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,

Defendants.

PLAINTIFF'S *VERIFIED* MOTION FOR ORDER TO SHOW CAUSE AND MEMORANDUM OF LAW IN SUPPORT THEREOF

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and moves this court for an order to show cause, directed to Barry Richard of Greenberg, Traurig, why he and his subordinate, supervised attorneys herein should not be referred to this District Court's Ad Hoc Committee for Lawyer Discipline, stating:

As this court knows, it dismissed this action on *Younger* abstention grounds. This court asserted, based upon authority provided it by The Bar's record counsel, Greenberg Traurig, whose lead attorney herein was Barry S. Richard, that plaintiff had a full and adequate state remedy to assert his constitutional defenses to the disciplinary assault upon Thompson by The Bar.

Thompson had various such defenses:

A First Amendment defense that much of what he did was not in the practice of law and on behalf of no client. Thus, the Florida Supreme Court's own ruling in Bar v. Brake, 767 So.2d 1163 (Fla. 2000) prohibited the application of Bar Rule 4-8.4(d) against him for his speech. Further, his speech about two judges was and is fully

protected under both the US Constitution and Florida Bar Rule 4-8.2(a), yet The Bar proceeded against Thompson under that Rule. Thompson asserted these constitutional defects, and others, including equal protection/substantive due process violations, in his complaint filed with this court.

Not to worry, asserted The Bar's record counsel herein. Greenberg Traurig assured this court that *Younger* abstention could be safely and appropriately invoked by this court to avoid affording Thompson any federal relief because, this firm assured this court, Thompson would have more than ample opportunity to asserts his constitutional defenses within the disciplinary processes, thereby afforded him an "adequate state remedy" to be heard on them.

Greenberg Traurig's Barry Richard was so insistent on this point that he had his associate, Karusha Sharpe, filed a stand-alone Notice of Supplemental Authority on August 27, 2007, Document #69 herein, citing three different pleadings in *Mason v. The Florida Bar*. Greenberg Traurig had been record counsel in that Middle District case, and it had secured *Younger* abstention from that federal court and thus persuaded Judge Antoon to deny Mr. Mason federal review of The Bar's latest foray against him. Mr. Mason had in another instance successfully persuaded the Eleventh Circuit Court of Appeals that certain of The Florida Bar's speech codes violated the First Amendment. The Bar didn't want that happening again.

Look at the Magistrate Judge's recommendation in *Mason*, adopted by Judge Antoon, found in Document 69 in this court's electronic files which Ms. Sharpe helpfully provided this court as authority for abstention. In *Mason* Greenberg Traurig assured the court that Mr. Mason would have full opportunity to present his constitutional

defenses in his disciplinary proceedings to a) the Grievance Committee, b) the Referee, c) the Florida Supreme Court, and d) even to the Board of Governors prior to his bar trial. The court thus abstained, citing those aspects of an "adequate state remedy" to address constitutional issues.

This Southern District Court, having been cited *Mason*, abstained from granting Thompson a federal remedy through this court and dismissed his cause of action, without prejudice, on the very eve of his Bar "trial"—a trial at which he was not allowed to present evidence and at which he was ordered to stand mute at his sanctions hearing.

Thompson did not appeal the court's dismissal in large part because Greenberg, Traurig, The Bar, and this court were proceeding on the guarantee that Thompson would be able to present and secure rulings on his constitutional defenses, including direct access to the Board of Governors prior to trial, as *Mason* assures.

Thompson then wrote a letter to then Bar President Frank Angones and asked him for the Mason/Bar/Greenberg promised hearing before the Governors. That letter is on file already in this court's docket. So, too, is Angones' curt denial of Thompson's right to present to the Board.

When Thompson contacted Barry Richard by phone asking how he could cite *Mason* and then have his client deny the promised adequate state remedy re constitutional defenses, Barry Richard said, so help me God, that the court in *Mason* was wrong, there was no right to present these constitutional defenses to the Governors.

Judicial estoppel, unanimously enunciated by the US Supreme Court in *New Hampshire v. Maine*, 532 US 742 (2001), prohibits a party and its counsel from asserting one thing in court and then denying it elsewhere. Once The Bar and Greenberg assured

this court, through *Mason*, that Thompson would be afforded full and fair consideration of his constitutional defenses within the state disciplinary proceedings and then, outside of the hearing of this court, asserted *Mason* was wrong and that it bound The Bar in no fashion whatsoever, the outlines of The Bar's mendacious collaboration with Greenberg Traurig to invoke abstention with false assurances to this court was known.

However, as further grounds for the issuance of this show cause order, it was not known until later that The Bar's in-house general counsel, Paul Hill, had lied to Thompson, in writing, when he assured him that The Bar had insurance coverage with Nationwide in place to pay any claim Thompson might assert against The Bar, just The Bar's carrier had paid Thompson damages in 1992 for a similar illegal and tortuous disciplinary foray.

Thompson subsequently found out from discussions with Nationwide that The Bar had, in violation of its own By-Law mandating maintenance of liability insurance at all times, waived insurance coverage by Nationwide as to any claim by Thompson so that Greenberg Traurig could orchestrate The Bar's "discipline" of Thompson with no insurance company oversight of what was being done and how. Greenberg Traurig has billed The Bar to the tune of nearly $300,000 for doing things, such as perpetrating fraud upon this court, like the stunt of citing the *Mason* case which it had no intention of adhering to. This can be done freely when Bar members, whose dues are being spent for such sharp representation, are fully unaware not only of the expenditure of such funds but are fully unaware that such a waiver exposes all Bar members to a special assessment should Thompson prevail in a damages claim against The Bar by virtue of this attempted, illegal, By-Law violative "waiver."

Not only was Thompson denied the *Mason*-promised access to the Governors to present his constitutional defenses, but he was denied all hearing and consideration of his constitutional defenses before and by the Grievance Committee, the Bar Referee, and even the Florida Supreme Court.

Look at the Referee's Report found at The Bar's own site at http://www.floridabar.org/DIVADM/ME/MPDisAct.nsf/DisActFS?OpenFrameSet&Frame=DisActToC&Src=%2FDIVADM%2FME%2FMPDisAct.nsf%2FdaToc%3FOpenForm%26AutoFramed%26MFL%3DJohn%2520Bruce%2520Thompson%26ICN%3D200570305%26DAD%3DDisbarment%2520-%2520Permanent.

Thompson would file it in its entirety with this court, as he tried to do previously, but it is such a huge document that this court's filing system will not accept it. It took the Referee nearly 200 pages to fully vent her ample spleen. Yet in this lengthy document, not only are there no findings of fact, as mandated by Florida Bar Rules, THERE IS NOT A SINGLE FINDING OR RULING OR DISCUSSION OF ANY KIND OF ANY OF THOMPSON'S CONSTITUTIONAL DEFENSES. That is because the Mason promise was broken. Thompson was not even given consideration of them at his trial. To see what a gross violation of substantive due process this was and how this court was enmeshed in an elaborate scheme to deny, consequentially, the most basic of rights, consider *Lambert v. California*, 355 US 225 (1957), Broadrick v. Oklahoma, 413 US 601 (1973), City of Grayned v. City of Rockford, 408 US 104 (1972) and *In re Ruffalo*, 390 U.S. 544 (1968).

After this court dismissed Thompson's action herein, the Florida Supreme Court entered an order prohibiting him from even filing a Petition for Review of the Referee's Report. Such a Petition would have stressed the refusal, every step of the way, of the state disciplinary process to address Thompson's constitutional defenses. The High Court thus violated the Sixth Amendment, Florida Statute 454.18, which guarantees the right of all citizens to represent themselves in our state's courts, as well as the Florida Constitutional provision that guarantees access to the courts by aggrieved parties.

As to the Florida Supreme Court, it is now known that on July 1, 2008, months after Thompson's "trial" was completed and the Referee's Report submitted, the Board of Governors put in the lap of the Florida Supreme Court a new Rule 3-7.17, which empowers the Florida Supreme Court to prohibited lawyers targeted with Bar discipline from filing pleadings on their own behalf.

Query to Judge Jordan herein: If the Supreme Court had the power to prohibit Thompson from filing a Petition for Review already, then why did it need a new rule to prohibit him from doing so. This is an amateurish and in fact clownish violation of the US Constitution's prohibitions against ex post facto laws and bills of attainder. Proof that it is both is found in the fact that the Comments section by the Governors that this new Rule was needed because of The Florida Bar v. John B. Thompson! If this is not an ex post facto rule and a bill of attainder tailored to Thompson and others then there is no such thing!

This detail is provided this court to show further how elaborate, how contrived, how utterly unethical were the acts of Greenberg Traurig, record counsel herein, to deprive Thompson any judicial review anywhere of his constitutional defenses. It trotted

out *Mason* to deny him a hearing on those issues in this court. It denied *Mason* and its guarantees in order to prevent a hearing on these defenses by the Board of Governors. And then it sat by, laughing no doubt, as Thompson was denied any hearing of any kind at his trial and then at the Florida Supreme Court.

This court was lied to, and it had better care. This is not the first time this court has been apprised of this propensity by Barry Richard and his underlings to dissemble to this honorable court.

Karusha Sharpe stood there before this court and told it that "bad faith" could not possibly be even asserted in The Bar's prosecution of Thompson because "The Bar has never brought any disciplinary action on its own but has rather simply been the honest broker of formal complaints brought by others." This was an utter lie.

Thompson called Barry Richard and told him that The Bar had repeatedly brought its own Bar complaints against Thompson, that it brought its own "Alabama" Bar complaint against Thompson, that it brought the "Judge Friedman" complaint against him, as the formal complainant, because the irascible Friedman refused to file a sworn Bar complaint against Thompson, knowing that if he did it would constitute perjury. Further, there were two other complaints brought solely by the bar as the formal, stand-alone complainant.

What did Barry Richard say when confronted with that misrepresentation in open court to this honorable judge? "We have a lot of lawyers in this office. I can't supervise everything they say and do." Bar Rule 4-5.1 says otherwise. It says that Barry Richard is responsible, as supervising counsel, for what his mendacious minions run around the state

doing in courtrooms to mislead Judge Antoon, Judge Jordan, and to screw Jack Thompson.

This court ought to be more offended by this than Thompson is. This court will recall that it entered a show cause order against him, unleashing this District's *Ad Hoc* Disciplinary Committee upon him because Thompson sent this court "obscene" material (this court's term, not Thompson's) as proof of the unconstitutional, due process/equal protection-violative selective prosecution, as a local lawyer was distributing this stuff by a link on his Bar-approved firm web site. This lawyer has now shut this down, so it appears Thompson's concerns were at least reasonable.

What is certain is that Thompson had to resort to that measure because it was already clear that The Bar was going to run over Thompson, come Hell or high water, and that it was not going to consider his equal protection or any other constitutional defenses. The "porn filing" by Thompson was an attempt to alert this court to how thorough the constitutional deprivations were. *Mason* helped seal the deal for this court.

But this court's sensibilities were offended by the porn filing, so much so that it sought its own discipline of Thompson. Fine. Thompson need not reargue whether the court's finely-honed sensibilities should have been offended by the best proof of selective prosecution.

But what about this court's sensibilities now? Is this court not offended by the above proof that The Bar, through its multi-national law firm of Greenberg Traurig, the law firm to Presidents, the law firm that boasts on its web site

"The marketplace is changing at light speed. So is the law. That's why being at the top in business is about tomorrow, not today. And why businesses expect lawyers who are built for change. We've built a law firm

of 1750 lawyers in 32 locations — around helping businesses navigate change."

You bet they're built for change. Why, they'll change the law for their clients. They'll change *Mason* from a guarantee for substantive due process and a hearing on constitutional defenses into a means of securing federal abstention by subterfuge.

Is this court not offended by this, that it entered an order having been lied to by a law firm that has collected $3 million dollars over the last five years from The Bar to do "whatever it takes" to avoid any scrutiny of what The Bar does, not just to Thompson, but to other victims whose lives have been shattered by the willingness of Barry Richard to provide litigative cover to The Bar's racket?

There is a culture of corruption at this particular law firm that Jack Abramoff was the first face of. One can imagine the managers at Greenberg Traurig, upon supposedly first learning of the antics of Jack Abramoff, who is now in federal prison, parroting Claude Raines' character in Casablanca, "I am shocked to hear there is gambling going on in this establishment."

The managing partner at Greenberg Traurig, Cesar Alvarez, has been asked by Thompson to look into this. He couldn't care less, so Thompson turns to this court, whose very honor and reliability has been sullied by these dissembling, dangerous clowns.

WHEREFORE, Thompson moves this court for the show cause order that is long overdue. He doesn't just move for it, he demands it. What is good for the goose is good for the gander. This very court piled on, adding to Thompson's disciplinary woes on the very cusp of his bar trial and the fight for his career. The very *least* that this court can do,

to be fair, is to acknowledge the wisdom of what we say in the Midwest: What's good for the goose is good for the gander.

This court has no choice but to enter a show cause order directing Barry S. Richard to explain himself to the *Ad Hoc* Committee. Thompson will be there, under oath, to rebut and disprove what will surely be his next round of lies.

Your Honor, redeem this situation and do something just with it. Do something, for God's sake, if not for mine.

I hereby certify, under penalty of perjury, that every fact contained herein is true, correct, and complete, so help me God. Let Barry Richard swear otherwise.

I HEREBY CERTIFY that this has been served upon record counsel this 18TH day of August, 2009, by the court's electronic system.

/s/ JOHN B. THOMPSON, Plaintiff
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