

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 NOTICE OF SUPPLEMENTAL AUTHORITY

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and hereby affords notice to the court of supplemental authority as to the declaratory judgment he seeks that The Florida Bar, in the exercise of its alleged "disciplinary" function is not in fact acting as a state agency and is thus not entitled to sovereign immunity under the Eleventh Amendment, to-wit:

KELLER V. STATE BAR OF CALIFORNIA

The court has already been provided with a copy of *Keller v. State Bar of California*, 496 U.S. 1 (1990). The defendants have assiduously avoided discussing this case because it so undercuts their motions to dismiss.

The unanimous opinion delivered by Chief Justice Rehnquist holds the federal courts decide whether a state bar is an "agency of the state," and that it is irrelevant, in a federal setting what the state court's say in this regard.

The Chief Justice goes on to say that any bar that uses its compulsory dues in pursuit of ideological causes, rather than for the core purposes of "improving the administration of justice" or for "discipline of its members" does not enjoy sovereign

immunity protections for those activities. The court said that such a bar, in those activities, is no better than a trade union or guild.

The Florida Bar has been asked by Thompson for three years now what its pursuit of him has to do with “improving the administration of justice” and how, in any fashion, its attempt to use its disciplinary powers is in any conceivable way in pursuit of attorney discipline.

The Bar refuses to answer. It cannot point to Thompson’s impairment of the “administration of justice” because he has pointed out the corruption of two judges. It cannot with a straight face suggest that its attempt to “discipline” him is to remedy any “harm” or “injury,” because when Thompson has inquired, in writing, what harm or injury he has done, The Bar states “that would call for a legal conclusion.” If a bunch of lawyers can’t identify the harm Thompson has caused, then there is none. This does call for a legal conclusion. It calls for The Bar to be honest.

No member of the public has complained about Thompson’s “ethics.” No client has complained about Thompson’s ethics. What we have, in every instance, is porn industry companies, their lawyers, and the two corrupt judges attempting to dress up extortion and harassment as “discipline.” Putting a dress on a pig doesn’t make it a debutante.

What The Bar has been doing to Thompson for 38 months now, in violation of *Keller* is, in the words of *Keller*, pursuing “political and ideological causes” at Thompson’s expense. If the court thinks this is not the case, then why, of all of The Bar’s Governors did it make Benedict Kuehne, the local patron saint of the ACLU and the People for the American Way, the one to supervise this leftwing *jihad* against

Thompson? When Kuehne's ideological extremism was used up, then The Bar chose its gay rights Governor, Steve Chaykin, to finish the job. These two are the Lenin and Trotsky of The Bar's ideologically and politically correct regimentation.

The Bar did this same thing in 1992 to Thompson, and in doing so generated an official Bar document that states that Thompson, in doing what he does, is pursuing his Christian faith. Period. This has already been adjudicated, and The Bar is stuck with the adjudication. What is it now doing? It is trying to weasel out of the consequences of its own formal finding by having Kuehne, Chaykin, and its latter day Charles Colson, prosecutor Sheila Tuma, browbeat Thompson with serial demands for more psychoanalyses in an attempt to pathologize his faith. The Bar wants a guilty plea and *then* a mental assessment. This is not a Bar in pursuit of discipline. It is not even a Bar in pursuit of mental illness. It is The Bar in pursuit of an ideological foe, in violation even of the state's anti-SLAPP statute. This is *Lathrop's* "goose-stepping brigades" come to like in Tallahassee.

If this court allows this case to go forward, as it should, then Thompson will be able to prove fully that what The Bar is doing to Thompson has ***nothing*** to do with discipline, has nothing to do with improving "the administration of justice," and has everything to do with these ideologues trying to stamp out the most visible and most vocal opponent of their *ultra vires* acts. This vendetta has been on for twenty years, and only a court or a jury which it does not control will end it.

What The Florida Bar is doing here is even worse than what the *State Bar of California* was doing that so concerned the U.S. Supreme Court. At least in that case, all that Bar was doing was taking their members' money. What has The Bar done to

Thompson in pursuit of its *jihad*? It has tried now twice to take his career from him with demands for psych evaluations, in violation of its own Rule 3-7.13. It has enabled, encouraged, and collaborated with a man who distributes “obscenity” to anyone of any age. It has opened up Thompson to threats on his life from video game industry minions who are calling Thompson right now as he tries to type this pleading. The callers are mentioning the www.gamepolitics.com site that SLAPP Bar complainant Norm Kent is using as his megaphone, along with www.nationalgaynews.com, to proclaim just how he, Kent, is using this Bar to harm Thompson.

At least the California State Bar only took their lawyers’ money. The Florida Bar has sought to take the undersigned’s life, and dispatches its lawyers to federal courts to proclaim the adequate state remedies Thompson has that it then seeks to deny him.

These people are so far down the road of violating *the very purpose* of The Bar—to protect the public--that their record counsel, Barry Richard, keeps citing *Mason v. Florida Bar* to this court, which claims that Thompson has a *right* to appear before the Governors to argue his constitutional positions *prior to trial*. Mr. Richard is doing that to try to steal Thompson’s day in court from him. Mr. Richard and The Bar also know that if Thompson actually presents facts to the Board independently verifiable by the Board as true, then somebody with an ounce of fairness among the Governor will ask, “What in Hell does this have to do with discipline? We won’t tell him what he has done that is unethical. We won’t even tell him what he withheld from Alabama about his disciplinary history, and when he proves, by the testimony of the offended judge in Alabama, that he withheld nothing, we will not drop even that count in the complaint.”

To take The Bar's argument to its extreme, The Bar might as well be disciplining lawyers for the tone of their speech. In fact, that is *precisely* what The Bar is doing with Thompson. Then President-Elect of the Bar, Hank Coxe, sat in Barry Richard's office on May 15, 2006, and told Thompson in front of six witnesses: "We want you suspended for the vitriolic tone of your communications." The undersigned repeatedly asked these people what he had done that was *unethical*, and they looked at Thompson as if he were a bug who had suddenly found the gift of speech. The Florida Bar has absolutely no interest in doing anything about Thompson's "ethics." It is solely interested in doing something about his social activism in pursuit of a vendetta that began two decades ago. *Thompson* is the problem, not his ethics. *Keller* says: No bar enjoys sovereign immunity for what it does that is not related to the core purpose of that bar.

FURTHER EVIDENCE INDICATING THIS IS NOT STATE ACTION

Defendant Dava Tunis is ably represented herein by the Attorney General of the State of Florida. Why? Because she is a state official. Has anyone asked why The Florida Bar, if it is engaging in purely "state action," is not also being represented by the Attorney General's Office? It can't be a conflict problem, because when Thompson has sued just The Bar, up pops Greenberg Traurig to handle the matter. If this is the state, is the State of Florida putting the contract for outsourced legal services to bid as required by state law? Probably not, but Thompson can't know for sure, because he is allowed no discovery to ascertain that. He will get that discovery if he survives a motion to dismiss.

Is The Florida Bar in any fashion a governmental entity? No, it is a *corporation* and listed as such with the Secretary of State of Florida. As such it is bound by the

Administrative Procedures Act. The Bar can survive holding up its behaviors to that standard.

Is The Bar funded out of the state treasury? No, it is funded solely by dues, which amount to approximately \$26 million per annum, some of which have been spent to harass Thompson and others like him for no reason other than the fun or ideology of it.

This court cannot read *Keller* and come to any other conclusion than the one arrived at by the Supreme Court. A state bar that doesn't look like a duck, isn't funded like a duck, doesn't do things that a duck does, but nevertheless calls itself a duck, is not a duck.

I HEREBY CERTIFY that this has been served upon record counsel this 15th day of October, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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