

IN THE UNITED STATES ELEVENTH CIRCUIT COURT OF APPEALS

IN RE:

JOHN B. THOMPSON,

Petitioner,

ATTENTION: MS. D. HALL

v.

CASE NO. 07-15441-J

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

Respondents.

**SUPPLEMENT TO PETITIONER'S EMERGENCY MOTION TO STAY
STATE DISCIPLINARY PROCEEDINGS**

COMES NOW petitioner, John B. Thompson, (Thompson) an attorney on his own behalf, and files this supplement to his emergency motion to stay The Florida Bar's "disciplinary" trial scheduled to commence this Monday, November 26, 2007, stating:

In the trial court below, Judge Adalberto Jordan has dismissed Thompson's 42 USC 1983 action on abstention grounds, but in doing so he has improperly dismissed Thompson's declaratory relief action seeking a determination that two specific Florida Bar Rules are unconstitutional on their face and as applied. These two Rules, 4-8.4(d) and 4-8.2(a) seek to punish Thompson not for false statements but for true statements. On their face, then these two rules are facially unconstitutional under both the Florida and U.S. Constitutions. Thompson's violation of these two Rules are at the core of the trial that is to begin on Monday, November 26.

By Judge Jordan's utter refusal to deal with this constitutional issue, in Thompson's dec action, he has improperly caused a severe problem for Thompson under the Rooker-Feldman doctrine, because the state disciplinary proceedings have denied

Thompson at every turn any consideration of this weighty, serious, and central constitutional issue: Are these two Rules under which The Bar is proceeding unconstitutional on their face?

Judge Jordan had absolutely no authority whatsoever to throw the declaratory relief baby out with the abstention bath water. In fact, if Thompson had simply brought a dec action, the trial judge would have to have had an up or down determination on the two Rules and would be able to hide disingenuously and improperly behind “abstention” to avoid addressing the constitutional issues.

Indeed, Judge Jordan incongruously cites in his 24-page order *Fieger v. Michigan Supreme Court*, 2007 WL 2571975) in which the federal district court struck down two “speech code” Michigan bar rules. Abstention was invoked because abstention, upon which Judge Jordan repeatedly states that he solely bases his dismissal order, has absolutely nothing to do with a dec action seeking a determination that a Bar Rule is unconstitutional on its face or as applied.

Finally Judge Jordan, who had prepared his dismissal order well in advance of its entry yesterday, was nevertheless unethically denying, for example, Thompson’s recent motion, in the last few days, to appoint a mediator, the respected George Knox, who agreed to mediate this dispute. Judge Jordan was in a rush to get rid of this case, even to the point of pretending, in effect, that Thompson had not filed a dec action which now is being swept under the rug, to the great prejudice of Thompson this coming Monday. Judge Jordan was in such a rush, in fact, that he jumped the gun and entered his dismissal order, improperly, before the Eleventh Circuit had even ruled whether he should be

disqualified. Something is amiss here, and it is not Thompson's constitutional arguments.

WHEREFORE, Thompson moves this court to stay, on an emergency basis, the state disciplinary proceedings at least for the purpose of functionally grabbing the trial court by the lapels and saying to Judge Jordan: You cannot deny Mr. Thompson a determination on the constitutionality of these two Bar Rules since the state has denied him any hearing at any level on their constitutionality.

I HEREBY certify that this pleading has been served by mail and fax this November 21, 2007, upon The Bar's, Harkness', and Angones' counsel, Barry Richard, Greenberg Traurig, 101 E. College Ave., Tallahassee FL 32301, Tunis' counsel, Chuck Fahlbusch, Attorney General's Office, 110 SE 6th St., Floor 10, Ft. Lauderdale, FL 33301, and to Judge Jordan at 301 North Miami Avenue, Eighth Floor, Miami, Florida 33128.

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