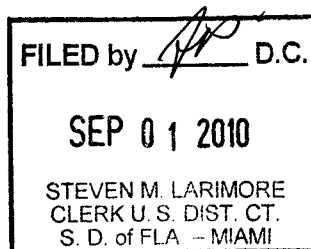


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA



JOHN B. THOMPSON,

Plaintiff,

v.

Case No. 07-21256 (Judge Adalberto Jordan)

THE FLORIDA BAR and
DAVA J. TUNIS,

Defendants.

**PLAINTIFF'S MOTION FOR RELIEF FROM ORDER DISMISSING THIS
ACTION AND MEMORANDUM OF LAW**

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, on his own behalf, and moves this court for relief from its order dismissing this action without prejudice, stating:

1. Two subsections of Rule 60 of the Federal Rules of Civil Procedure afford plaintiff relief from this court's dismissal order:

2. Rule 60(b)(6) provides relief from an order entered more than a year prior for "*any* other reason that justifies relief." [emphasis added]

3. Additionally, Rule 60(d)(3) states: "This rule does not limit a court's power to: ... (3) set aside a judgment for fraud on the court."

4. Fraud upon this court exists, and yet there are "other reasons that justify relief," per Rule 60(b)(6), that necessarily spring from this fraud upon the court. Consider:

5. On August 10, 2010, plaintiff Thompson served a public records law request upon Joel Brown, Chief Judge of the Miami-Dade (Eleventh) Circuit Court. Thompson asked for any documents that would explain how bar disciplinary referees are chosen.

The Chief Judge, through his General Counsel, answered that it has been the long-standing practice of the “Chief Judges” (plural) of this circuit to appoint them as they pop up in alphabetical order. Note the attached August 13 letter in that regard. This would cover, at least, both Chief Judge Farina, who chose Dava Tunis to be Thompson’s referee and the current Chief Judge, Joel Brown.

6. Upon receiving this helpful letter, Thompson did a follow-up public records law request. He asked for copies of all bar referee appointments from 2003 to present by the Miami-Dade County Chief Judges, along with a listing of all judges in this circuit during that time. These people apparently give facile answers, never thinking there might be a follow-up question.

7. The Chief Judge’s office stonewalled as to this follow-up public records law request and then capitulated only upon being threatened by Thompson with a lawsuit, as provided by Florida law, to compel production of these public records.

8. Guess what? The alphabetical appointment of bar referees is NOT adhered to. Thompson can now show that his Bar Referee, Dava Tunis, was *chosen* not on the basis of the letter that begins her last name but for the purpose of assuring a disciplinary result unfavorable to Thompson. This startling development corroborates the design behind other wrongful acts that resulted in the intentional deprivation by The Bar and by the Florida Supreme Court, with the aid of the Chief Judge, of a fair tribunal for Thompson.

9. The Bar was caught engaging in such antics back in 1989 to 1992, and its carrier paid Thompson damages. The Bar has been caught again.

10. *Francolino v. Kuhlman*, 365 F.3d 137 (2nd Cir. 2004) holds that such judge shopping, if prejudice to a party can be shown, is a grave deprivation of due process.

11. The state and federal court systems have blind/random assignment of cases to judges for a reason. It is for the very reason that these respective court systems will be beyond the suspicion that they match specific tribunals to specific parties.

12. This is pretty basic stuff, not beyond the ability of even The Florida Bar's "Guardians of Democracy" to grasp. It certainly should not be beyond the comprehension of Florida Supreme Court Chief Justice Charles T. Canady, whose first act as Chief Justice was to order the creation of the Florida Innocence Commission to get to the bottom of how innocent people are convicted.

13. This is judicial hypocrisy with a consequence. The Florida Supreme Court should start with an analysis of its own lawyer disciplinary system that a) allows only the judges of this Eleventh Circuit to sit in judgment of lawyers in this same circuit when all other Florida circuits pick bar referees from other circuits and b) allows the Chief Judge to claim that the alphabet picks referees when it does not.

14. The Florida Bar assured this court, in open court, that the Bar Referee was fair, beyond suspicion, and not even colorably lacking in impartiality. This was a lie. She was chosen because of who she was, to whom she had loyalty, and in violation of this circuit's purported referee assignment system. This is fraud upon this court, and at Thompson's expense. The Bar and its lawyers are fond of braying that Thompson is "abusive." If Thompson is abusive, then what would one call what they have done to him by this fraud?

15. This court became agitated when Thompson sent it pornographic proof of The Bar's selective prosecution. This court offered that it was not going to sign on with Thompson's "culture war." Thompson never sought such an alliance. He sought, by

federal order, a fair state regulatory process. A showing of bad faith defeat *Younger* abstention. Now we have the proof.

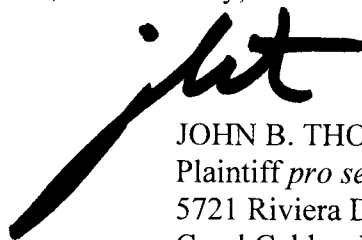
16. This court, in truth, should be *more* annoyed that it was lied to by the defendant Bar as to Dava Tunis, which eclipses any etiquette breach by Thompson. This court stated, on the record, that it appears that the only proof of a compromised bar tribunal was that Dava Tunis did not grant Thompson a continuance when his wife was to undergo rigorous cancer surgery and chemotherapy. We now know that was the least of it. The referee was cherry-picked and the result was rigged.

17. Thompson is entitled to a resuscitation of this cause of action so that he can prove how deep this corruption goes. It is already known to be so deep that it infects the office of the Chief Judge of Miami-Dade County. Are the rules different here, as a South Florida tourism ad in the 1970's claimed? Says The Bar to this court:

“What rules? We don’t need no stinking rules.”

WHEREFORE, plaintiff moves this court to vacate its dismissal order, as justice demands it.

I HEREBY CERTIFY that this has been served upon record counsel for The Florida Bar and Dava Tunis by mailing it to the clerk of this court, who will then provide it via the court’s CM/ECF electronic system from which plaintiff is banned, this August 31, 2010. Thompson has also provided it, as a courtesy, to the above via e-mail on this date.



JOHN B. THOMPSON,
Plaintiff *pro se*
5721 Riviera Drive
Coral Gables, Florida 33146
Phone: 305-666-4366
amendmentone@comcast.net



ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE OFFICE OF THE COURTS
OFFICE OF THE GENERAL COUNSEL

JOEL H. BROWN

CHIEF JUDGE

SANDRA M. LONERGAN

TRIAL COURT ADMINISTRATOR

August 13, 2010

LAWSON E. THOMAS COURTHOUSE CENTER

175 N.W. FIRST AVENUE

MIAMI, FLORIDA 33128

(305) 349-7165

FAX (305) 349-7168

SENT VIA CERTIFIED MAIL 7001 0360 0003 2920 3844

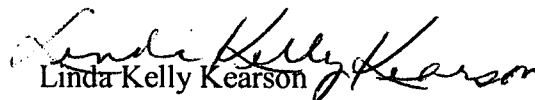
John B. Thompson, J.D.
5721 Riviera Drive
Coral Gables, Florida 33146

Re: Public Records Request Regarding Assignment of Bar Referees

Dear Mr. Thompson:

In response to the above referenced Public Records Request, dated August 10, 2010, sent to the Honorable Joel H. Brown, pursuant to Rule 3-7.6 (a), Rules Regulating the Florida Bar, "the chief justice shall have the power to appoint referees to try disciplinary cases and to delegate to a chief judge of a judicial circuit the power to appoint referees for duty in the chief judge's circuit." Accordingly, upon being delegated such power, it has been the long-standing practice of the Chief Judges of the Eleventh Judicial Circuit to appoint active county or circuit judges in alphabetical order to serve as referees in disciplinary cases.

Very truly yours,


Linda Kelly Kearson
General Counsel

LKK/W003

ATTACHMENT / EXHIBIT 1