

IN THE UNITED STATES DISTRICT COURT
OF THE SOUTHERN DISTRICT OF FLORIDA

JOHN B. THOMPSON,

Plaintiff,

v.

CASE NO. 07-21256

JUDGE ADALBERTO JORDAN

THE FLORIDA BAR, *et alia*,

Defendants.

**PLAINTIFF'S VERIFIED MOTION TO SET ASIDE/VACATE COURT ORDER
ON THE BASIS OF FRAUD, PER RULE 60(B)**

COMES NOW plaintiff Thompson, on his own behalf, and moves this court, pursuant to Rule 60(b), Federal Rules of Civil Procedure, for an order setting aside this court's order of dismissal without prejudice, on the basis of the defendant's fraud, stating:

As the court will recall, the case law pertinent to this case brought by plaintiff Thompson is clear that if a victim of a state's regulatory can allege and prove prosecutorial "bad faith," then the federal court asked to stay such proceedings and grant other relief as an exception to all theories of "abstention."

Plaintiff alleged to this court prosecutorial bad faith at the time, and the court, for whatever reason, did not afford him the evidentiary hearing on this issue to which he was entitled.

Be that as it may, possibly the court had a sound reason to deny him that hearing. Plaintiff is not back again for the purpose of casting aspersions in that regard, but he is certainly back, this time armed with a mountain of evidence, that indeed there has been bad faith by The Bar of which he was wholly unaware until this past Saturday, August 9, because of information provided him by a Florida Bar insider. Plaintiff begs the court's

indulgence with what he hopes is a sufficient, but by no means exhaustive, account of this startling and consequential bad faith, to-wit:

In 1987, The Bar commenced an attempt to destroy Thompson's legal career by asserting that he was, among other things, "homophobic." There is no such malady, but typically those who assert such a thing about others at least border on clinical paranoia.

Acting out this paranoia, The Florida Bar, in pursuit of its pro-homosexual agenda even then, secured *ex parte* an order from the Florida Supreme Court informing Thompson that he would have to submit to a battery of mental tests by The Bar's own experts to determine whether he was "mentally disabled" as indicated by his "obsessive and disabling" efforts against pornography. The happy result was that Thompson is now the only officially Bar-certified sane lawyer in Florida, and The Bar's carrier paid him damages for The Bar's acting out of its paranoia at Thompson's expense.

One the primary reasons The Bar's carrier had to pay Thompson damages was Thompson's procurement of internal documents within The Bar's files that showed that the illegal effort to destroy Thompson stemmed from his successful efforts against the University of Wisconsin-Madison's illegal placement of audio tapes in the Miami-Dade School system that promoted homosexual activities by teens as "normal." This advocacy happens to violate a Florida law which makes such advocacy in our public schools illegal.

The "smoking gun" documents in The Bar's possession proved the collaboration between University of Wisconsin-Madison operatives, under the direction of then Chancellor Donna Shalala, and certain political supporters and campaign contributors to Janet Reno who were working with Shalala's people within The Bar to generate bogus

Bar complaints against Thompson. The basis for this was Thompson's successful opposition to their illegal dumping of pro-homosexual propaganda into the public schools, as indicated above.

Thompson was so successful in this effort against these illegal efforts by Shalala's U of W-M that he persuaded Tony Burns, then the President and CEO of Ryder Systems, to pull these pro-homosexuality materials out of the public schools which the United Way, remarkably, was helping fund. Mr. Burns, a devout Mormon, was the Chairman of the local United Way, and he understood the consequences of United Way funding illegal activity in our public schools, whether Donna Shalala liked it or not.

It was because of Thompson's representation of parents with students in the Miami-Dade school system, because of his persuasiveness with Mr. Burns and United Way, and because of Thompson's unflagging whistle blowing against the radical gay agenda that this cabal of radical gay rights advocates used The Bar to try to destroy Thompson.

All of this is set out and proven in Thompson's Tyndale House book, *Out of Harm's Way*, published in 2005. The publishing of this book was when The Bar's effort to destroy Thompson kicked into high gear the second time. The best is yet to come, however, in this narrative, *infra*.

The designated reviewer first assigned to Thompson's "disciplinary" matters in this latest installment of harassment of him that began again in 2004 was the very talented Bar Governor Mr. Ben Kuehne. Mr. Kuehne and Thompson opposed one another in the latest Miami-Dade Gay Rights Law fight. Mr. Kuehne has every right to his views and his representation in this regard. He of course does not have the right to sit

as Thompson's designated reviewer, unless, of course, Mr. Kuehne wants Mr. Thompson to serve as jury foreman in his upcoming money laundering trial.

Mr. Kuehne, when he was indicted, was removed as Thompson's designated reviewer and he was replaced by the now late Steve Chaykin. Thompson is sad for his family because of their recent loss. But Mr. Chaykin was not the unblemished paragon of legal virtue that his eulogizers say that he was, the most notable of which was now U of M President Donna Shalala at his recent memorial services. Mr. Chaykin had a dark side. We all do. Christians call it "original sin." That is what God identifies as our feet of clay. Mr. Chaykin had the same feet of clay Mr. Thompson has, but the difference is that the undersigned seems to know it.

Mr. Chaykin, RIP, was a rabid advocate for the extreme homosexual agenda within The Florida Bar. He was so extreme that even The Bar's Board of Governors could not abide his extremism in that regard, at least not publicly. Mr. Chaykin famously stated in *The Florida Bar News* that anyone who did not agree with him on "gay adoption" (the Florida legislature does not) is "outside the core values of The Bar" and is among "the enemies of The Bar." This is paranoia.

Thompson is identified throughout South Florida and beyond by the "gay community" as its "Public Enemy Number One." This, of course, is absurd, but this is what people given to paranoia tend to think and say about those whom they do not understand.

Mr. Chaykin, it can be shown, used his post as Thompson's second designated reviewer to a) demand yet another coerced mental health exam to determine the extent of Thompson's "homophobia," and b) scuttled a settlement of this entire dispute when it

appeared that a settlement was imminent. Mr. Chaykin did this, it can be proven, to pursue privately, at Thompson's expense, this bizarre radical gay agenda he was very vocal about.

And now we come to the fraud that was not known until only a matter of hours ago:

The first question Bar Referee Dava Tunis asked in early 2007 of The Bar was, "Why in the world is The Florida Bar's Orlando office prosecuting Mr. Thompson." The Bar refused to answer the Referee's question. The answer is this, which is now known:

One of two prosecutors of Thompson was a gentleman in the Orlando Bar office by the name of Kenneth Bryk. Mr. Bryk gave off indications that he was "gay," but Thompson did and said absolutely nothing in that regard because Mr. Bryk's homosexuality could not be an issue.

What is now an issue, front and center, is the fact that it is now learned that Mr. Bryk is the very active president of the Central Florida Gay and Lesbian Law Association.

Mr. Bryk violated at least ten (10) specific Florida Bar Rules in hiding his aggressive pursuit of the radical homosexual agenda from his Florida Bar office. He also appears to be violating The Bar's anti-moonlighting rules and decisions (See Florida Supreme Court's ruling in *Bar v. Kossow*) by running his gay rights cottage industry out of his Bar office, placing solicitations on the web in this regard with his Bar address, phone number, and e-mail address.

As an aside, The Florida Bar Foundation, in conjunction, they crow, with The Florida Bar itself, is violating its 501(c)(3) IRS charitable status by funding Mr. Bryk's

“political” organization. Why is it characterized by Thompson in that fashion? Well, because Mr. Bryk himself proclaims that his gay rights organization has applied not for a 501(c)(3) exemption but for 501(c)(6) status, which means it is a political not a charitable organization.

The Bar’s and The Bar Foundation’s funding of this political entity is a clear violation of the Foundation’s charter and by-laws, and just as importantly it is a violation of *Keller v. State Bar of California* by which the US Supreme Court prohibits such political activity by state bars.

Bottom line: Mr. Bryk and The Florida Bar had an absolute duty to disclose Mr. Bryk’s advocacy for radical gay rights and his abiding opposition to “religious nuts like Jack Thompson.” This would have been helpful because it would have explained Mr. Bryk’s incredible misrepresentations to the Referee as to various legal issues before her. Thompson had never quite witnessed such prevarication as to what the law was as he saw in Mr. Bryk. Now we know why he went down that road: He had to go down that road. He defines himself, personally and professionally, as someone who can be counted upon to do something about homophobes like Jack Thompson.

This might all be idle conjecture and interesting cocktail party talk if The Florida Bar had not been caught doing this the last time to Thompson. The smoking gun documents ended that idiocy the last time.

That is *precisely* why Mr. Bryk denied Thompson access to any and all Bar files this time around—because they might contain similar smoking guns like the last time around. This gutting by Mr. Bryk of the Bar’s guarantee that the Rules of Civil Procedure apply in disciplinary proceedings protected any embarrassment by The Bar

this time around. The Bar even went so far as to say that it had every right to redacted and destroy any documents it found in that regard without providing a Privilege Log to disclose what it had purloined from its files!!!

With all respect for this court, if this is not bad faith—the failure of The Bar to be transparent about Mr. Bryk as to who he is and what he has committed his life to as a moonlighter on The Bar’s dime—then there is no such thing as bad faith. This cannot stand.

Thompson is entitled to evidentiary proceedings to try to prove what he alleges herein, under oath.

The ABA Standards of Conduct, specifically Standard 3-1.3 prohibits prosecutors from discharging their duties while laboring under such conflicts of interest. Thompson does not need to inform this court that a prosecutor has a higher duty to the system of justice than does a defense lawyer. A prosecutor, given the incredible power that he wields, has an absolute obligation to serve the system, not just his client, the state. He has a duty to be even-handed, and not just a zealous advocate. Mr. Bryk utterly failed in that duty when he, along with the people at The Bar, including Greenberg Traurig and its lead counsel, Barry Richard, knew full well that a) Mr. Bryk was an avid activist for gay rights and against people like Jack Thompson and b) the ways in which The Florida Bar used this radical gay rights agenda the last time to try to destroy Thompson.

Barry Richard can only now do a reprise of Claude Reins in *Casablanca* in feigning surprise that Ken Bryk was pursuing this agenda. They all knew. Mr. Richard knew. Only Thompson did not know. But now he knows, and he is ashamed to be a lawyer in a system that would reward such subterfuge and such deceit.

WHEREFORE, Thompson moves this court to set aside and vacate its dismissal order. He is entitled to his day in court. He is entitled to his evidentiary hearing. He is entitled, finally, to some justice, and he will have it.

I solemnly swear, under penalty of perjury, that the foregoing facts are true, correct, and complete, so help me God.

Filed this August 11, 2008, electronically with the court, and with counsel for the defendant Bar.

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