovery has been Judge/Referee Tunis' refusal to allow even the depositions of any witnesses.

11. There has even been a refusal by Judge Tunis to recuse herself after she called Thompson's defensive pleadings "propaganda," and she has refused to provide the basis for her refusal to recuse. Judge Tunis has acted more like a Bar prosecutor than like a referee over these proceedings. She even denied Thompson a continuance while his wife was undergoing debilitating chemotherapy for ovarian cancer, as Thompson struggled to care for her and their minor son.

12. The Bar has even gone so far as to attempt to criminally extort Thompson. The deal The Bar has offered him is that he will be disbarred permanently from the practice of law unless he agrees to a forced psychiatric evaluation by the Florida Lawyers Assistance Program. This is so clearly an act of criminal extortion that Thompson has met with prosecutors in the Miami-Dade County State Attorney's Office to make his case. The Bar tried this, disastrously, over a decade ago. It did not work. It tried it again within the last year and was dropped. Now the attempt by The Bar to brand him,

publicly, a mentally ill person and to in effect pathologize his Christian activism is in play yet again. It is not a coincidence and it is not inconsequential that the second of the three times that The Bar pulled this “lunacy” stunt the person who approved it with great enthusiasm was none other than Ben Kuehne.

When The Bar did this the first time, The Bar’s own doctor’s certified Thompson “sane” and simply “acting out his Christian faith.” These are now a recidivist use of the methods of Fidel Castro and Josef Stalin to try to declare mentally ill an opponent. One would think that a Bar presently headed by Frank Angones, our Bar’s first President and someone who came to Florida via Operation *Pedro Pan* would know better. He does not.

13. Finally, the court has not the time and Thompson does not have the space to list all of the outrageous denials of procedural and substantive due process by The Bar, by Ben Kuehne, and by Judge/Referee Dava Tunis. If this court, however, allows the evidence to come forth, then it will see that the examples are legion. Justice Brandeis is reputed to have said, “The denial of due process is clear when it makes one want to vomit.” What The Bar, the Referee, and the designated reviewer have illegally, criminally, unconstitutionally, and unethically done to Thompson in upholding a standard of “ethics” will most assuredly make this court want to wretch.

#### **PRELIMINARY INJUNCTION AND OTHER RELIEF SOUGHT**

14. The wholesale and ongoing denial of due process in an attempt by The Bar to infringe upon Thompson’s First Amendment and other constitutional rights, all under color of state law, is violative of his federal civil rights. This gives rise to a right to injunctive relief now (not just an action for damages when Thompson’s career is utterly destroyed by The Bar) under the authority of 42 USC 1983. Plaintiff specifically, and

with fervent urgency, points out the clear holding of *Pulliam v. Allen*, 466 U.S. 522 (1984) in this regard. A full analysis of *Pulliam* and other case authority at a hearing on this preliminary injunction, possibly before the magistrate, should be had.

15. The “disciplinary” trial of Thompson is now set for early September 2007. The referee’s rulings have turned that trial into a farce. It is a charade fully reminiscent of England’s Star Chamber. No defenses cannot be interposed because no evidence to prove them has been allowed gathered by the referee.

16. The Florida Supreme Court, which has a duty under Florida law and the Florida Constitution (Article V, Section 3(b)(8), to use its authority to grant a writ of mandamus to stop, contemporaneously, this type of regulatory assault by The Bar upon a lawyer, refuses to entertain even that possibility, summarily dismissing without consideration any and all petitions by Thompson for writs of mandamus. This is the same Florida Supreme Court that the U.S. Supreme Court had to take to the woodshed in *Bush v. Gore*. It has learned nothing. It has been identified, around the country, as one of the most if not the most activist, ideologically liberal of all of the various states’ high courts. Its leftist agenda appears to be identical to The Bar’s agenda when it comes to destroying Thompson and to punish him for his Christianity-based activism, all the more necessary because it has been successful beyond Thompson’s wildest dreams and his opponents’ worst fears. It was this Court that over a decade ago tried to pathologize Thompson’s faith, with a disastrous results. As plaintiff says, it has learned nothing. The Florida Supreme Court does not take seriously its duty in these regards to be fair to Thompson anymore than does Ben Kuehne, The Bar’s “designated target.”

17. Attached hereto as ***Exhibit A*** is Thompson's Tyndale House book, *Out of Harm's Way*, which fully recounts not only what he has done against the American entertainment industry and its Ben Kuehne apologists but also what The Bar has done to him. Of particular interest in this latter regard is Chapter 7, entitled "Is This Lawyer Insane?" Tyndale House is the second largest Christian publisher in the United States. This book has been fully vetted, and it is available in bookstores everywhere. It recounts what The Bar has done to Thompson and what it is trying to do yet again, in violation of federal civil rights laws.

WHEREFORE, plaintiff Thompson moves this court for the entry of a preliminary injunction to halt all Bar proceedings until such time as there can be a final decision as to whether a permanent injunction should be entered prohibiting what Thompson alleges and can prove; namely that The Florida Bar, at least as to Thompson, is grossly misusing and perverting its legitimate function to prosecute unethical practices by lawyers to achieve an illegitimate, illegal, unconstitutional end. That end is the infringement, under color of state law, of Thompson's First Amendment right to speak out against and do something about the harmful, predatory marketing of adult entertainment to children.

I HEREBY CERTIFY that a copy hereof has been served upon The Bar and upon Judge Dava J. Tunis this July 23, 2007, through their respective counsel. The counsel for The Bar is Barry Richard of Greenberg Traurig and the counsel for Judge Tunis is the Attorney General of the State of Florida. Pursuant to this Court's Rules, this pleading is being filed not only electronically but also by mail in hard copy with the Clerk of Court this day.



FURTHER, I SWEAR, as if under oath and thus subject to the laws penalizing perjury, that all of the foregoing facts are a true, correct, and complete recitation of the facts as I know them, so help me God, this 23<sup>rd</sup> day of July, 2007.

A handwritten signature in black ink, reading "J.B. Thompson". The signature is written in a cursive, flowing style. The "J" and "B" are large and prominent, followed by "Thompson". There is a large, stylized flourish or "X" mark at the end of the signature.

JOHN B. THOMPSON, Plaintiff  
Attorney, Florida Bar #231665  
1172 South Dixie Hwy., Suite 111  
Coral Gables, Florida 33146  
Phone: 305-666-4366  
[amendmentone@comcast.net](mailto:amendmentone@comcast.net)

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