

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 VACATE ORDER ON THE BASIS OF THE
FLORIDA BAR'S PATENT FRAUD**

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 fraud on the part of The Florida Bar, stating:

The Florida Bar is now seeking to sanction a Broward County lawyer for criticizing Broward Circuit Court Judge Aleman, who was recently tried by the JQC for engaging in conduct about which this Broward lawyer complained! See below.

Similarly, The Bar is seeking to sanction Thompson, the plaintiff herein, for criticizing Dade Circuit Judge Friedman for engaging in the very same misconduct that the Third District Court of Appeal recently reproved him for in another case!

What's The Bar going to do, sanction DCA judges and the JQC as well? This is fraud so deep at The Bar that only a federal judge can deal with it. This court has been sucked into this fraud. It is way past time for this court to realize it and vacate its order of dismissal, secured by fraud and criminality.

South Florida Sun-Sentinel.com

Lawyer may lose license for blog entry on Broward judge

By Tonya Alanez

South Florida Sun-Sentinel

December 13, 2007



A defense attorney's law license is at risk because he posted an angry description on the Internet of embattled Broward Circuit Judge Cheryl Alemán, calling her an "evil, unfair witch." Last week, as Alemán was on trial for alleged misconduct before the Judicial Qualifications Commission, The Florida Bar signed off on its finding that Sean Conway may have violated five bar rules, including impugning the judge's qualifications or integrity.

In the Halloween 2006 posting on a blog, Conway denounced Alemán for what he said was an "ugly, condescending attitude" and questioned her mental stability after, he says, she unlawfully forced attorneys to choose between unreasonable trial dates or waiving their clients' rights to a speedy trial.

Conway, a former Broward assistant public defender now in private practice, said Wednesday he feels justified in his comments.

"She was giving people one week to prepare for trial and as soon as the blog exposed it through powerful words she stopped it," he said. "And that's why I stand by what I did."

Sometimes the language the bar approves of doesn't get the job done."

Conway, 36, also filed a complaint against Alemán with the Judicial Qualifications Commission, the state agency that polices judicial conduct, citing her "deliberate refusal" to follow the law and insolent behavior. Conway says he hasn't heard from the commission since a May 29 letter acknowledging his complaint.

Alemán was unavailable for comment Wednesday.

In the meantime, the judge awaits the outcome of her three-day trial for allegedly threatening to hold defense attorneys in contempt and refusing to remove herself from cases in which she had an acrimonious relationship with the defense attorney.

If she's found guilty, she could face anything from a public reprimand to removal from the bench. Likewise, if Conway is found guilty of violating bar rules, he could face discipline ranging from a reprimand to disbarment.

"She is clearly unfit for her position and knows not what it means to be a neutral arbiter," Conway wrote in his commentary.

That posting on Jaablog, a courthouse weblog created a year ago to examine Broward County judges' performances and legal issues, is protected speech, says Conway's attorney, Fred Haddad.

"There's absolutely no reason that politicians, and that's all judges are here in Broward County, aren't open to criticism," Haddad said. "We've got a [Florida Bar] grievance committee that can't even conceptualize the First Amendment. You're dealing with a group of people that are entrenched in protecting each other."

In a Nov. 21 letter to the bar, Haddad cited a federal case, which found that Michigan bar rules restricting attorneys' criticism of judges to be overly broad and vague and unconstitutional.

In that opinion, U.S. District Judge Arthur J. Tarnow, of the Eastern District of Michigan, wrote: "Limiting an attorney's extrajudicial criticism of a branch of government in the name of preserving the judiciary's integrity is likely to have an unintended, deleterious effect upon the public's perception, since attorneys are often the best suited to assess the performance of judges."

That case is on appeal.

Bruce Rogow, a constitutional lawyer and professor at Nova Southeastern University, agrees that bar rules are overly broad and vague but thinks Conway may have overstepped boundaries.

"I don't think there's any excuse for that kind of crude and cruel language," he said. "The

trouble with blogs is that people get carried away and sometimes go over the top. There's just some good judgment that needs to be used in criticizing a judge."

The Florida Bar will now write a formal complaint and submit it to the Florida Supreme Court, which will assign a judge to referee Conway's case.

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Now this fraudulent conduct by The Bar has made it to the *Wall Street Journal*:

December 14, 2007, 9:05 am

Should Lawyer Be Disbarred For Harsh Criticism Of a Judge

Posted by Peter Lattman



Should an attorney lose his law license for harshly criticizing a judge? That's the question stemming from this South Florida Sun-Sentinel [story](#) (Hat Tip: [How Appealing](#)).

In Oct. 2006, on [Jaablog](#), a blog that examines Broward County judges, lawyer Sean Conway called Judge Cheryl Aleman (pictured) an "evil, unfair witch" and described her "ugly, condescending attitude." What's his beef? She allegedly forced lawyers to choose between unreasonable trial dates or waiving the right to a speedy trial. "She was giving people one week to prepare for trial and as soon as the blog exposed it through powerful words she stopped it," Conway told the South Florida Sentinel. "And that's why I stand by what I did."

The Florida Bar has reportedly signed off on its finding that Sean Conway may have violated five bar rules, including impugning the judge's qualifications or integrity. It now writes up a formal complaint and submits it to the Florida Supreme Court for review.

Meanwhile, Judge Aleman is on trial for alleged misconduct before the Judicial Qualifications Commission. If she's found guilty, she could face anything from a public reprimand to removal from the bench, says the SFSS.

Conway's attorney Fred Haddad says his client has a First Amendment right to criticize the judiciary. "We've got a [Florida Bar] grievance committee that can't even conceptualize the First Amendment. You're dealing with a group of people that are entrenched in protecting each other," he told the SFSS.

[Bruce Rogow](#), a constitutional law professor and a charter member of the [Law Blog Bow Tie Club](#) member, said the bar rules are overly broad and vague. But he also said Conway may have been out of bounds. Said Rogow: "There's just some good judgment that needs to be used in criticizing a judge."

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Comments

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Rogow, in a typical academic failure to come down on one side or the other, ultimately seems to disallow the possibility that good judgment could conclude that without strong words the judge's bad conduct would continue to be exercised and tolerated.

Comment by Tom T. - December 14, 2007 at [9:15 am](#)

I actually thought the title of this story was a joke.

But what if she is actually "evil, unfair... and had a condescending ugly attitude." Does he have a truth defense?

I take it the judge is elected!!

Comment by ed wood - December 14, 2007 at [9:16 am](#)

Bar rules that disallow strong condemnation of a Judge or another lawyer are beyond the pale.

This is clearly a First Amendment issue. Unless the person making the comments is inciting violence, then the only outlet the judge should have is a civil suit for defamation, just like everyone else. Judge are civil servants, not royalty

Comment by Garrett Smythe Brown, II - December 14, 2007 at [9:36 am](#)

I support Sean Conway's right to make his statement.

I don't agree that his statement was tasteful. But inoculating public servants like judges from criticism smacks of elitism. I'm concerned that it's becoming an extension of "political correctness" in an area where there should be openness and public accountability.

Look at the facts — why is Judge Aleman on trial for alleged misconduct unless some objective fact-finder determined that there was reasonable cause to suspect that? I'm FOR more open and honest debate based on facts, instead of politely ignoring the 800-pound gorilla in the room.

Comment by Phil Crowley - December 14, 2007 at [9:39 am](#)

If you can't take the heat.....

Comment by EF - December 14, 2007 at [9:45 am](#)

First thing "Kill all the lawyers". It is so lovely to watch them mangle each other for a change.

Comment by Sweet revenge - December 14, 2007 at [9:52 am](#)

Judges should not be above criticism. We do have a duty to be civil. If what was alleged to have happened did happen (forcing fast trial dates) it IS evil, forcing people to plead guilty to offenses they did not do.

There could be a forum shopping problem if you criticize every judge but the ones you like, thus forcing them to recuse themselves.

Comment by Emo Cobb - December 14, 2007 at [9:53 am](#)

Conway should've taken the high road. He should criticize the judge with the use of powerful, insightful words. Calling her 'an evil, unfair witch' is demeaning and beneath the rhetorical skills of an attorney.

Nevertheless, the punishment appears harsh (and probably unconstitutional). A simple apology by Conway should do the trick.

Comment by Stuart O'Melveny - December 14, 2007 at [9:57 am](#)

You know, I find this action on the part of the Fla. bar VERY troubling! Is it a fact that you cannot criticize a Judge? Even when their conduct is violative of their code of conduct? That if you dare to say ANYTHING that could be construed as negative, you could lose your bar license, or face a bar complaint of some sort, based on vague bar rules?

Do judges, particularly federal judges, reside on Mt. Olympus? They are gods, who are above the law? If so, then why are there judicial misconduct statutes in every Circuit that explain the guidelines in filing misconduct complaints, huh?

Comment by JUDGESARENOT GODS - December 14, 2007 at [10:11 am](#)

The Florida judiciary is a joke!!

Comment by ed wood - December 14, 2007 at [10:14 am](#)

OMelveny at 9:57: To whom should Conway apologize? Surely not the wicked witch? Perhaps an apology to the Fla. bar., or to the Fla. judiciary as a whole?

Comment by Will - December 14, 2007 at [10:23 am](#)

Model Rule of Professional Conduct 8.2(a), which has been adopted almost everywhere, makes it unethical for a lawyer to make false statements about a judge's integrity or qualifications. Most courts have rejected lawyers' First Amendment challenges to Rule 8.2(a). Rule 8.4(d) prohibits conduct prejudicial to the administration of justice, which might include impugning a judge. That rule will also withstand a First Amendment challenge in circumstances such as these. The bottom

line is that the Florida Bar's actions are unsurprising and the First Amendment argument likely goes nowhere. Whether this is the right approach or result may be questionable—judges should not be immune to reasonable criticism—but the legions of cases on this subject make this story hardly newsworthy.

Comment by Ethics Guy - December 14, 2007 at [10:30 am](#)

thank you, Ethics Guy, that was helpful, but still troubling—and what about a Judge who impugns the integrity of a lawyer huh? No recourse there, I take it? Which only makes my point, that lawyers are told, you can NEVER criticize a Judge, they can say whatever they like to YOU, THE LAWYER—but not the other way around?

That stinks, quite frankly!

Comment by JudgesARENOTGODS - December 14, 2007 at [10:42 am](#)

What happened to the lawyer who told the bankruptcy court judge he/she was a few fires short of a happy meal? I doubt he got disbarred.

Comment by Anonymous - December 14, 2007 at [10:58 am](#)

This entire controversy could have been avoided by a.) having enough judges and b.) using an automatic trial scheduling program that would have both a minimum lead time and a maximum time to trial. Court administration should not make this personal.

Comment by anon - December 14, 2007 at [11:00 am](#)

All aspects of public life in Florida have grown increasingly weird over the years, starting even before the hanging chads and the crying judge in the Ann Nicole Smith case. Query whether Hadad's comments to Law Blog might place HIM in jeopardy with the wacky poobahs of the Florida Bar.

Comment by FromTheWings - December 14, 2007 at [11:04 am](#)

the 10th Circuit has stated in rulings that they will not allow criticism of any judge and that that is grounds to remove a pro se statutory right to self-representation. That is a very heavy price since without self-representation a person could lose everything they own, lose their reputation, and even lose their life. At the same time as the 10th Circuit removes statutory and constitutional rights to self-representation, they prohibit lawyers from providing unbundled services to pro se and refuse pro se motions to appoint counsel. The 10th Circuit also does not allow pro se to have an appendix and does not allow them to have an oral hearing.

Comment by reader - December 14, 2007 at [11:05 am](#)

Pulp fiction—Next scene as lawyer is disbarred for criticism of judge, A.B.A. that writes the rules prohibiting lawyer speech critical of judges has a parade in D.C. to present a petition protesting denial of free speech critical of government in Pakistan. What is wrong with this picture?

Comment by Polaris - December 14, 2007 at [11:20 am](#)

Criticism does not impugn justice— it just makes people uncomfortable

Comment by sinic - December 14, 2007 at [11:23 am](#)

Ethics Guy: where is the false statement?

Comment by Mere Opinion - December 14, 2007 at [11:40 am](#)

even more ridiculous than the Bar position is that some commentators and judges don't want anyone criticizing them. I believe former Justice O'Connor and many others don't think they should be subject to criticism under any circumstances as it has a "chilling" effect.

Comment by Anonymous - December 14, 2007 at [11:51 am](#)

Judges create and enforce rules that favor judicial supremacy in all things. Everyone in practice has come across unreasonable judges and defers to them in order to avoid a bad outcome for their client. There's a point though when a judge goes too far. The fact that these judges can't stand up to criticism on a blog is very telling. If your actions on the bench can't stand up to public scrutiny, then maybe what you're doing on the bench is wrong. Judges shouldn't be insulated from the harsh critiques they routinely shell out. Justice isn't prejudiced when you call a judge out. Their pride gets hurt and they use the system to try and put lawyers back in their place.

Disbaring Mr. Conway for this would be a disgusting abuse of the ethics rules. This rule in particular has very little to do with ethics. I'd love a rule that made it a serious offense to slight me, but that has little to do with the administration of justice and everything to do with egotism.

Comment by Hypocrites - December 14, 2007 at [11:55 am](#)

I am not sure there is a false statement. I am not sure that the lawyer is unfairly impugning the judge. The lawyer may well win his disciplinary case. I am simply making the point that the Florida

Bar's actions here are unremarkable and all the cries of First Amendment freedom may well go unheard given the body of case law on the subject.

Comment by Ethics Guy - December 14, 2007 at [12:00 pm](#)

JAA,rocks! We have person knowledge of many misdeeds down there. Including the destruction of Mark Adams for speaking out against bad faith dealings by entrenched power. We sent out our facts where the lawyers practiced in California without being registered here, while they also admitted over 14 false affidavits, which is Perjury. The Bar's of CA, NY and DE have done nothing. We did not even get a reply, though we talk to the Delaware gals much. It was of Little Worth.

Our letter to the Judicial Review and Judicial Misconduct at the Circuit resulted in one Judge being promoted to the Circuit. While at the same time they stole our 8 months of billables and expunged our Court approved earning because we refused to play ball with criminal acts and blew the whistle. The Bar, Judges and more, have circled the wagons to protect their own, regardless of the fact that such acts are assisting nefarious dealings and fraud.

Only the guts to stand tall by such persons as Adams and JAA, Lanson, Hurley and others can make a difference. Today, just by putting this issue on national stage, Mr. Lattman and his staffed earned great points on the scale of life. Such can never be taken away. Kudo's guys.

<http://fraud-corruption-mnat.townhall.com/Default.aspx>

Comment by Laserhaas at msn - December 14, 2007 at [12:05 pm](#)

Dunk the Judge under water. If she drowns, she was not a witch, so burn the attorney at the stake. If she doesn't drown, she is a witch and should be burned at the stake.

Comment by Easy Solution - December 14, 2007 at [12:18 pm](#)

I thought the U.S. doesn't allow nobility. No special privileges for anyone here, according to the written law, including judges and lawyers. Now, all that we need is a Supreme Court that will use its mandamus authority to make sure that the lower courts actually follow the written law even when it hurts lawyers or judges.

Comment by reader - December 14, 2007 at [12:46 pm](#)

"that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them." Thomas Jefferson

Comment by lloyd h. golburgh, esq. - December 14, 2007 at [1:02 pm](#)

Amen Reader, a Supreme Court that follows the Law and does not protect lower courts at the expense of Justice, a concept of our fore-fathers most wonderous

Comment by LSH - December 14, 2007 at [1:02 pm](#)

i, for one am tired of judes attitude that they are above reproach and above the law.

Comment by ABA is a monopoly - December 14, 2007 at [1:05 pm](#)

I am a lawyer and member of the esteemed group that you are all bashing.

Well, let me join the rest of you in stating that I agree with all of the First Amendment issues that we raise and I can tell you that I am currently in the same position as Mr. Conway.

I received a Complaint today for the exact same thing. The Florida Bar needs to prove their existence and serve as a "do-gooder" organization for the benefit of the very people that we represent zealously. I have had pro bono clients file complaints that the Bar has sent to their Kangaroo Court, a grievance committee, and I think that next to George Mitchell's Steroid Task Force, they should be the least respected members of society.

I do not think that the Framers said in Philadelphia that "Congress shall make no law restricting or abridging the Freedom of Speech or of the press, wait a minute, that does not include the Florida Bar, they can do what they want." Abraham Lincoln, the 16th President of this Country allowed us to go to war to protect his ideals and his interpretation of Equal Protection Under the Laws and that whole "all men (and women) are created equal." Does that not apply to lawyers?

Is that not why we had that whole Tea Party in 1776? How many soldiers have died at war protecting our freedom? I would like to see Bar Lawyers pick up a rifle and defend our freedoms. They can't do that, so they use Grievance procedures instead.

I am using my real name because I have the fundamental right to do so without fear. As Americans we have the right and the duty to challenge politicians and elected officials.

My name is Scott Salomon and I approve this message

Comment by Scott Alan Salomon, Esq. - December 14, 2007 at [1:14 pm](#)

sorry, did not mean to put that all up again, could the monitor remove the paragraph that starts with Anon and ends with Deal?

thanks

Comment by Anonymous - December 14, 2007 at [1:28 pm](#)

Now, again, Congrats to Scott and all who stand tall for justice. By a simple act (that many of your colleagues will tell you is Jerry Maguire) - the fact remains, you stood Tall today, it takes guts and a thumb at wisdom of safety. Everyone that does so though, exemplifies the great American spirit that built this wonderful Nation. We were founded on the notion that Justice shall prevail. Always at a cost. Mr. Lattman's staff did a wonderful thing today in bringing this item forward and Scott Salomon earned a gold Star in Life.

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Again and again JAA ROCKS!

Comment by LSH - December 14, 2007 at [1:47 pm](#)

What the article leaves out is that the comment the Bar has a problem with is that he stated that she was mentally ill and suffered from mental illness. That is going to far.

Comment by POD - December 14, 2007 at [2:45 pm](#)

Black Letter Law: Very Small Rocks

Comment by Monty - December 14, 2007 at [2:56 pm](#)

Obviously he did not go too far as the Judge is facing disciplinary issues. Which will not go hidden or covered up now that so much press is focused on the issue. Mark Adams did things by the rules and no attacks, look where it got him. Disbarred.

The customary practice, that the Courts desire is to say that the decision seems to be drunken or the decisions must have occurred during a state of illness. The fact remains Sean Conway is part of the cause and effect pathway. The Judge was doing wrong, which is a Perversion of Justice and when she was challenged, she became obviously biased. If it takes bad remarks, to get action against a system that Protects their own, then Sean did the right thing. You can no more punish him, as a matter of free speech, than to punish all here who agree with the JAA blog. The Bench must be unbiased and administrate Justice unbiasedly. When a judge feels they are Above the Law and unaccountable it takes radical efforts to halt the manifest injustice that has to be consistently occurring. The BAR only goes after ones it deems politically prudent to do so with. That is the true Travesty of Justice. Where does the Bar get the power to imply it represents the people only to protect the elite class of entrenched powerful. I do disagree that the "itch" items are bad taste, but it WORKED!

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<http://fraud-corruption-mnat.townhall.com/Default.aspx>

Comment by Laserhaas at msn - December 14, 2007 at [3:07 pm](#)

The people may have to be exposed to the failure of the system, before the supporters of failure can be brought to justice. Keep exposing the EVIL.

Comment by Aghast at the corruption of the legal system - December 14, 2007 at [3:14 pm](#)

Shame on anyone who thinks an attorney should be disbarred for speaking their opinion about a judge.

Any public figure knows the day will come when a possible skeleton or 100 may come out.

You don't like the heat, get out of the kitchen.

KUDOS to Conway.....Pity for the Judge

Comment by Stand Up For the Right of ALL - December 14, 2007 at [3:29 pm](#)

We agree Stand Up,,

as Mr. T would say

"pity the fool that messes with Justice"

Comment by Anonymous - December 14, 2007 at [3:34 pm](#)

what is the definition of ex parte?

Comment by student - December 14, 2007 at [3:49 pm](#)

Communication with only one party

Comment by Anonymous - December 14, 2007 at [4:05 pm](#)

New website should say “ex parte” no way.

<http://laserhaas.wordpress.com/>

Comment by Laser Haas - December 14, 2007 at 4:17 pm

Just because we are given a license to practice law does not mean that we leave our First Amendment rights at the door. I agree with Scott. I hope Conway sues the Florida Bar in Federal Court. That's the only place he can get relief.

Comment by Frank-Attorney - December 14, 2007 at 4:24 pm

If it is established that there was an oral conference without advance notice and without an opportunity for one side to be present, and neither the adjudicator nor a court recorder records what was said, is it ex parte? Are there any oral communications between one party to a civil litigation and the assigned magistrate or judge that are allowed without an official court recording of what was said once it is established that it concerned the matter of the litigation?

Comment by student - December 14, 2007 at 4:31 pm

What makes you think that bar associations can be sued?

Comment by question for Frank Attorney - December 14, 2007 at 4:34 pm

Like Judges, US Trustee's, the BAR is above the Law.

<http://fraud-corruption-mnat.townhall.com/Default.aspx>

Comment by Laser - December 14, 2007 at 4:57 pm

The Florida Bar has got it all wrong. According to Conway's version of events, the Judge's ruling on the trial date was such an abuse of discretion that it might have deprived the defendants of due process. That's a real problem and it's even more disturbing that discussion of the problem led to disciplinary action. What's next?

It's amazing to me how quickly Judges forget the challenges of litigation once they ascend the bench and the bar has an absolutely duty to remind Judges of those challenges when they advocate for their clients. Likewise, as officers of the Court, we are duty bound to point out abuses of discretion and interference with the administration of justice.

Further, while Conway's tone may have been combative, I don't see how his comments impugn the Judge's integrity — they have nothing to do with her truthfulness or impartiality — but rather attack her judgment, which appears to be questionable.

Since I would like to keep my license, I am remaining anonymous!

Comment by The last great monarchy - December 14, 2007 at 5:25 pm

I'm criticized at my job by people I work with all the time. Who isn't? Give me a break...

Comment by WT??? - December 14, 2007 at 5:44 pm

to POD - actually the article says “seemingly mentally ill” (no need to misquote things) - which, based on the behavior observed over time, is an opinion expressed on a blog of all places - it's not it was said in open court for f's sake.

Comment by sean conway - December 14, 2007 at 5:49 pm

I may have to quit my current job, move to Florida, and become a First Amendment lawyer. This bar rule seems way out of bounds. And the judge seems to be simply affirming this guy's statement by referring him to the bar disciplinary committee.

If I were a judge, I'd never refer a lawyer in my court to a disciplinary committee for statements he made about my performance on the bench. Get some thicker skin, lady!

Comment by howard treesong - December 14, 2007 at 5:56 pm

to Ethics Guy:

you probably weren't aware of the Michigan federal opinion that just struck down MI's equivalent Bar rule as being unconstitutional on, guess what?, 1st Amendment grounds.. That case just came out in Sept. where the lawyer in that case, Jeffrey Fieger called some judges Nazi's and had been reprimanded. Yes, Ethics Guy, the 1st Amendment is alive and well... even for lawyers!

Sean Conway

Comment by sean conway - December 14, 2007 at 5:59 pm

The Supreme Court of Canada affirmed an award against the Bar Association of Quebec to a pro se litigant.

Comment by pro se - December 14, 2007 at 6:29 pm

The ABA Model Rules of Judicial Conduct say

“A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided;

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.”

So no matter what if there is a conference with an adjudicator the other side must be notified as to what was said so they can respond.

So unless you discount the ABA model code, it cannot be legal for there both to be ex parte and there to be no record, right?

Comment by reader - December 14, 2007 at [6:32 pm](#)

Someone in this thread asked the Supreme Court to intervene– to vindicate the First Amendment’s guarantee of free speech. No lawyer would have said that because most lawyers rue the fact that the High Court bends over backwards and does splits to avoid constitutional issues. As a matter of fact less than 1% of the petitions for certiorari submitted to the high court, no matter how meritorious or how glaring the violation of the petitioner’s rights, are even given a chance of a hearing.

In the USA there is no agency of government more inaccessible to the people than the Supreme Court of the United States.

The judges of the 10th Circuit know this, and you should know this — that the deck is stacked against the enforcement of fundamental human rights. In that respect the Bill of Rights is so many empty promises to trap people like Sean Conway into thinking he has immunities against the tyrannies of big government, including the plutocracy known as the Florida Bar.

Comment by James L. Smith - December 14, 2007 at [7:05 pm](#)

Dear James Smith,

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Giving total merit to your arguments, what would you suggest? My vote is more JAA, more WSJ LAW blog involvements, more discussion. What occurs is the people say, by their lack of action, that we don’t care.

Things have to go too far, before we Unite to stop the insanity. BAR’s and Judges who rule in favor of “their” desires will continue to do so if we sit silent. Speak UP guys. While many have seen and read our story, what you have not seen is the minor battles we have won, 2 law firms disbanded and closed (they deserved it, don’t take offense), 10 resignations of key Dept of Justice personnel and others. A WSJ story on July 25, 2005 on the eToys matter and \$750,000 disgorgement with multiple confessions to acts that are perjury/fraud. You can make a difference if you speak up. If someone robs a store and he knows no one will say anything, will he not continue to rob?

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<http://fraud-corruption-mnat.townhall.com/default.aspx>

Comment by Laser Haas - December 14, 2007 at [7:27 pm](#)

This is not a constitutional issue. No one is saying that someone can’t say what he wants about a judge, they’re just saying that an attorney can’t say what he wants if he wants to remain licensed. If there is a procedure for an attorney to follow in order to appeal this type of decision then he should avail himself of that, rather than resort to calling a judge an evil witch. How old is this guy, 12? Have some integrity and respect for the judicial system.

Comment by Anon - December 14, 2007 at [10:37 pm](#)

No other job would allow you to keep your career if you publicly called your co-workers evil witches and accusing them of being mentally insane. Even if the judge was abusing her power I don’t see why this type of behavior should fly for lawyers or for anyone else.

Comment by Another take - December 14, 2007 at [10:45 pm](#)

Monarchy 5:25 p.m.: When I see the term "Officer of the Court" used, it automatically turns on the B.S. defenses against further processing of the writing. Don't kid yourself—there is no such thing as an "Officer" being anything in front of a judge except an otherwise unavoidable annoyance that makes the judge work, including making decisions in cases. Admittedly, that is a stereotype of the judiciary but in my extensive experience it is a definition that fits more not less and we are dealing in one-size-fits all discussions here. The officer of the court concept is an ethical canister that is used to trap lawyers who step out of line, as measured by the judges and their anointed State Bar comrades. It is a restriction on rights and discretion, not a grant of some status or prerogative. If you are a lawyer, as you say, forget the Officer nonsense. You don't have a chance—you are fodder. If you disagree with my opinion, tell the next judge you appear before, that summarily overrules you, or cuts you off, or refuses to make a record, or to assign a workable court date, that you are an "Officer" and request to be treated as such. Then, when that doesn't work, try to make it part of your claim of error(s) or abuse of discretion, or whatever the case may be. ROFLO

Comment by Polaris - December 14, 2007 at 11:03 pm

Co worker!, Compare apples to apples guys. The system of Justice is not a business, nore a Government entity subject to making us subjects to a Bye or leave! No one should fear retribution for speaking out about a Judge' bad behavior, sure the itch's stuff was bad taste. It was not said in court and Sean already accepted the fact that she was going to rule against him in anything anyway. Actually, not only bold, but brilliant. You can most certainly recuse her from any case of yours. No the bar brings into question much more, with their retaliatory actions. Admonish him, maybe, to have more couth. But disbar him, Never. Mark Adams did it like a gentleman and he was disbarred anyway. We question a ruling and the Judge not only allowed the parties to retaliate our earned billables that were already court approved, the Court also allowed the parties, (that have confessed to filing false affidavits) to retaliate by keeping our monies we laid out for expenses for the estate, including paying rents. Speak out, Speak LOUD, this was Conway's big stick and it worked.

<http://romney-fraud-perjury-coverup.townhall.com/Default.aspx>

Comment by Laser - December 14, 2007 at 11:08 pm

the taxpayers subsidize the U.S. judiciary \$6 bill per year so it is a government function supposed to be accessible to all U.S. citizens under the 14th amendment even if the other side can illegally and criminally engage in oral conferences with the court because of their personal connections, right?

Comment by researcher - December 15, 2007 at 1:59 am

No surprise- the guild system is protecting its own again. They have never understood the pesky first amendment.

Comment by Rosseau - December 15, 2007 at 2:35 am

99.9% of postings on blogs end up read only by the poster and a few people who don't like what is showing on television. The performance of Broward County Court Judge Larry Seidlin at the Anna Nicole Smith trial, sometimes court jester, sometimes sobbing, destroyed the public's perception of judges in Broward County. This bailiwick is the same one where two local judges rubberstamped then Broward County Sheriff Nicky Navarro's attempt to ban 2 Live Crew's song "As Nasty As They Wanna Be." That case lost on appeal, and shortly thereafter, Sheriff Navarro also lost, once voters got a gander at the legal costs associated with this case. Judges in Broward County should stick to what they do best, giving developers legal carte blanche to build high rise condominiums and looking the other way as the local gendarmes make their arrest quotas with questionable detentions. But with construction of condo canyons stalled by the subprime mortgage credit crunch, those judges have more time on their hands, to play FreeCell computer solitaire or to troll the Internet legal blogs looking for postings they don't like.

Comment by Judge Crater - December 15, 2007 at 3:05 am

Relatedly, The Florida Bar is seeking my permanent disbarment for having criticized Miami-Dade Circuit Court Judge Ronald Friedman for having announced his ruling in a case BEFORE THE HEARING ON THE MERITS. He then cancelled the hearing and then filed a Bar complaint against me after I had properly moved to recuse him.

Florida's Third District Court of Appeal then whacked this same Judge Friedman for having, in another case, announced his ruling before a trial and for then refusing to recuse himself! The Florida Bar is completely out of control in trying to protect "judicial independence" in violation of the First Amendment. A federal judge in Michigan utterly destroyed this type of Talibanism in its recent case involving Geoffrey Fieger. I am out to deconstruct The Florida Bar for its idiocy. Feel free to contact me with similar tales at 305-666-4366 or at amendmentone@comcast.net. Here's the Fieger ruling that brands all of this speech code nonsense as nonsense:
<http://pub.bna.com/lw/0611684.pdf>

Comment by Jack Thompson, Attorney - December 15, 2007 at 6:23 am

Oh, and by the way, the US District Court Judge protecting this shredding of the First Amendment is U.S. District Court Judge Adalberto Jordan, who thinks that Bar Rules that prohibit truthful speech about judges are constitutional. Jordan was appointed to the bench by President Clinton.

Comment by Jack Thompson, Attorney - December 15, 2007 at 6:26 am

<http://blogs.wsj.com/law/2007/12/14/should-lawyer-be-disbarred-for-harsh-criticism-of-a-judge/#comment-105522>

I hereby certify that the foregoing has been provided to opposing counsel through the court's electronic filing system, this December 15, 2007.

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