

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 VERIFIED MOTION FOR PRELIMINARY
INJUNCTION WITH NOTICE TO BOTH DEFENDANTS**

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and moves this court for entry of a preliminary injunction herein, on an emergency or immediate basis, prior to June 25, 2007, pursuant to Rule 65(a), Federal Rules of Civil Procedure, stating:

1. The Florida Bar, since August 2004, has harassed Thompson with baseless SLAPP (strategic litigation against public participation) Bar complaints which have absolutely nothing to do with alleged ethics breaches by Thompson. These Bar complaints are merely illegal, unconstitutional efforts by entertainment industry companies and their lawyers, along with their fellow left-wing ideologues within the leadership of The Florida Bar, such as current Bar President Hank Coxe, to punish Thompson by attempting to chill his successful First Amendment-protected efforts against the illegal distribution of adult entertainment to children. The Bar has twice now tried to pathologize Thompson's Christian activism, with the result that Thompson is the only officially Bar-certified sane lawyer in Florida. This would be hilarious if it weren't true.

2. The Bar is furious with Thompson's success against The Bar and against the porn-to-kids clients of the lawyers who file SLAPP Bar complaints against Thompson. Thompson got the *Howard Stern Show* off the local radio station whose lawyers are one set of SLAPP Bar complainants, and Thompson has scored repeated successes against the illegal distribution to children of the Mature-rated *Grand Theft Auto* video games to children, whose lawyers at Blank Rome are the other set of SLAPP Bar complainants. Their idiotic SLAPP assault through The Bar began the instant Thompson appeared on CBS' *60 Minutes*, just as Big Tobacco and its lawyers targeted Jeffrey Weigand after he appeared on the same news program.

3. The Bar is presently violating its own Bar Rules, as well as the Rules of Civil Procedure, and the federal civil rights laws in prosecuting these ridiculous, baseless, illegal, unconstitutional Bar complaints against Thompson. Even The Bar knows they are baseless. Proof of that is that The Bar offered to drop in their entirety the SLAPP Bar complaints brought by the Miami law firm of Tew Cardenas on behalf of the *Howard Stern Show* broadcaster. The Bar then did a "bait and switch" and said it would only do that if Thompson agreed to a 91-day Bar suspension on the basis of new complaints that supposedly existed against him. Thompson's lawyer and Thompson have now found out that there are no such new complaints and that this "bait and switch" was an utter subterfuge by The Bar. Yet, the 91-day suspension demand persists. The Orlando Bar office prosecutor, Sheila Tuma, who authored this stunt should be permanently disbarred, yet she is the one delegated by The Bar to hector Thompson illegally about *his* ethics.

4. There is not enough digital storage space in this court's electronic filing system to fully recount the illegal, unconstitutional activities of The Bar and others that

have been hurled at him, but allow this to be just one index thereof: The Bar's "designated reviewer" who has assured the "fairness" of all of these stunts is a man by the name of Benedict Kuehne, who is a Bar Governor and a left-wing ideological operative of the American Civil Liberties Union. This same ACLU is the organization that has targeted Thompson for years, labeling him its "Censor of the Year in 1992," and ginning up the first attempt to have The Bar and the Florida Supreme Court to declare Thompson mentally ill because of his successes against the porn industry. Having Mr. Kuehne sit in judgment of Thompson is like having Larry Flynt preside over the burial of Jerry Falwell.

5. The Bar, along with Eleventh Circuit Court Judge Dava Tunis, who was hand-selected by Chief Judge Joseph Farina to serve as referee over these Bar "disciplinary" proceedings, has asked for a June 25, 2007, "trial" of Thompson. Tunis, who is a defendant herein, has given The Bar that trial date. At the same time, Judge Tunis has:

a. Denied Thompson all discovery in this matter, despite the mandates of Florida Bar Rules and the Florida Rules of Civil Procedure;

b. Denied Thompson a continuance on the basis of his wife's current fight with ovarian cancer;

c. Denied Thompson all discovery and opportunity to prove his various affirmative defenses, including the equal protection-based defense of selective prosecution, in violation of the U.S. Supreme Court's ruling as to discovery re selective prosecution found in *United States v. Armstrong*, [517 U.S. 456 687 \(1996\)](#);

d. Refused to recuse herself even after labeling, from the bench, Thompson's defensive pleadings as "propaganda;"

e. Convened just yesterday a hearing ostensibly for the purpose of ruling on discovery motions and other matters crucial to Thompson's timely defense, only to tell Thompson and his attorney when they arrived that she had not had time to reveal the matters about which she had convened a hearing. She intentionally wasted their time to come to a non-hearing. That is rude, but fine, as she is the Judge. But when Judge Tunis was then moved, *ore tenus*, by the undersigned plaintiff, to continue the June 25 trial date given her failure to rule on new discovery issues, she refused. Thus, the trial date is locked in, and yet Thompson is being denied, totally, any opportunity by this "referee" to defend himself given the obdurate behavior and the stonewalling on discovery by not only The Bar but by the court itself.

6. Compounding this ongoing judicial misconduct by the "referee," the Florida Supreme Court has refused Thompson any timely remedy whatsoever, refusing to review, as it has a duty to do, pursuant to various petitions for writ of mandamus, this runaway regulatory freight train. It has a duty to do so *during the pendency of these proceedings, not just when they are completed!* This same Florida Supreme Court, which had to be told by the U.S. Supreme Court in *Bush v. Gore* what due process and equal protection are, has directed Thompson to have the trial court referee handle these supervisory functions. In other words, the Florida Supreme Court has instructed Thompson that the trial court is to assume its supervisory function over itself.

7. As a result of this judicial misconduct, at the epicenter of which is defendant Circuit Court Judge and "referee" Dava J. Tunis, plaintiff Thompson is suffering immediate and irreparable injury, loss, or damage as a result of having to go through a "trial" stripped of his ability and his constitutional right to defend himself.

8. This type of judicial misconduct is precisely what the federal judicial system is empowered, *prospectively*, to enjoin under the authority of 42 USC 1983. See *Pulliam v. Allen*, 466 U.S. 522 (1984). Thompson does not have to wait around for this “referee” and this Bar to destroy his legal career completely for him to start to receive the due process and equal protection guaranteed him *now* by federal civil rights laws, by the US Constitution, and by the US Supreme Court via *Pulliam* which provides for prospective injunctive relief against state court judges who have lost their constitutional way.

9. Defendants The Florida Bar and Dava J. Tunis are biding their time, hoping to conduct a Star Chamber-like trial on June 25, thereby hoping to moot Thompson’s prayer for injunctive relief. That strategy must not be allowed to work. Both defendants have been served with the Amended Complaint herein. Let them defend their antics in a federal court now, prior to the “trial.”

WHEREFORE, plaintiff Thompson respectfully moves this court for the entry of a preliminary injunction staying the June 25 “trial” of Thompson either a) on the basis that these “disciplinary” proceedings have absolutely nothing to do with ethics discipline but are simply a brazen attempt to infringe upon Thompson’s First Amendment and other constitutional rights in violation of federal civil rights law, or, in the alternative, b) until such time as The Bar starts affording Thompson due process, equal protection, and some semblance by which he can defend himself against the self-proclaimed “Guardians of Democracy” (See Bar Governors Brochure) who violate their own Rules in order to “enforce” them against those who don’t believe what they believe and don’t vote the way they vote.

I HEREBY CERTIFY that a copy hereof has been served upon The Bar and upon Judge Dava Tunis at their respective offices this 1st day of June, 2007.

FURTHER, I SWEAR, as if under oath and thus subject to the laws penalizing perjury, that the foregoing is a true, correct, and complete recitation of the facts, so help me God, this first day of June, 2007.

[Signed by John B. Thompson]
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