

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 EMERGENCY MOTION FOR LEAVE TO DEPOSE DEFENDANT  
THE FLORIDA BAR'S JOHN T. BERRY**

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and hereby moves for an order allowing limited discovery herein, prior to its ruling on the defendant's motions to dismiss, stating:

1. The defendants, particularly The Florida Bar, repeatedly assert that Thompson has "adequate state remedies" for any mistake made in the Bar's disciplinary pursuit of him. The Bar has even gone so far as to assert, by filing with this court the *Mason v. Florida Bar* case, that it must abstain from affording plaintiff any remedies for any failures of any kind because, as *Mason* states any Bar respondent has a right to appear before both his grievance committee and the Bar's Board of Governors to make, for example, constitutional arguments, in person, face-to-face, prior to a disciplinary trial.

2. This, of course, is a lie. Thompson has asked to appear before his grievance committee and before the Bar Governors, who are meeting this very moment four miles from where plaintiff is typing this motion.

3. Thompson filed with this court yesterday the ABA McKay Report, which takes to task state bars for their failures to provide adequate procedural and other

safeguards to their disciplinary machinery. For example, the ABA strongly cautions that any Bar disciplinary process must be completely insulated from Bar Governors. Pause. Yet here in Florida, we have Mr. Kuehne and then Mr. Chaykin, the Lenin and Trotsky of political correctness, serving in the most important post in any Florida disciplinary endeavor—“designated reviewer.”

4. Miles McGrane, as Bar President, commissioned a poll of our members and found that one of our members’ most abiding criticisms of The Bar’s discipline is that it is engaged in pursuant to the ends of the “good ole’boys’ network, “ which plaintiff calls The Club.

5. This court has set for hearing next Tuesday, again, the defendants motions to dismiss. The defendants have asserted, improperly, their own version of “the facts” to try and secure dismissal and to invoke abstention. This is improper, as the court knows, as the factual allegations in the complaint are to be taken as true.

6. So, since this court is not holding the defendants to that standard, discovery must be taken prior to any hearing on any motion to dismiss, since this court is allowing defendant’s fanciful version of “the facts” to engulf what is supposed to be a consideration of plaintiff’s cause of action as technically pled.

7. Therefore, plaintiff moves, on an emergency basis, for permission to subpoena, for his deposition The Bar’s John T. Berry. Plaintiff can think of no better person to, by his testimony, show, expeditiously, the utter mendacity of The Bar in suggesting that Thompson has “adequate state remedies” and that this court can do nothing other than abstain from affording Thompson any relief.

8. John Berry is the one who led the charge against by The Bar against Thompson's First Amendment speech and his procedural rights from 1989 to 1992, at the very moment that he, Berry, was serving on this ABA Commission. It is the same ABA Commission that tells state bars not to do to Thompson the things that Mr. Berry's state bar was doing to him.

Mr. Berry is the same person who went up to Michigan to oversee the pursuit of politically incorrect speech by lawyers, now memorialized in the *Fieger v. Supreme Court of Michigan* case. How did that work out for Mr. Berry?

Now Mr. Berry is back in the saddle at The Florida Bar, and his return in August 2006 coincided with the uptick in the scandalous demand for psych evaluations of Thompson, just like this guy demanded back in 1992. How did that work out for Mr. Berry?

This Bar cannot have it both ways. It can't say Thompson has "adequate state remedies" when this fellow, Berry, was sitting on the ABA Disciplinary Commission officially putting his name to a report that says that any state bar that has some of the incredible flaws in its system that The Florida Bar had and still has is not running its disciplinary system properly.

Thompson wants Mr. Berry to look him in the eye and tell him, and this court, prior to any dismissal determination, since this court is allowing The Bar to litigate facts early on, that the ABA Commission Report to which he put his name was full of baloney, and that The Florida Bar, contrary to his own Report, is pure as the driven snow.

WHEREFORE, Thompson requests, on an emergency basis, the right to walk down to the federal court house and secure a subpoena to serve on this fellow, John T.

Berry. The Florida Bar has prevented ALL discovery from anyone at The Bar, even Ben Kuehne. Is this court going to play that game?

/s/ 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)