

## IN THE UNITED STATES ELEVENTH CIRCUIT COURT OF APPEALS

IN RE:

JOHN B. THOMPSON,

Petitioner,

v.

THE FLORIDA BAR, DAVA J. TUNIS,  
FRANK ANGONES, AND JOHN HARKNESS,

Respondents.

**PETITION FOR WRIT OF PROHIBITION AND/OR WRIT OF MANDAMUS,  
AND REQUEST FOR EMERGENCY STAY OF DISTRICT COURT  
PROCEEDINGS AND STATE DISCIPLINARY PROCEEDINGS**

COMES NOW petitioner, John B. Thompson, (Thompson) an attorney on his own behalf, pursuant to Federal Rules of Appellate Procedure, Rule 21, and petitions this honorable court for the entry of a writ of prohibition and/or a writ of mandamus, and also requests an emergency stay of the lower court proceedings and of the state bar disciplinary proceedings, as more fully set forth below.

**THE PARTIES**

Thompson is a citizen of the United States, more than eighteen years of age, a resident of the State of Florida, domiciled in Miami-Dade County, an attorney practicing law in continuous good standing in Florida since 1977, and plaintiff in District Court Case No. 07-21256, Southern District of Florida, Thompson v. The Florida Bar, *et alia*.

The Honorable Adalberto Jose Jordan (Judge Jordan) is a United States District Court Judge, Southern District of Florida, presiding over the aforementioned case. He enjoys an excellent reputation and in fact has sat with this court in a designated capacity.

The Florida Bar (The Bar) considers itself an “arm” of the Florida Supreme Court, and as such regulates the practice of law in Florida.

Dava Tunis (Tunis) is a Miami-Dade County Circuit Court judge serving as “referee” in certain Bar disciplinary proceedings against Thompson.

Frank Angones (Angones) is currently president of The Bar.

John Harkness (Harkness) is the long-time executive director of The Bar.

### **PREFATORY FACTS**

#### ***It all begins with a lie.***

For twenty years, Thompson, who is the plaintiff below and the petitioner herein, has, because of his Christian faith, labored against the American entertainment industry’s illegal and harmful distribution of adult and adult-rated material to children. Thompson secured in 1989 the first decency fines ever levied by the Federal Communications Commission. The fines were levied against three shock radio stations in Thompson’s hometown of Miami, on which the “shock jock” Neil Rogers was “soliciting teenaged boys for sex on the public airwaves,” according to John Walsh’s (*America’s Most Wanted*) Adam Walsh Foundation. Neil Rogers, was represented by a South Florida porn lawyer by the name of Norm Kent, who persuaded The Florida Bar to secure an order from the Florida Supreme Court ordering Thompson to be psychoanalyzed by The Bar’s own psychiatrist and psychologist “because Jack Thompson is so obsessed against pornography that he is mentally disabled by that obsession and unfit to practice law.” The happy result of that absurd stunt is that Thompson is now the only officially Bar-certified sane lawyer in Florida. The examiners found “Jack Thompson is simply a

Christian acting out his faith.” The Bar’s insurance carrier paid Thompson damages for its illegal effort to pathologize his Christian, faith-based activism.

Such corporate “shoot the messenger” tactics are known by the acronym SLAPP—strategic litigation against public participation. Shakespeare identified the method in both *Henry IV* and *Antony and Cleopatra*. Several states have passed laws against these increasing corporate SLAPP attempts to shred the First Amendment petition rights of citizens. Florida is one of them. The Florida Bar fifteen years later is engaged in a renewed SLAPP assault against Thompson, and Norm Kent is in the middle of it again. Kent has also sued Thompson for “libel” for letters he has sent the FCC, the Governor of Florida, and the Florida Supreme Court. Mr. Kent is a member of the ACLU who apparently does not care that the First Amendment protects “the right of the people to petition their government for a redress of grievances.”

In April 2004 Thompson as the formal FCC complainant secured a \$495,000 fine against Clear Channel Communications, the largest radio broadcaster in America, for airing indecent material on the Howard Stern Show. Clear Channel, because of Thompson, removed Stern from all of its stations. Stern complained at the time “This lunatic lawyer in Miami got me off the air.” When Stern returned on August 16, 2004, to South Florida airwaves on Beasley Broadcast Group’s WQAM-AM, Thompson filed new FCC complaints against the program, as Stern was airing material such as female amputees describing how they lubricate their “stumps” and insert them into men’s anuses to achieve orgasm. This was outside the FCC’s safe harbor of 10 pm to 6 am and clearly violative of 18 USC 1464, a criminal statute held constitutional by the Supreme Court in *FCC v. Pacifica*.

The aforementioned Mr. Kent wrote Thompson on August 24, 2004, on behalf of Beasley, demanding that Thompson “apologize” for filing new complaints with the FCC, or he would bring lawsuits, bar complaints, and secure new lunacy proceedings against Thompson.

In February 2005, the great Ed Bradley, dying of leukemia, personally asked Thompson to appear on *60 Minutes* about three cop killings in Alabama by a teen who trained on the violent video game *Grand Theft Auto: Vice City* to kill them. Thompson had been on *60 Minutes* with Mr. Bradley six years earlier because of the key role of the violent video game *Doom* in the Paducah and Columbine school shootings. Thompson had filed a wrongful death lawsuit on behalf of the three families, and the Alabama Supreme Court, agreeing with Thompson that the First Amendment does not protect the sale of adult-rated video games to children, has cleared the way for this trial in Alabama in 2008.

When Thompson appeared on *60 Minutes* for the second time, the maker of the *Grand Theft Auto* games, a defendant in the above-noted wrongful death action, directed its lawyers at Blank Rome to commence an “ethics” assault upon Thompson through The Florida Bar. Blank Rome and its client, Take-Two Interactive Software, Inc., were not just copycatting what had been tried before as to Thompson by Mr. Kent. They were also replicating what had been done to Jeffrey Wigand after he also had appeared on *60 Minutes* to blow the whistle on “Big Tobacco.” Lie about your detractor, and thereby change the subject. As Mark Twain once noted, “A lie can travel halfway around the world while the truth is still putting on its shoes.” Those Florida Bar SLAPP complaints, along with the *Howard Stern Show* Bar complaints are presently the subject of

Thompson's federal civil rights action in the trial court below, Judge Jordan presiding. All of the complaints are based upon lies, fraud, and perjury, and The Bar knows it.

There is a bit of a problem with lying. There is a rather old rule against it. It's found in #9, below. These are not the "out of date Ten Suggestions," as Ted Turner once famously stated:



Upon Thompson's proving that the Howard Stern and the video game industry SLAPP bar complaints are fraudulent, The Bar has switched gears and has now demanded new mental health examinations for Thompson, despite the disastrous results in the earlier attempts at this stunt. Thompson is not the only one The Bar has done this to. The Bar is demanding that Thompson plead guilty to all sorts of things it knows Thompson did not do, agree to a 91-day suspension, and then be examined as to his mental capacity, or it will disbar him permanently. In making this demand, The Bar is

violating its own Rule 3-7.13 which prohibits such a demand without a grievance committee's deliberation.

In other words, here we go again. What The Bar and the Stern and video game complainants cannot prove is unethical in Thompson's lawyering they now seek to prove is *pathological*. The Bar is literally seeking to pathologize Thompson faith-based activism *again*. It didn't work the last time, and it isn't going to work this time. But they're trying nevertheless.

Thompson is no saint, but he is a born again Christian. He is no savior. He is a follower of the Savior. They said of Jesus, "He's possessed by a demon." The Bar and the complainants have updated the shoot the messenger tactic by asserting Thompson's faith is an illness, and they seek to prove it. They extort him with threatened disbarment to coerce him back onto their couch.

Their real problem, ultimately, is with God, and Thompson, apparently, is an annoying reminder that He and his standards, set forth in the Ten Commandments, are real. *This is why Norm Kent actually moved a court recently to order Thompson not to quote Scripture. You can't make this stuff up.*

Now a federal District Court judge, the respected Adalberto Jose Jordan, has foolishly allowed himself, personally, to get caught up in The Bar's high tech lynching of an uppity Christian, to borrow Justice Clarence Thomas' analysis. Lynchings by various means seem to be a recurrent problem in Southern States, of which Florida is one. That is why this petition has to be filed in the Eleventh Circuit. The Florida Bar, in pursuit of ideology and not discipline, is shredding Thompson's due process rights, and Judge Jordan, remarkably, has joined in, as will be seen below.

Finally, there comes exquisite and timely proof of what The Florida Bar, the shock radio industry, the violent video game industry, and now Judge Adalberto Jordan are doing to stigmatize Thompson as a zealot who needs help. On Saturday, October 20, 2007, Thompson debated on the Fox News Channel (roughly the 200<sup>th</sup> time Thompson has appeared on national and international television on these topics) an apologist for the video game industry's sale of adult-rated hyper-violent video games to kids. The topic was the video game *Manhunt 2* to be unleashed by the aforementioned Take-Two, the maker of the *Grand Theft Auto* games whose lawyers have brought the SLAPP Bar complaints against Thompson. This is a game in which one removes one's opponents' testicles with pliers and jams syringes into their eyeballs. Now that's entertainment. It contains a great deal of sexual content unsuitable for children. It is a snuff game for kids. This game is so outlandish and so dangerous that the United Kingdom has banned it for sale *even to adults*, but it is presently being pre-sold to children of all ages across America.

The first words out of Thompson's opponent's mouth on Fox this morning were the talking points given him by the industry: "What do you read more Mr. Thompson, your Bible or the Constitution?" Actually Thompson reads both, unlike The Bar.

Dostoevsky has written that "If God does not exist, then all things are permitted." Having lived in South Florida for 31 years, it is not an exaggeration to note that down here "all Hell has broken loose." The Florida Bar is now in bed with the porn-to-kids industry, and it seeks to disbar permanently Thompson solely because he opposes The Bar and the industry in this regard. The Bar is supposed to protect the public. Instead it is protecting itself against Thompson.

The U. S. Supreme Court in *Keller v. State Bar of California*, 496 US 1 (1990), warned of the danger of state bars pursuing political and ideological agendas at the expense of its nonconforming members. What the High Court in *Keller* prohibited at the macro level, The Florida Bar is now doing at the micro level to Thompson. In the *Lathrop* decision 29 years before *Keller*, Justice Douglas predicted in the dissent which became the law in *Keller* that ideologically driven integrated bars would foster “goose-stepping brigades” to enforce conformity. Those brigades are now here in The Florida Bar, as will be seen below. The Bar’s Board of Governors actually refer to themselves on the covers of Bar brochures as “The Guardians of Democracy.” This would be funny if it were not so serious. The Bar wants to end Thompson’s career because he will not conform, he will not accede to the “right” to mentally molest minors for money, and he will not cease in his criticism of a Bar that defiantly thumbs its nose at the US Supreme Court decision in *Keller*.

Plaintiff apologizes for the length of this preface, but what The Bar and now Judge Jordan are doing is not occurring in a jurisprudential vacuum. Judge Jordan has so thoroughly adopted The Bar’s mindset and methods against a party before him, Thompson, that no lay person, knowing all the facts, would reasonably believe Judge Jordan could *possibly* be fair to Thompson in the case below, as will be seen in a recitation of the facts. This is a fine judge who has gone off the deep end.

**JUDGE JORDAN’S MISCONDUCT WHICH DISQUALIFIES HIM FROM  
PRESIDING IN THE CASE BELOW**

Earlier this year, Thompson filed Case No. 07-21256 in the District Court for the Southern District of Florida. It is a civil rights action against The Florida Bar alleging, variously, that The Bar has denied Thompson due process, equal protection, and his right



to engage in truthful, First Amendment-protected petition speech. He seeks certain injunctive and declaratory relief warranted by ample case authority. “Abstention” by the federal court would be wholly improper because of the remarkable and provable “bad faith,” malicious prosecution, and “extraordinary circumstances” swirling about The Bar’s pursuit of Thompson for reasons that have absolutely nothing to do with discipline.

Further, 42 USC 1988 allows the federal court to apply two state statutes against The Florida Bar to fashion a federal remedy for Thompson. One statute is Florida’s Anti-SLAPP Statute, which prohibits the state from bringing any action against a citizen to punish it for criticism of the state, which would include The Bar. Make no mistake, much of what The Bar is doing to Thompson stems from his current criticism of The Bar and his besting of The Bar at their own game back in 1992. The Bar’s disciplinary actions are a SLAPP action prohibited by Florida statute. Sovereign immunity is fully waived by this statute.

In addition, Florida has its Religious Freedom Restoration Act, which prohibits Florida from infringing upon a citizen’s exercise of his faith. The Bar, despite its official finding that Thompson’s activism is prompted by his religious faith (see above-described effort to pathologize his faith-based activism), is violating this statute as well with the resolution of all of his ethics charges tied to yet another attempt to pathologize his faith. This statute also waives all sovereign immunity. Thus, the likelihood is strong that Thompson will indeed prevail in his federal civil rights action against The Bar, so clearly are the facts and the law in his favor.

One of Thompson’s key defenses in the state disciplinary proceedings is the “selective prosecution” by The Bar of Thompson. It is compounded and highlighted

further by The Bar's protection of Thompson's very SLAPP complainants, such as Norm Kent, whose own clear ethical breaches are knowingly overlooked by The Bar because he is The Bar's favorite SLAPP complainant against Thompson. "The enemy of my enemy is my friend" has made Kent an untouchable with The Bar. He has even brought Bar complaints and persuaded The Bar to keep his name off the complaints, The Bar thereby giving him plausible deniability that he is not the author of the complaints. Unfortunately for The Bar, it has in a staff prosecutor in Orlando a person sloppy about hiding his tracks.

Kent's admissions in court filings that he "consumes marijuana without a medical prescription" is disturbing and it has bar ethics consequences, unless The Bar wants to now take the position that illegal drug use by lawyers is fine. What he also does, which will be seen below, is not only more shocking, but it is criminal activity protected and facilitated by The Bar itself. Thus, The Bar's selective prosecution/equal protection problem regarding Thompson is so severe that it fatally threatens its "discipline" of Thompson. This is not just selective prosecution. It is selective prosecution on steroids. When a Bar not only selectively prosecutes a lawyer and protects those (and not only Kent) seeking his prosecution, then you have selective prosecution compounded. Thompson have never seen such a thing. This is key to understanding what Judge Jordan himself has improperly and prejudicially done and why he must be removed from the case below.

The Florida Bar has itself identified its chronic propensity to pursue Bar complaints against its members selectively, as it has with Thompson. A formal poll of Florida Bar members by then outgoing Florida Bar President Miles McGrane found that

The Florida Bar's reputation among its own members is that it protects influential lawyers while harassing sole practitioners like Thompson who are not part of what The Bar poll itself called "the good ol' boy network." Thompson calls it "The Club." Indeed, a former prosecutor for The Florida Bar has told Thompson that The Bar has a "Watch List" by which it monitors and prosecutes specific lawyers it finds "inconvenient."

The U. S. Supreme Court has held that "selective prosecution" constitutes a denial of equal protection and should give rise to dismissal of charges. The bar referee, Ms. Tunis, has gone so far as to *deny Thompson his selective prosecution defense*. She has also denied him all discovery, and so thoroughly gutted the disciplinary proceedings of even basic due process that the trial itself, set for November, will be sham proceeding. It makes England's Star Chamber look like the World Court at the Hague.

In the preliminary phase—the motion to dismiss phase—of the federal civil rights action, defendants have been allowed by Judge Jordan, repeatedly, to assert that Thompson cannot possibly prove "bad faith," "selective prosecution," and so on. The defendants, improperly, have been allowed by Judge Jordan to insert into the motions to dismiss "facts" that they claim are true, and because they are true, plaintiff's complaint must be dismissed. This court knows, the defendants know, and Judge Jordan knows how improper this is. The factual allegations in plaintiff's complaint are to be assumed as true, and the complaint is to survive or not, at this early pleading stage, based upon whether Thompson has sufficiently pled a cause of action within the four corners of the complaint. Defendants don't get to submit evidence at this stage. This is absurd.

Judge Jordan, by contrast, is allowing these defendants to turn hearings and their

motions to dismiss into submissions of “evidence” in a panicked attempt to get the complaint dismissed.

Since Judge Jordan apparently considers this improper pleading by defendants proper, plaintiff has had no choice but to walk through the door improperly opened and stuck wide open by the court. Thompson has dared rebut these “facts” asserted by defendants with real facts showing The Bar’s fatal selective prosecution of Thompson and its protection of Mr. Kent who is so thoroughly at the center of The Bar’s pursuit of Thompson that this fellow has sought, formally, to intervene in the civil rights action itself, even attending hearings that supposedly have nothing to do with him. His actions as interloper speak louder than his words.

The most shocking and possibly the clearest evidence of The Bar’s selective pursuit of Thompson and its protection of Kent is shown by the following, which Thompson tried to show to Judge Jordan. The Judge’s improper response disqualifies him. Note:

Mr. Kent owns and operates his official, Bar-regulated web site at [www.normkent.com](http://www.normkent.com) . The Florida Supreme Court has determined that such sites are to be operated in accordance with The Bar’s advertising Rules, which heretofore did not apply to lawyer’s Internet sites. The Florida Supreme Court now says, as of January 2007, that such sites must not in any fashion impact deleteriously upon the “dignity of our profession.” This is a court that says a lawyer may not use “pit bull” in an ad, although President Bush, in nominating her for the Supreme Court, called her a “pit bull.”

On the home page of [www.normkent.com](http://www.normkent.com), Mr. Kent encourages all visitors to visit his new site at [www.nationalgaynews.com](http://www.nationalgaynews.com). A visitor links, with a click of the

mouse, from Mr. Kent's firm site to this other site, which is a gay porn portal which lists the following at Mr. Kent's site.

Send your news and press releases to [editor@nationalgaynews.com](mailto:editor@nationalgaynews.com)

## Porn Sites

**National Gay News** offers these sites as a sampling of adult gay venues on the web, and has no control over the contents therein.

**SELECT adult sites for your pleasure.**

Web Link	Hits
 <a href="#">Adam Male</a> Adult on-line store.	146
 <a href="#">BadPuppy</a> The OLDEST gay porn site!	224
 <a href="#">Broken Straight Boys</a> Site themed as "straight" guys.	192
 <a href="#">EMale Center</a> Pictures & Movies	42
 <a href="#">Ebony Knights</a> Tall dark & handsome black men	21
 <a href="#">Gay Beef</a> Photos and movies	54
 <a href="#">Gay Mood</a> Catering to all tastes	30
 <a href="#">Gay Demon</a> Reviews, pictures, videos and galleries	37
 <a href="#">Gay Pair</a> Movie site	23
 <a href="#">Gay Sex Freaks</a> Porn Directory	140
 <a href="#">Gay Sexxx</a> Twinks galore!	140
 <a href="#">Just Us Boys</a> All kinds of guys.	261
 <a href="#">Movie Monster</a> Hot gay, and yes even straight adult movies	32
 <a href="#">Men on the Net</a> Gay Porn Adult Search Engine & Gay Sex Links Directory	24
 <a href="#">Showguys</a> Younger Jock types.	143

The court will note that the most visited "Porn Site" offered by Mr. Kent is [www.justusboys.com](http://www.justusboys.com). This site depicts graphically oral and anal sex acts, most notably those between older and younger men. There is no age filter used by Mr. Kent and no age verification at this site. Before submitting this to Judge Jordan to prove that The Bar,

which has been alerted to Kent's promotion of this site and actual linking to it by his Bar-regulated law firm's official site's home page, Thompson provided this material to a respected, nationally recognized law enforcement official. This expert found the material to be "obscene" under *Miller v. California*.

With the defendants in the civil rights action before Judge Jordan claiming Thompson could prove his defenses neither in the state disciplinary proceedings nor in the federal case, Thompson rebutted those assertions (as to selective prosecution) by filing with the court, through the CM/ECF electronic system, three images from Kent's offering of the [www.justusboys.com](http://www.justusboys.com) site. One user of this site posted that "this is a site for pedophiles." Mr. Kent has now blocked Thompson from accessing fully this site, which means Mr. Kent is identifying who is using this site. Thompson will allow all who read this to connect the dots.

The three pictures were preceded in Thompson's filing with a large **WARNING** in red letters, stating specifically that three sexually graphic pictures followed on two subsequent pages. Anyone proceeding further was warned what followed, and thus anyone who went further had chosen to do so. Nobody was ambushed.

As this court knows, the CM/ECF/PACER electronic filing system is a system available *only* to record counsel and to members of the public who pay for access to it. There is no "search engine" at PACER. A minor, upon deciding to pay for the service, would have to know what file to go to and what specific pleadings to go to in what are undoubtedly millions of filings in the PACER system. On the other hand, anyone can "Google" "gay news" and readily find the [www.justusboys.com](http://www.justusboys.com) and other material offered by Norm Kent to people of all ages for free.

Judge Jordan was shocked by what he saw that Thompson had filed. Judge Jordan immediately entered a Show Cause Order (attached hereto) when he saw this material, calling it “indecent,” “offensive,” and “obscenity.” However, Judge Jordan entered the Show Cause Order *against Thompson*, telling him that he had until October 5 to show cause why he, Thompson, should not be turned over to the Southern District’s *Ad Hoc* Committee for disciplinary action against Thompson. Subsequent orders by Judge Jordan on this and other issues are attached hereto.

In this Show Cause Order, Judge Jordan cites an Alaska case, *Adams v. Nankervis* as the legal basis for his threat against Thompson. This obscure Alaska case involved a *pro se* criminal defendant who was threatening, in the court file, to kill the judge and the litigants. The Ninth Circuit, in issuing the opinion, stated that it was not to be cited as authority. *Nankervis* has **nothing** whatsoever to do with what Thompson did. Judge Jordan said it stood for the proposition that no one can file in a federal court file indecent material, and so forth, as his attached order states. The case is so inapposite to what Thompson did as to raise questions, on that basis alone, as to the Judge’s fairness and forthrightness. Judge Jordan did not attach the case to his order.

Judge Jordan, in his Show Cause Order, states that Thompson has exposed “children” to “obscenity” with his filing in the paid-for PACER system. This is demonstrably false for the above and other reasons. Children do not lurk in and rummage around in the PACER site. Also, why would they pay for something that they can get from Mr. Kent for free? But it gets worse.

Even though Judge Jordan gave Thompson until October 5 to show cause why he should not be turned over to the *Ad Hoc* Committee for discipline, Judge Jordan short-

circuited and violated his own order and turned Thompson over to the Committee three days early on *October 2* prior to having any hearing on the matter, even though Thompson had requested one so that he could explain himself.

Norm Kent, of course, generated national publicity claiming that Thompson's legal career was now over, since a federal judge had found Thompson to be an "obscenity trafficker." Mr. Kent now publicly asserts, in the media, that Thompson is apparently a closeted Christian homosexual given his alleged fascination with gay porn. By that reason, Elliot Ness would be a bootlegger.

When Thompson proved to the court that sitting on the *Ad Hoc* Committee were law partners of Greenberg Traurig's Barry Richard (record counsel for The Bar in the civil rights action), a law partner of Florida Bar President-Elect John White, law partners of Thompson's designated reviewer in The Bar proceedings, Steven Chaykin, Judge Jordan apparently had second thoughts about his precipitous referring of Thompson to well-connected *Ad Hoc* Committee for the purpose of disciplining him.

Thompson had asserted, in asking for a hearing on the matter, that what the court had done was akin to citing Paul Revere for disturbing the peace with his Midnight Ride. Judge Jordan was offended by the simile/metaphor. Judge Jordan has repeatedly asserted, in open court and in his orders, that Thompson wants the judge to be the moral arbiter of what ails society but over "which I have no jurisdiction." It is a humorous turn of phrase whose intent is to attribute to Thompson a motive, an attempt to enlist improperly the judge in his "crusade," which Thompson demonstrably does not have. Thompson has repeatedly told Judge Jordan that the last thing he wants is for the federal judiciary to decide or take sides in the culture war. Judge Jordan's only job in the case before him is



to determine if Thompson has a right, *in a federal civil rights action*, whether The Florida Bar has acted unconstitutionally and illegally. No court has to agree with Thompson's agenda to rule whether Thompson has to agree with The Bar's ideological agenda.

The parties had a hearing on October 9 about the Show Cause Order. Judge Jordan vacated the order, but as one can see by the attached latest Omnibus Order, Judge Jordan apparently can quite let the issue go. He engages in further *ad hominem* comments about Thompson and grossly mischaracterizes Thompson's concerns about the make-up of the *Ad Hoc* Committee. For example, Steve Chaykin, whose Akerman Senterfitt partner sits on the Committee, is The Bar's "gay rights" Governor, publicly stating on the pages of the *Daily Business Review* that "anyone who opposes gay adoption is outside the core values of The Bar and an enemy of The Bar." Chaykin's predecessor as Thompson's designated reviewer was Ben Kuehne, who presently holds a target letter from DOJ. He's the darling of the ACLU and the People for the American Way. The Bar's choice of Thompson's designated reviewers is akin to having Larry Flynt sit as foreman on a grand jury considering whether to indict Jerry Falwell, or vice-versa. But more about that we when are back before this court in the future.

Thompson has no right to seek recusal/disqualification of any judge because of adverse rulings against him. But when a judge repeatedly attacks a party before him in its orders, disobeys his own orders by ignoring his own deadlines therein, asserts a party has endangered "children" when that hurtful assertion is absurd, cites as authority an obscure case that has nothing to do with what Thompson did, and then grossly misrepresents Thompson's challenges to the impartiality of a disciplinary committee, then the "fairness" of that judge starts to be a great concern.

This analysis has not even mentioned the fact that Judge Jordan decided to adopt, for whatever reason, the very “shoot the messenger” tactics of The Florida Bar, at Thompson’s expense, in a case that is supposed to address The Bar’s misuse of “discipline” against him. How could a judge not stop and pause about whether using The Bar’s tactics against a party might raise fairness concerns?

Finally, on October 17, 2007, Thompson saw enough of what it seems to him, with all respect for the District Court, is Judge Jordan’s lack of candor.

Because of the national news coverage generated by Judge Jordan’s Show Cause Order, most notably at the *ABA Journal’s* Internet site, which Thompson did not contact before he read the story, Thompson was contacted by a number of constitutional lawyers around the country stunned by Judge Jordan’s improper order and actions against Thompson. The news coverage was picked up by ALM’s *Daily Business Review* here in Miami, which is the South Florida legal community’s newspaper. On the afternoon of October 17, the *Review’s* reporter interviewed Thompson about the “obscenity” matter and the Show Cause Order, and in doing so, the reporter nonchalantly informed Thompson that the Southern District’s Chief Judge Federico Moreno had entered an Administrative Order pertaining to CM/ECF/PACER filings subsequent (this is very important) to Judge Jordan’s Show Cause Order. Here is the new Administrative Order entered three weeks after Thompson did his filing of Kent’s obscenity which shows The Bar’s duplicity, selective prosecution, and equal protection denial. Judge Jordan also knew about this October 5 order before the October 9 hearing, as the October 5 date is on the Order signed by Chief Judge Moreno. Here is the new Administrative Order:

**6C. FILING OF MATERIALS, INCLUDING IMAGES, INAPPROPRIATE FOR DISPLAY OR DISTRIBUTION TO THE PUBLIC, INCLUDING MINORS**

Pursuant to Administrative Order 2007-50, Users shall not electronically file materials which would otherwise be inappropriate for display or distribution to the public, including minors, through PACER or the CM/ECF System.

These inappropriate materials include images (not textual descriptions) depicting sexual acts or excretory acts that could be described as pornography or indecent or vulgar even if not legally obscene. A document containing such visual materials may only be filed electronically in a redacted version describing in words the images, but removing all images.

Alternatively, such documents may be filed in the conventional manner, along with a motion to seal.

Counsel and parties are cautioned that failure to protect such images from public dissemination, which includes minors, may subject them to the disciplinary authority of the Court.

If Chief Judge Moreno wants to enter such an Order, fine, but while Judge Jordan was threatening Thompson with an ethics investigation by the *Ad Hoc* Committee and then short-circuiting his own Show Cause Order in that regard, Judge Jordan and Judge Moreno were working on this new Order. If there was supposedly a rule against making such a filing, then why in the world did the Southern District need a new rule prohibiting what Thompson had done. How does an Article III Judge not know about Article I, Section 9's prohibition of *ex post facto* punishments? Judge Jordan had an obligation, in the interest of fairness, to express his concerns, if he had them, about such a filing, and then ask Thompson about it. Instead, he went right to Defcon One, so to speak, by launching and lurching into an ethics investigation of Thompson that has caused Thompson tremendous harm, the extent of which Thompson will not detail here.

What Judge Jordan did, then, was pretend there was some sort of rule against Thompson's filing of this material. He pretended that children had been harmed. He even went so far as to actually assert in one of the attached orders that his use of the word "obscenity" was not meant to convey that it did not have some sort of First Amendment

protection. Really? Does not an Article III judge know what the term “obscenity” means? Obscenity, by definition, is not protected by the First Amendment. But, if it is protected by the First Amendment, to take the judge’s assertion, then why does that protection attach to Mr. Kent, *but not to Mr. Thompson*, who then would enjoy not only a general First Amendment protection but also a “right to petition the government for a redress of grievances” First Amendment right. Thompson submitted “obscenity” (the court’s word) to the court as a means of petitioning the government as to The Bar’s illegal and unconstitutional denial to him of equal protection? This was evidence of selective prosecution that the defendants were telling this court Thompson did not have!

United States District Court Judge Adalberto Jose Jordan’s repeated swipes at Thompson serve to raise grave doubts about his fairness to Thompson. Judge Jordan is a fine judge, but not for this case. Not anymore. He used up the benefit of the doubt that Thompson afforded him despite his status as an influential member of The Florida Bar. He went from Judge to practitioner of The Bar’s own shoot the messenger techniques, and in doing so was less than forthright about a new rule that was in the works. Any reasonable person would have no faith in his impartiality. He refuses to recuse.

### **RELIEF SOUGHT BY PETITIONER**

Petitioner Thompson petitions this court for entry of the writ of prohibition, thereby ordering and directing Judge Adalberto Jose Jordan to refrain from presiding further in Case No. 07-21256 and to cease all other activities by him in the case.

In the alternative and in addition, petitioner seeks the entry of a writ of mandamus directing the lower court to disqualify himself from the aforementioned case so that it

might be assigned to another judge who has no history of initiating disciplinary proceedings against him.

Because of the swift approach of the state bar disciplinary proceedings in November, petitioner also seeks an emergency stay of the lower court's proceedings as it is set to rule on defendants' motions to dismiss. He seeks also a stay of the state bar disciplinary proceedings so that another judge might properly address the relief to which petitioner believes he is entitled prior to the November disciplinary trial, namely injunctive relief and declaratory relief against the various defendants therein. The harm to Thompson will be irreparable if the state disciplinary trial occurs without federal intervention. In those proceedings, Thompson a) has not been informed of the charges against him, b) has been denied discovery therein, c) has been denied even the opportunity to argue his constitutional defenses, and d) otherwise has been denied any semblance of due process and equal protection. Thompson is entitled to federal declaratory relief now, as many of the disciplinary charges arise out of speech codes that are facially unconstitutional as infringements upon First Amendment speech.

WHEREFORE, petitioner prays this court for all of the relief herein requested.

I HEREBY certify that this pleading has been served this October 21, 2007, upon The Bar's, Harkness', and Angones' counsel, Barry Richard, Greenberg Traurig, 101 E. College Ave., Tallahassee FL 32301, and Tunis' counsel, Chuck Fahlbusch, Attorney General's Office, 110 SE 6<sup>th</sup> St., Floor 10, Ft. Lauderdale, FL 33301.

JOHN B. THOMPSON, Petitioner  
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)