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 NOTICE OF FILING SUPPLEMENTAL AUTHORITY

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and provides the court and opposing counsel with additional case authority regarding The Bar's ongoing denial of due process in the state disciplinary proceedings, which remarkable denial necessitates the entry of a preliminary injunction by this federal court, to-wit:

1. Plaintiff alleges here and in the state proceeding that The Bar is acting in bad faith in selectively prosecuting Thompson because of its long-standing animus toward him. He has other defenses, but that is an important one.

2. The referee in the state proceeding, a defendant herein, has been provided with evidence of the illegal, unethical conduct of Thompson's SLAPP Bar complainants, which includes drug use, perjury, stalking, and extortion. Under *U.S. v. Armstrong*, 517 US 456 (1996), such a threshold showing of selective prosecution entitles the alleged victim of it to discovery on that issue within the guidelines of *Armstrong.*

3. More generally as to discovery, however, and not simply as to Thompson's selective prosecution defense, Florida Bar Rule 3-7.6 (f) (2) states:

"*Discovery*. Discovery shall be available to the parties in accordance with the Florida Rules of Civil Procedure."

4. The court is asked to contrast the above guarantee in The Bar's own Rules with the remarkable attached letter from The Bar's Mary Ellen Bateman, Division Director, Ethics, UPL and Special Projects dated August 7, 2007, made a part hereof.

5. For two years Thompson has sought discovery from The Bar in the production of certain documents that would shed light on not only its selective prosecution of Thompson but also as to what in the world The Bar is alleging Thompson has done wrong. One reason Thompson seeks such discovery is that in 1991-1992 when The Bar was doing this to Thompson the first time, in the midst then as now of Bar demands for lunacy proceedings, Thompson was given such documents which included certain "smoking guns" which proved The Bar's selective prosecution, prosecutorial misconduct, and improper motive in seeking discipline at the behest of certain SLAPP Bar complainants. When Thompson secured these smoking gun documents, The Bar's improper, relentless pursuit of Thompson ceased.

6. In this latest installment of The Bar's enforcement of its speech codes and its politically correct agenda at the expense of Thompson's faith based and fully constitutionally protected speech and activism, Thompson received an e-mail from Bar Governor Jesse Diner of Ft. Lauderdale. Bar Governor Diner apparently has difficulty distinguishing between the functions of the "Reply" and "Reply All" functions, because he sent Thompson, as well as other Bar Governors, an e-mail the content of which corroborates assertions as to The Bar's wrongful pursuit of Thompson. There are undoubtedly more such indiscretions.

7. Note, however, the posture of The Bar's Ms. Bateman in her attached letter: despite the above-noted guarantee that the Florida Rules of Civil Procedure do indeed apply to "discovery" in Bar proceedings, Thompson is to pay $4000 up front in order to inspect the files and the materials he has requested. Thompson has spoken with seasoned trial lawyers in this jurisdiction who have never heard of such a thing—that a party would require of another party money for the purpose of readying its files for inspection! Thompson has incurred tremendous losses because of The Bar's pursuit of him for three years, and now he is to pay $4000 to review his own files. A third party, not a party to a proceeding, might require such a payment, but not a party. The Bar, obviously, is a party in these state proceedings. It is the complainant.

8. The Bar's thwarting of Thompson's discovery does not stop with the demand for $4000, however. The court will note the following remarkable assertion at the end of Ms. Bateman's letter:

"Please note that The Florida Bar has made no waiver with regard to its attorney-client privilege and/or work product protections. The bar will, as it has in its prior responses, provide all records that constitute ***public records*** and ***will remove and/or redact*** from the public records privileged communications."

9. First of all, to state the obvious tautology: Public records are public records. If they are public, then there should be no removed or redacted documents.

10. But even if such removals and redactions are warranted (they are not), The Bar must, as our laws provide, generate a "Privilege Log" so that plaintiff herein, the respondent in the state proceedings, can be aware of what documents or portions thereof are being asserted as protected as "privileged communications." The Bar can't just

unilaterally excise these documents and not alert Thompson that they exist. That is what the Privilege Log is for. The Bar, however, asserts through both Ms. Bateman and its staff prosecutor, Ms. Tuma, that there is absolutely no obligation to generate a Privilege Log. The Bar can just make off with these documents and hide them.

11. Referee Tunis, a defendant herein, has for eight months denied Thompson discovery of any and all materials other than the ones already in his own files. This is not discovery. This is obstruction. Now along comes The Bar's Ms. Bateman whose position is that despite The Bar's own Rule 3-7.6 (f) (2) which guarantees Thompson the discovery he would have under Florida's Rules of Civil Procedure, a) he is to pay $4000 to inspect his own Bar files and b) he can expect that those files will be stripped of the very documents he might like to see, with no record made as to what has been removed and/or redacted!

12. With all respect for The Bar, this is not "due process" within any meaning of term. This is Star Chamber stuff that dovetails into The Bar's total refusal to allow any depositions of *any* Bar operatives, even the deposition of Bar Governor Ben Kuehne who has certified the "fairness" of everything The Bar has done to Thompson over the past three years while holding, for much of this time a "target letter" from the US DOJ alleging he is a thief.

13. The Bar, in Thomson, has indicted the proverbial "ham sandwich" by excluding Thompson from his own grievance hearing, and now it is keen upon convicting that ham sandwich by denying him discovery to prove both his innocence and the prosecutorial misconduct that drives this assault upon Thompson's First Amendment and other constitutional rights.

WHEREFORE, as prayed for in his Third Amended Complaint, the filing of which has been agreed to by both defendants, Thompson seeks a preliminary injunction either to shut this "disciplinary" charade down altogether, or if it is to continue, then to assure its compliance with due process and other guarantees of our state and federal constitutions.

The Bar has indicted a ham sandwich by excluding Thompson from his own grievance hearing, and now it is intent upon convicting that ham sandwich by denying him discovery to prove both his innocence and the prosecutorial misconduct that drives this assault upon Thompson's First Amendment and other constitutional rights.

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

I HEREBY CERTIFY that this has been served upon record counsel this 30th day of August, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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