

IN THE SUPREME COURT OF THE STATE OF FLORIDA

John B. Thompson,

Plaintiff,

v.

CASE NUMBERS SC06-2032, SCO7-80, SC07-354

The Florida Bar,

Defendant.

**VERIFIED SUPPLEMENT TO PLAINTIFF'S PETITION FOR WRIT OF
MANDAMUS AND/OR ORDER TO REMOVE CIRCUIT COURT JUDGE DAVA
J. TUNIS AS REFEREE IN THIS "DISCIPLINARY" ACTION**

COMES NOW plaintiff, John B. Thompson (hereinafter Thompson), and hereby supplements his petition for writ of mandamus/prohibition and in the alternative seeks an order from the Supreme Court removing Circuit Court Judge Dava J. Tunis from her temporary assignment as referee in this Bar "disciplinary" matter, stating:

1. Today Judge Tunis did the most remarkably injudicious thing he has ever witnessed a judge doing in his thirty years of practicing law in the State of Florida. It disqualifies her from continuing to serve as referee in this matter, and it may disqualify her from sitting on the bench in any other matters as well. Note:

2. Plaintiff's wife is Patricia H. Thompson, a partner at the oldest law firm in Florida, Carlton Fields, founded in 1899.

3. Ms. Thompson is by far the better of the two lawyers in this family, to which anyone who knows her and the undersigned can attest, which would include Florida Bar Governor Gwynne Young, Ms. Thompson's law partner, and former Bar President Edith Osman, also Ms. Thompson's law partner. In January of this year, Ms. Thompson was diagnosed with ovarian cancer. Its treatment involved major abdominal surgery and

arduous chemotherapy for months. At approximately that time, Judge Tunis was chosen by Judge Farina to serve this state, presumably fairly, in this “disciplinary” matter.

4. Early on, Judge Tunis chose to label Thompson’s defensive pleadings “propaganda.” When the full impact of the plaintiff’s wife’s chemotherapy hit Thompson and their teenaged son, for whom Thompson has always been the primary care provider, Thompson asked for a continuance or stay of the Bar proceedings so that Thompson could get through this medical situation without this additional burden imposed by The Bar. The Bar objected, and Judge Tunis refused to grant any continuance or stay, failing to give a reason.

5. Ms. Thompson, on the other hand, had no difficulty securing without question a continuance in a matter before U.S. District Court Judge Patricia Seitz. Maybe grace is more inherent within the federal judiciary. Regardless, anyone, whether wearing a judicial robe or not, who has been touched by cancer knows that the burden upon an entire family is great, especially the spouse. Only a completely ignorant person does not know this.

6. Judge Tunis is neither ignorant nor stupid. She is, in the words of a lawyer who employed her as a law clerk, “sharp as a tack.” Indeed she is. The British would say “too clever by half,” as the below additional facts will indicate.

7. At 7 pm Friday, August 3, 2007, Thompson rushed his wife to the Emergency Room of Doctors Hospital. She was suffering from progressively worse abdominal pain. Thompson has known his wife for 33 years. He has never seen her complain of such pain. He has never seen anyone in such pain.

8. Without giving additional medical information, Ms. Thompson was diagnosed with an upper intestinal bowel obstruction most likely caused by scarring/adhesions consequential to the extensive cancer surgery.

9. Since Saturday, Ms. Thompson has had a nasogastric tube to relieve pressure from her distended bowel and abdomen. She has been unable to eat now for five full days. Thompson has slept very little and has been journeying to the hospital repeatedly to walk his wife, to wash her face, and to otherwise supplement the excellent nursing care she has been receiving at Doctors Hospital. Again, anyone who has been in this situation can empathize, except for Judge Tunis, it seems.

10. Facing a Thursday, August 9 “status conference” in this Bar “disciplinary matter” before Judge Tunis, which if it is to be like all the other “status conferences” Judge Tunis conducts herein will accomplish very little, Thompson moved in writing for a continuance in light of the continued hospitalization of his wife and the possibility at the time of surgery.

11. At approximately 10 o’clock a.m. this morning, Thompson received a call from Judge Tunis’ pleasant secretary, Anna, giving him what she called a “heads up” from Judge Tunis: *There will be no continuance, even if your wife is in surgery, about to go into surgery, or coming out of surgery. The status conference will only take fifteen minutes, so you can attend by phone.*

12. Thompson politely noted to Anna that a status conference that lasts, at this juncture, a mere 15 minutes, is an exercise in irrelevance at best, because there are numerous consequential motions pending, as indicated by the fact that The Bar’s prosecutor noticed this status conference for a three hours. Further, Thompson politely

noted that no person in his/her right mind would expect Judge Tunis to be discharging her duties as a judge if her lawyer husband, which he is, were in surgery that day. Thompson asked Anna to inquire of the judge what a fifteen-minute status conference was going to address and to please let him know. Two and one-half hours later, Thompson does not know the answer to that question. He concluded to Anna by noting that if his wife were to be in surgery that day, then he would not be there. No loving husband would.

13. Judge Tunis has been asked previously to recuse herself. She not only has refused to do so but has repeatedly refused to inform the parties as to alleged the facial insufficiency of the recusal request. She has a legal obligation to state the defect so that it can be remedied.

14. Judge Tunis by what can now only be described, kindly, as her improper behavior unbecoming a jurist, must be removed from this case. She has gone from the benefit of a presumption of fairness to an irrefutable presumption of animus and bias. Any jury subsequently looking just at this latest episode of robed intractability will be impressed with just how this “disciplinary” process has been orchestrated to run over Thompson and his rights.

15. The name of Norm Kent has popped up repeatedly in these disciplinary proceedings. Mr. Kent is Thompson’s most abiding nemesis and Bar complainant against Thompson. He has built a nice career for himself, in part, being Thompson’s “thorn in the flesh,” to use the Apostle Paul’s phrase. He recently admitted in sworn answers to interrogatories that he was hired by Miami’s *Howard Stern Show* broadcaster to file Bar complaints against Thompson. Now that is a niche legal career specialty.

16. Mr. Kent, however, when Thompson contacted him about his wife's cancer months ago, immediately granted Thompson a continuance in another matter pending between them. Mr. Kent has more common decency in his little finger than does Judge Tunis in her entire robed turbulence, on at least this issue. Mr. Kent has had cancer. Judge Tunis suffers, it seems, from a more prevalent disease—judicial hubris and tyranny that now dozens of scholars have written books about. Judge Tunis deserves both a chapter of her own and removal from this Star Chamber of her own making.

WHEREFORE, Thompson moves this High Court for an order removing this judge from her role as referee herein. The Supreme Court should do this, if not for Thompson, then for itself, because The Florida Bar has in Judge Tunis its Achilles heel.

I HEREBY SWEAR AND AFFIRM, AS IF UNDER OATH AND UNDER PENALTY OF PERJURY, THAT THE FOREGOING FACTS ARE TRUE, COMPLETE, AND CORRECT, SO HELP ME GOD.

I HEREBY CERTIFY that the foregoing has been provided this August 8, 2007, to John Harkness, Executive Director of The Florida Bar, to Circuit Court Judge Dava J. Tunis, to Bar staff counsel Sheila Tuma, and to Kenneth Marvin, Director of Lawyer Regulation for The Bar.

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