

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 RULE 23 MOTION TO CERTIFY THIS CASE A CLASS ACTION**

Comes now plaintiff, John B. Thompson, as an attorney on his own behalf, and moves this court, pursuant to Rule 23, Federal Rules of Civil Procedure, to certify this instant action as a class action, stating:

The Florida Bar itself commissioned a poll overseen by former Florida Bar President Miles McGrane, of its members which found that a significant number thereof are aware that The Florida Bar disciplines its members based not upon what they do but based upon whom they know or do not know. Immediate Past Bar President Hank Coxe chaired the Special Commission on Lawyer Regulation that was established after the aforementioned Poll. One the issues it was asked to address was equality in discipline and fairness. The Committee decided to implement absolutely no changes whatsoever.

Selective prosecutions which deny equal protection often occur as a result of criticism of The Bar and its disciplinary processes, which gives rise to legal and equitable remedies against The Bar. Due process violations in the disciplinary process are legion and explicable by even a cursory reading of the ABA's McKay Report. The Florida Bar's own John T. Berry sat on the McKay Commission, which criticized state

bars for their routinely nightmarish disciplinary flaws cause by structural defects in state bar disciplinary systems such as Florida's. John Berry, despite helping author the ABA's McKay Report, has done nothing substantive to implement its stern, clear recommendations here in Florida. It is obvious that federal judicial is required to effect such changes in light of *Keller v. State Bar of California*, 496 U.S. 1 (1990). The Florida Bar, not for the first time, has chosen to ignore a ruling of the U.S. Supreme Court with an attitude of interposition and nullification historically prevalent in the South.

A number of Florida lawyers became aware of what The Bar has illegally done to Thompson because of national news coverage resulting from another Florida lawyer's "obscenity" (this court's word) trafficking and this court's show cause order that that trafficking generated. As a result, plaintiff is appreciative of the show cause order more than anyone could possibly know. See Genesis 50:19. Thompson has thereby been made aware of a "class" of Florida Bar members who desire and seek relief.

WHEREFORE, plaintiff moves this court to certify this action as a class action on behalf of the class of the hundreds and perhaps thousands of Florida Bar members, as indicated by the Miles McGrane Florida Bar Poll, who have been similarly targeted by The Florida Bar with illegal, unconstitutional, and at times criminal infringements upon their federal constitutional rights by defendant The Florida Bar, in violation of US Supreme Court rulings pertaining specifically to state bar excesses.

I HEREBY CERTIFY that this has been served upon record counsel this 12<sup>th</sup> day of October, 2007, electronically.

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