

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 NOTICE OF FILING SUPPLEMENTAL AUTHORITY IN
OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS**

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 in opposition to defendant's motions to dismiss and in support of his requested preliminary injunction, stating:

1. One of the more distressing denials of due process in the state bar disciplinary proceedings is the refusal of the referee to recuse herself therefrom and her refusal to provide plaintiff with the alleged "legal insufficiency" of his motion to recuse.

2. The referee, early on, called Thompson's defensive pleadings "propaganda" and has conducted herself, repeatedly, as if she were not the arbiter in this disciplinary matter but an advocate for The Bar.

3. Plaintiff has thus sought injunctive relief against this referee, as a named defendant herein.

4. Yesterday, at an August 30 status conference conducted by defendant Referee Tunis, she volunteered that she is assiduously avoiding reading any pleadings from anyone, even from her own lawyer, in this federal civil rights action. Apparently she

wants to insulate herself from any compromising of her judgment in the state disciplinary proceedings.

5. The problem with that “hear no evil, see no evil” approach is that it betrays and proves the inherent unfairness of a defendant in a federal civil rights action continuing to preside over the state disciplinary action that has given rise to the federal suit. The problem does not arise if Ms. Tunis reads the pleadings. The problem arises from the fact that there are pleadings.

6. Attached hereto is a United States Supreme Court case that says just that, *Johnson v. Mississippi*, 403 U.S. 212 (1971), which holds that a state court judge cannot continue to preside in judgment of a person who has brought a federal civil rights action against him. The logic of this case necessitates the recusal of Referee Tunis, and since she will not do it, then *Johnson* authorizes this federal court to do it, whether The Bar and Referee Tunis like it or not.

7. If the person presiding over the state proceeding is not fair, or cannot be fair, then the proceedings themselves are not fair. This is so obvious that plaintiff should not have to point it out to the defendants herein. The fact that he has to, and has done so for months, underscores also the chronic bad faith and intransigence of a Bar that thinks it is above the law, above being questioned, above the holdings in U.S. Supreme Court cases.

WHEREFORE, by virtue of this clear authority, Thompson asks the court to deny the defendants’ motions to dismiss and grant his preliminary injunction, at least in this regard, but certainly also in other regards.

I HEREBY CERTIFY that this has been served upon record counsel this 31st day of August, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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