

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.

**SUPPLEMENT TO PLAINTIFF'S NEW AND VERIFIED MOTION TO VACATE
ORDER ON THE BASIS OF THE FLORIDA BAR'S PATENT FRAUD**

COMES NOW petitioner, John B. Thompson, and hereby supplements his motion, pursuant to Rule 60 (b), Federal Rules of Civil Procedure, to vacate its order dismissing this cause of action because of newly discovered fraud stating:

Fraud is a basis for vacating any judicial order, when a party benefiting from that order has engaged in fraud to procure it. At approximately four o'clock p.m., plaintiff and his co-counsel in the state disciplinary proceedings before Referee Tunis became aware of remarkable fraud by The Bar because The Bar had to reveal that fraud in order to extricate itself from the consequences thereof in that proceeding.

More specifically, this court will recall that one of the allegations of bad faith engaged in by The Bar was its attempt to prosecute Thompson specific Alabama Bar Rule violations, as if The Florida Bar were some sort of auxiliary extension of the Alabama State Bar. In attempting to do this, The Florida Bar was clearly violating its own Florida Bar Rule 3-4.6, which prohibits attempts by The Bar to enforce other states'

Bar Rules across state lines. Such an attempt, of course, violates *Pennoyer v. Neff* and all of the cases decided in the last 140 years since *Pennoyer*.

At approximately 4 pm, in the midst of formal arguments that were addressing remaining legal issues, including The Bar's improper attempts to prosecute him for violations of specific Alabama Bar Rules, The Bar's counsel admitted that The Florida Bar could in fact not prosecute Thompson for violations of Alabama Bar Rules. This was despite the fact that the formal charging document—the actual complaint submitted to and approved by the Florida Supreme Court—sought to convict Thompson for violations of Alabama Bar Rules! Only at the eleventh hour, literally, did The Bar acknowledge its inability to do just that, thereby having “sandbagged” Thompson while having told this federal court, through its record counsel herein, Greenberg Traurig, that The Bar was acting in good faith in its attempts to enforce extraterritorially another state's Bar rules.

In the defendant Bar's assertion to this court that it could prosecute Thompson for what he had allegedly done in Alabama while admitted *pro hac vice* there, The Bar dodged the abstention-defeating bad faith bullet and in doing so secured a dismissal of this action.

If a law school professor were to teach a class on what prosecutorial misconduct and fraud looks like when engaged in by a state bar, all he would have to do is show a video clip of the last two hours of the bizarre proceedings yesterday before Referee Tunis. Ms. Tunis received stolen medical records of Thompson's co-counsel and refused to relinquish them. When Ms. Tunis was asked to return them, she jumped to her feet at her bench, started yelling at the person whose medical records had been stolen, and flailed about with her arms as if she had been stuck with a cattle prod. Very judicial.

But the highlight (lowligh) of these proceedings in which The Bar revealed its aforementioned fraud in order to defeat Thompson's irrefutable "choice of law" and jurisdictional argument, The Bar formally alerted Ms. Tunis that it was asking her, with no notice to Thompson during the nine-day trial, that it would like her to comb through 3,000 pages of transcribed testimony, peruse all of The Florida Bar's ethics Rules, and then come up with any other Bar Rule violations she could think of. She was asked to then charge Thompson, in the privacy of her chambers, with any additional Rules violations not alleged by The Bar, hold a trial on these charges within her own cloister, and then enter an order finding Thompson guilty of these additional charges, with no notice to Thompson, no trial, no right to confront, no due process, and frankly with no thought that would approach anything that any American lawyer has ever witnessed.

Truly, the notion that The Bar can close its case by asking the trial referee to convict him, secretly, of Rule violations with which he is not charged, has to be the most fraudulent, most bizarre, most insane stunt that any bar anywhere has ever tried to pull off.

If this court had troubled itself to have an evidentiary hearing on what the illegal acts of The Bar that had already transpired, then this court would not now find itself in the position of dealing with the latest remarkable proof of fraud by The Bar.

If nothing else, this court should vacate its order dismissing this case and grant Thompson an evidentiary hearing he deserves as a matter of law on his requested injunctive relief.

One of the happy consequences of doing just that is that Ms. Tunis will be able to return to her criminal bench duties and calmly sit down behind her bench in doing so.

Ms. Tunis is greatly troubled by the fraud in her courtroom. This federal court should be as well.

I hereby certify that the foregoing has been provided to opposing counsel through the court's electronic filing system, this December 7, 2007.

/s/ JOHN B. THOMPSON, Plaintiff
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