

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, JOHN HARKNESS,
AND FRANK ANTONES,

Defendants.

PLAINTIFF'S MOTION TO ABATE STATE DISCIPLINARY PROCEEDINGS

COMES NOW petitioner, John B. Thompson, and moves this court to abate The Florida Bar's state disciplinary proceedings, stating:

In *Hamm v. Rock Hill*, 379 U.S. 306 (1964), the United States Supreme Court abated state prosecutions of citizens who had violated laws against lunch counter sit-ins to protest racial segregation, because these acts which were previously state crimes were no longer crimes, by virtue of the Civil Rights Act of 1964 and thus by virtue of the federal constitutional Supremacy Clause. Article VI, Clause 2 of the U. S. Constitution reads:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

Similarly, state bars that *ultra vires* pursue “discipline” for ends that a) have nothing to do with discipline and b) for actions that are fully protected by federal law cannot be allowed to do so because e of the Supremacy Clause.

This court has focused on “abstention” because The Bar has been necessarily beating that tired old drum because it is the only thing it can do. We now know that The Bar’s counsel has fraudulently cited cases, like *Mason* on the abstention issue that don’t even support abstention.

What this court should have been looking at all along is whether, while no one was looking, The Florida Bar’s Board of Governors repealed the federal Constitution, the Supremacy Clause therein, and certain federal rights that Thompson enjoys by virtue of being born, fortuitously, in this country.

The Supremacy Clause guarantees that federal rights of due process, equal protection, and speech and religion cannot be blotted out by any state action, even the actions of a state bar, anymore than state laws against “Negroes” sitting at lunch counters could criminalize behavior that Congress deemed legal. Abstention is not the issue. The Supremacy of federal laws and the Constitution are the issue. The Bar and this court have this entire situation upside-down, and that has occurred because counsel for The Bar have misrepresented the facts, miscited the law, and thus deprived Thompson even a preliminary hearing on the relief he sought, on an emergency basis, months ago.

Further, as to abatement, this court has failed even to rule on Thompson’s motion to certify this lawsuit as a class action. Why? By failing to rule, this court has in effect denied other lawyers similarly situated with Thompson their federal rights to be free of arbitrary, capricious, and illegal regulatory acts by The Florida Bar. If this court feels it is not ready to rule on the class action certification issue, then that is yet another reason to abate the state disciplinary action against Thompson until such time as it is ready to rule thereon. By allowing the state disciplinary proceedings to proceed against Thompson,

and without ruling on the class action, and unfairly so, with The Bar's Star Chamber proceedings and their outcome assured, this court is wrongfully depriving these other lawyers their day in court, not just Thompson his. In acting in this fashion, this court has mimicked the due process violations of the state bar.

Finally, this court has not even considered the rights of two sets of bereaved families in Alabama and New Mexico to have the counsel of their choice—Thompson—in two separate wrongful death actions demonstrably caused by the murder simulation “games” of SLAPP Bar complainant, Take-Two. This court should abate The Bar's proceedings against Thompson until those two cases are concluded, one way or the other, as this court's failure to abate the discipline deprives these innocent families of the representation they desire. When those actions are concluded, then The Bar can proceed to “protect the public” from the alleged unethical acts of Thompson that not a single member of the public has complained about.

Should this court abate the state bar proceedings? That depends to turn, it seems, on this court's wrongful determination, without knowing any of the facts, that Thompson poses a greater danger to public health and safety than does a \$20 billion industry that sells adult products to minors who are using those products to rehearse murders. This court would do well to assess, as it considers abatement, how silly, to be frank, The Bar's position is that Thompson is a menace to society. Thompson is a menace to the criminal acts of others, and to that he pleads guilty.

WHEREFORE, plaintiff moves this court to abate The Florida Bar's proceedings against him in order that the federal Constitutional Supremacy Clause might be given its full force and effect and in order that others might not be harmed by The Bar's arbitrary

and wrongful actions in depriving them of their counsel of choice and other lawyers their day in court.

I HEREBY CERTIFY that the foregoing has been served electronically upon the parties' counsel this November 19, 2007.

/s/ JOHN B. THOMPSON, Plaintiff
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