

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.

**PLAINTIFF'S MOTION FOR CLARIFICATION
OF THE COURT'S OCTOBER 1, 2007, ORDER, MOTION FOR HEARING ON
MOTION FOR CLARIFICATION, MOTION FOR HEARING ON SHOW
CAUSE ORDER, AND NOTICE TO COURT**

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and hereby moves for the following relief and provides notice to the court as well, as follows:

MOTION FOR CLARIFICATION

The court has entered an order that informs Thompson that he is not to file any more pleadings or documents in this case unless they deal with “the issues in dispute *in this case.*”

The court goes on to further warn Thompson that “he shall file one (1) document” only as to any issue in the case.

Finally, the court winds up its warnings by insisting, redundantly, that “Mr. Thompson must limit his filings to the issues in dispute in this case, and which are pending before the court.”

The court's order requires clarification, because Thompson knows that if he reads this order one way and the court reads it another, then sure as shootin' this court will improperly sic the extrajudicial "Ad Hoc Committee" on him again.

Therefore, will the court kindly clarify as follows, so that even a lawyer alleged by The Bar to be mentally disabled might understand:

1. What precisely are "the issues in dispute *in this case*?" Put another way, is this court *seriously* suggesting and warning that when it, not Thompson, enters a show cause order against Thompson, as it did on September 24, that he is not allowed to fully respond thereto as facts and developments that shed light on its impropriety and baselessness are discovered? Put yet another way, Thompson is accused of ethical misconduct by this court because he gave the court the shocking proof of The Bar's selective prosecution and denial of equal protection. Does the court *seriously* think it can gag the target of its ethics foray so that he cannot make a full record showing not only as to his lack of unethical conduct but also as to the court's misconduct in entering this baseless order?

Another question not asked rhetorically but with a real desire for clarification by this court: Is the duplicity of The Bar not one of "*the issues in dispute in this case*?" Did not this court make an issue the alleged misconduct of Thompson when he submitted graphic, irrefutable proof of The Bar's duplicity and selective prosecution in the form of one of The Bar's untouchables, Mr. Kent, when it entered its September 24 order to improperly punish the submission of that proof?

If this court seriously thinks it did not make Thompson's alleged ethical lapse an "issue *in this case*," then where, pray tell, is Thompson to file his full and complete

responses to the court's September 24 order? Is he to send it in letters directly to Judge Jordan, thereby *ex parte*-ing the defendants? Is he to hire a skywriting plane to fly over the federal courthouse? Or maybe Thompson is to talk to the local network affiliate which reported this court's September 24 order on the evening news as well a Thompson's rejoinder that this court has done the equivalent of charging Paul Revere with disturbing the peace with his midnight ride. This court opened this can of worms with its order alleging, very publicly *and in this case, in its court file*, the alleged misconduct of Thompson, and now this court seeks, by judicial fiat, with no authority cited, its command that Thompson not defend himself fully.

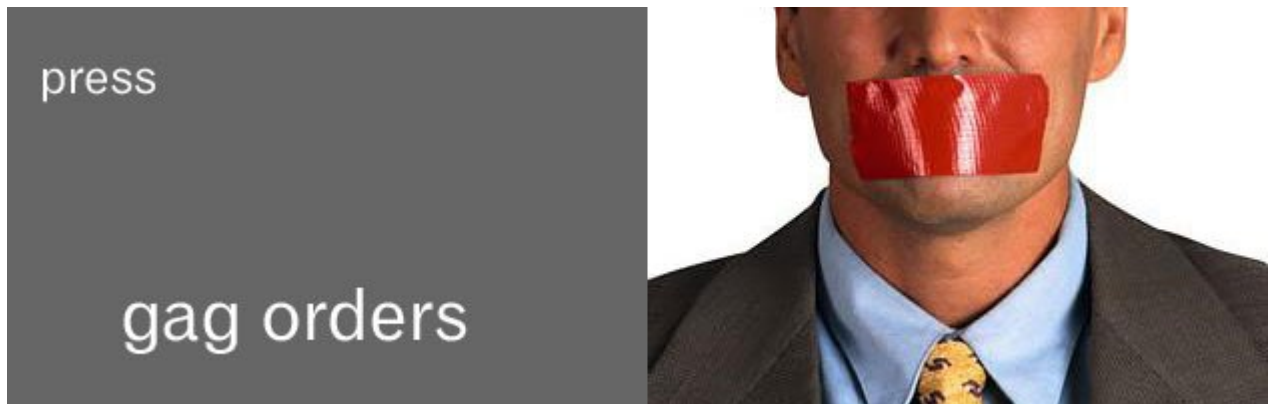
2. Further, on the issue of the September 24 show cause order, will the court please apprise Thompson what, in his various filed responses thereto, is *not* relevant to show that Thompson did not act improperly? If the court is going to threaten Thompson with an order like the one of October 1 the thrust of which is that when the court targets him for discipline he cannot respond fully thereto, then he wants to know, by way of clarification, what he has filed that has *nothing* to do with defending himself in the face of the court's baseless and improper charge that he harmed "the children" and that he violated an opinion out of Alaska that has as much to do with this case as do salmon out of the Yukon.

Is the court offended, for example, by the Memorandum of Law filed two days ago that *proves* the court knowingly and grossly misrepresented the holding in the *Adams* case? Would the court have cut off his responses to the September 24 order before he filed *that* Memorandum or is it doing so now because it does not want in the court file

illuminated with any further proof of the court's own unethical misconduct, now that the court has opened this Pandora's box with an illegal order?

3. Further, what is the court's authority for ordering Thompson that he cannot fully respond, as he sees fit, to the show cause order as new facts and new authority dually proving its baselessness and impropriety are found. Plaintiff wants *legal* authority, not judicial condescension attacking Thompson personally as did the October 1 order.

For example, a shocking event occurred yesterday which conclusively proves the selective prosecution of The Bar and the harm caused thereby, and Thompson is warned by this court that he informs the court of this development at his personal peril. The court has thus, despite this information relevant to the merits of his third amended complaint, placed Thompson in a position exquisitely captured by the below:



Thompson is unable to find any authority for the proposition that when a court enters a show cause order against a party, the party/target is limited by judicial fiat as to how the court decides he is best to defend himself.

4. Now, as to court's order that Thompson must only respond to the other, underlying, "*initial* issues in dispute in this case," (now that the court has unilaterally decided to proceed in this case with an ethics foray against Thompson) Thompson would respectfully like to note we are at this juncture. It is because the court has allowed the

defendants to get away with a wholly improper pleading practice. If the court cannot fathom what Thompson is talking about, please note:

This court has repeatedly allowed, improperly, the defendants to argue in their various motions to dismiss the alleged “facts” as they see them. The court has let these defendants get away with asserting, for example, that Thompson is not being proceeded against by The Bar for truthful statements about two judges. The Bar asserts, as a fact, in its motion to dismiss, through Barry Richard, that The Bar is only seeking to punish Thompson for untruthful statements about, for example, Judge Moore in Alabama.

Thompson then has to respond to this outright fabrication by Barry Richard that that is not a fact, and that *in fact* the Alabama State Bar has filed sworn answers to interrogatories stating that Thompson is not even charged with saying anything untrue about Judge Moore, and yet here is The Bar, because this court is not doing its job, allowing The Bar to assert something to the contrary as if it were a fact.

How does a court not know how improper this pleading practice by the defendants is, and how it opens the door to what Thompson, by necessity, has had to do?

Every first year law student knows that at the motion to dismiss stage, the facts asserted in a complaint are to be presumed to be true, and the court is only to decide if the facts, as alleged, constitute a cause of action. Then we proceed to discovery and full litigation. The court has, by contrast, allowed the defendants to litigate *the facts* at this preliminary stage.

When The Bar says, in its pleadings, that there is no selective prosecution and the court does not tell the defendants, since it claims it wants this done in an orderly fashion, that it is improper not to assume as true the plaintiff’s alleged facts at this stage, then the

court makes it necessary for Thompson to come forwards with proof that his “facts” really are facts.

Thompson will give the court, and ultimately the Eleventh Circuit, which is going to get this case, precisely how it dropped the ball on the misconduct of the defendants, which opened the door, by necessity, to Thompson’s filing what he filed that has got this court so exercised about “the children.” This court on August 23 asked for proof of Thompson’s disciplinary history to see if his assertions about selective prosecution and “bad faith” and a denial of equal protection were true or not. Why in the world would this court do such a thing prior to getting by a motion to dismiss? How can the court a) not know that that is not the time to litigate the facts and b) not know that that opens the door for Thompson to provide proof that the facts are as he says, especially when The Bar’s record counsel lies about the Norm Kent bar complaint that went on for three years because Barry Richard managed to *forget* about it.

Thompson repeats, and hopefully the court and the Eleventh Circuit will understand: This court, in giving the defendants improperly the opportunity at the motion to dismiss stage to submit evidence opened the door, by necessity, to Thompson’s right to respond thereto. The only person that has opened the door to a “flood of documents” is this court in not paying attention to proper pleading practice. The court’s failure to give the defendants a pass on their misconduct and improper pleading, of course raises grave doubts about the impartiality of this tribunal, or has the court entered an order lambasting the defendants’ counsels, about which he is unaware, for their improper pleading practice and their unethical misciting, for example, of the *Mason v. Florida Bar*

This court itself has thus engaged, formally, by its injudicious comments on August 23, in a *let me judge the case, as to the facts, as to selective prosecution, as to everything before the evidence is submitted by Mr. Thompson* after the motions to dismiss.

So when this court, of all things, warns and threatens Thompson that he is the one who is abusing the court, when it was the defendants' lawyers, upon the improper urging of this court, to submit evidence that purportedly showed that the factual allegations in the complaint were flawed, the court can only blame itself for what Thompson had then to do.

If the court is going to declare open season on the rules of pleading for the defendants, then Thompson has a right, as a matter of law, to respond to the improper submission of factual evidence to the court submitted by them in order to falsify the facts. Any court knows this is improper conduct by the defendants, and the court's allowing it is why are now where we are.

Thus, having made that point, which this court is welcomed to try to rebut as to what it actually did that violates what every judge should know as to *when* factual evidence is to be submitted to a court, Thompson asks the court to clarify one more matter that it boldly asserted in its October 1 order:

Exactly what, Judge Jordan, has Thompson filed with this court that does *not* go to "the issues in dispute in this case?" Name it, please.

MOTION FOR A HEARING ON THE CLARIFICATION MOTION

This court entered both its October 1 order primarily for the purpose of threatening Thompson, yet again, and with condescending language that attacks

Thompson personally with the phony assertion that he wants this court to decide all the moral issues of the day. Poppycock. Thompson wants this court to do one thing: decide if The Bar has acted improperly in its attempt to discipline him. Thompson wants the court to clarify, to his face, what exactly he is now allowed to file and what he is not allowed to file in this case, especially now that this court has itself far expanded the issues in dispute in this case, so thoroughly that the court's September 24 order is on the evening news.

MOTION FOR HEARING ON SHOW CAUSER ORDER PRIOR TO OCT. 5

This court, with all respect, is issuing orders in a judicial vacuum. It and the parties would benefit from a hearing on the September 24 order, as October 5 approaches, since this court chose to make it part of the issues in this case. For example, Thompson really wants to respond to any assertion and concerns by the court that the *Adams* case, which dealt with threats on the lives of parties, applies to Thompson who has had to prove, since the court wanted the proof, selective prosecution by The Bar.

The court has now adopted the use of "discipline" to shut up the plaintiff, as it is alleged that The Bar has been doing for three years most recently, and the least it can do—the very *least* it can do—is give Thompson a hearing on whether or not it is appropriately unleashing the rump "*Ad Hoc* Committee" on him. Or is this something the court prefers to do on the basis of Alaska opinions that some law clerk pulled out of a barrel labeled "Irrelevant Authority That the Ninth Circuit Says Cannot be Cited"?

NOTICE TO THE COURT

This court's a) failure to hold the defendant's to adherence to proper pleading practice (see above), b) entry of a show cause order that it knows or should know is based

upon a phony assertion of putting “children” at risk, c) entry of a show cause order that grossly and outrageously misrepresents the holding in a case that the Ninth Circuit Court of Appeals says should not be cited as authority anyway, and now d) entry of an order that threatens Thompson with sanctions if he defends himself from the defendant’s improper, unethical conduct and this court’s own unethical misconduct necessitates the filing of a complaint with the Eleventh Circuit Court of Appeals.

This plaintiff thought he had seen from judges in the last 31 years of practicing law in this state and in Kentucky and in Alabama everything. He was wrong. What this federal District Court Judge, Adalberto Jordan, has done to sully the reputation of this court by illegally going after Thompson with a phoned up September 24 order and then threatening Thompson if he dares defend himself from the onslaught unleashed upon him by that order, which has included threats on his life at his home, new illegal threats by Norm Kent, the sending of gay porn to Thompson’s computer, the sending of “coming out of the closet” materials from the gay Human Rights Campaign, all directed at Thompson *because this court couldn’t stick with the issue in this case and instead deciding to join in the fun at Thompson’s expense.*

Thompson shouldn’t be disciplined for anything he has done, from August 2004 to the present. This court should be disciplined for what it has managed to do in the last four months. Now that this court has managed to show how completely partial it has allowed itself to be in this case, it should do the only thing it can do—recuse itself because its extrajudicial assault upon Thompson and his character, even to the point of playing amateur psychologist, serves to disqualify this judge from presiding herein.

Somebody needs to take a look at a judge who stopped being a *judge* in this case quite sometime ago. That “somebody” is the Eleventh Circuit. This court made this a mess, and it is going to have to be up to somebody else to clean up this court’s mess. Off to the Eleventh Circuit we go now, and later as well.

I HEREBY CERTIFY that this has been served upon record counsel this 2nd day of October, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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