

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 ANGONES,

Defendants.

**PLAINTIFF’S MOTION TO VACATE ORDER ON THE BASIS OF THE
FLORIDA BAR’S PATENT FRAUD AND EMERGENCY MOTION TO STAY
STATE COURT PROCEEDINGS IN LIGHT THEREOF**

COMES NOW petitioner, John B. Thompson, and moves this court, pursuant to Rule 60 (b), Federal Rules of Civil Procedure, to vacate its order dismissing this cause of action because of newly discovered fraud on the part of The Florida Bar, stating:

The Florida Bar commenced its trial of plaintiff herein yesterday, in the state disciplinary proceedings, by explaining why it was able to prosecute Thompson for his alleged violations of both Alabama and Florida Bar Rules, which in fact it is doing.

To support this dual prosecution of Thompson in Florida for what he allegedly did in Alabama, The Bar’s prosecutor placed in its Memorandum of Law handed for the first time to Thompson and the referee, at the opening moments of the trial, Rule 3-4.6 which states that The Bar can do just this.

The Bar for the first time admitted and disclosed that this Rule did not come into existence until January 1, 2006, a full month after Thompson was kicked out of the Alabama case!

In fact, The Bar's prosecutor placed in bold-faced type the following language from the new Rule in her Memo, and in doing so acknowledged how important and in fact crucial it is as reputed authority for prosecuting Thompson under both sets of Bar Rules and here in Florida before Alabama has acted:

“(a) Disciplinary Authority. An attorney admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the attorney's conduct occurs. An attorney may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.”

Over the last 14 hours, Thompson has been able to secure the old Rule 3-4.6, which was the Rule that applied to him during the entire time that he was admitted pro hac vice in Alabama. The above-noted language was not in the Rule: Here is what the old Rule, we now find, says in its *entirety*:

Rule 3-4.6: A final adjudication in a disciplinary proceeding by a court or other authorized disciplinary agency of another jurisdiction, state or federal, that an attorney licensed to practice in that jurisdiction is guilty of misconduct justifying disciplinary action shall be considered as conclusive proof of such misconduct in a disciplinary proceeding under this rule.

Thus, we now have from The Bar itself proof, and patently so, of its fraud upon this court in asserting that it was not a violation of its Rules to prosecute Thompson here in Florida for violation of Alabama and Florida Bar Rules. The Rule under which The

Bar has been proceeding for nearly two years now it knew from the get-go did not exist, and Thompson has just found that out in the last day.

This is fraud and it is bad faith, and this court must vacate its order dismissing this case.

Plaintiff so moves, and he also moves on an emergency basis, for a stay of the state proceedings because of this now demonstrated, patent fraud.

I hereby certify that the foregoing has been provided to opposing counsel through the court's electronic filing system, this November 27, 2007.

/s/ JOHN B. THOMPSON, Plaintiff
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