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 TO COURT IN RESPONSE TO FILING BY DEFENDANT TUNIS OF BAR COMPLAINTS AGAINST THOMPSON

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and provides notice to the court as follows:

1. Plaintiff apologizes to the court and to the parties for what is probably an incorrect description of this filing. Thompson did not know what else to call it. It is in part a further response in opposition to the defendants' motions to dismiss, but it is more accurately a response to defendant Tunis' filing on Friday, August 31 of the two Bar complaints against Thompson that are the subject of the state "disciplinary" proceedings.

2. A response thereto is necessary because an actual reading of the Bar complaints proves plaintiff's point that The Bar has filed what amount to "blunderbuss" complaints that do not put anyone, and certainly not Thompson, on notice, with any specificity, as to what he has done wrong and how he is to defend himself. In The Bar's failure to file a more specific charging document, it has denied Thompson due process. In then refusing discovery to Thompson so that he might, after the complaints have been filed, find out what The Bar will try to prove at trial, he has been denied due process

again. The Bar has literally said *You figure out what you have done wrong. We're not going to tell you.*

3. Take a look at the complaint initiated by Miami-Dade Circuit Court Judge Friedman, now given Florida Supreme Court Case Number SC07-354, helpfully filed by defendant Tunis with this federal court. First of all, in passing, Judge Friedman's Bar complaint was unsworn, which is a violation of Bar Rule 3-7.3(c), which states:

> **(c) Form for Complaints.** ***All*** complaints, except those initiated by The Florida Bar, shall be in writing and under oath. The complaint shall contain a statement providing: Under penalty of perjury, I declare the foregoing facts are true, correct, and complete. [emphasis added].

There is a very good reason it was unsworn. Judge Friedman did not want to swear to the truthfulness of what was found therein.

4. Nevertheless, The Bar took this unsworn complaint and proceeded to the Supreme Court with it, thereby filing its charging document.

5. The Bar's "Friedman" complaint, filed with the Supreme Court, in paragraphs 5 through 24 lists letters and other communications which Thompson authored. These paragraphs take excerpts of these written communications and list those excerpts without comments or characterizations of them by The Bar.

6. The Bar then, in paragraph 28 of its "Friedman complaint," alleges that Thompson has violated Rule "4-8.2 for making statements that the lawyers knows to be false or which reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; 4-8.4(d) for engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice, including, to knowingly or through

callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers;"

7. Well, here's the problem: What written communications by Thompson violate which of the aforementioned Rules 4-8.2, 4-8.4(c), and 4-8.4(g)? For example, is The Bar proceeding on the charge that Thompson's statement that Judge Friedman violated his own orders is something Thompson knows to be "false or with reckless disregard as to its truth or falsity" ***OR*** is The Bar claiming that that was written to "prejudice the administration of justice?" Thompson has a *right* to know which it is so he can prepare his defense. What The Bar has done is list letters, list Rules, and then failed and then refused to say what letters violate what Rules.

As it stands now, Thompson is supposed to guess which letters violate which Rules. If The Bar really believes that certain letters by Thompson violated certain Rules, then The Bar should be willing to state what letters violate what Rules.

Of course, the *reason* The Bar does not want to do this and instead wants to travel on a vague charging document, is that this vague, mushy approach makes it far harder for Thompson to pin The Bar down, going into trial and at trial, with a clear recitation of what he did wrong. This is not sloppiness by The Bar; this is studied nonchalance intended to hamstring Thompson in his defense. And this intentional vagueness is precisely why The Bar, for example, will not allow Thompson to depose even the outside investigator, David Pollack of Stearns Weaver, who investigated the "Friedman" complaint, because then Thompson could inquire of Mr. Pollack to be precise as to what letters constituted what breaches of what Rules. Pollack intentionally breached his solemn promise to Thompson to meet with him prior to going to the Grievance

Committee about the "Friedman" complaint because Pollack and The Bar did not want a charging document that was specific, and it surely did not want Thompson's thoughts in that regard.

8. Thompson could go on as to how the "Friedman" complaint is a wholly vague, inadequate charging document, but he is certain the court gets the idea. Thompson would point out one other startling but illustrative example of how intentionally sloppy The Bar has been in going to the Florida Supreme Court with these scattershot complaints:

9. Note that Thompson in paragraph 28 of the "Friedman" complaint is charged with violating Rule 4-4.4 " for using means that have no substantial purpose other than to embarrass, delay, or burden a third person." Thompson supposedly did this in the *Bully* case before Judge Friedman.

10. Well, this federal court may recall, from what Thompson stated at the hearing on defendants' motions to dismiss, that one of the interrogatories Thompson sought an answer to from The Bar was "What harm has Thompson done?" This is a *key* issue in any disciplinary matter, as The Bar's own Rules, in particular its Standards for Discipline, state that "harm" done is central to what discipline is appropriate

11. When Thompson asked that "harm" question of The Bar, The Bar refused to answer because, it said, "To describe the harm done by Mr. Thompson calls for a legal conclusion." Pause. There are two reasons The Bar gave that disingenuous answer.

12. The first reason is that Thompson has done no harm. Secondly, and this goes to why the charging document in "Friedman" is so thoroughly flawed: Rule 4-4.4, which Thompson supposedly violated, states:

(a) ***In representing a client***, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person or

knowingly use methods of obtaining evidence that violate the legal rights of such a person. [emphasis added]

13. Why has Thompson emphasized the words "In representing a client" in the Rule 4-4.4 which, according to the "Friedman" complaint, he violated? Because Thompson had ***no client*** in the case before Judge Friedman! Thompson did this case *pro bono* and had no client, and yet here is The Bar citing a Rule violation by Thompson which is dependent, if words mean what they say, upon Thompson's having a client during the alleged breaking of this Rule. You see, The Bar violates its own Rules.

14. The Bar's own prosecutor, in one of the most disingenuous prosecutorial sleights of hand imaginable, stated in a letter to Thompson that Tom Tew's stalking of Thompson's client, JR Rosskamp, in order to get her to drop the undersigned as her counsel, which stalking caused her to have a stroke, which has resulted in a permanent disability, was of ***no*** concern to The Bar "because Mr. Tew's alleged stalking was not being done on behalf of a client"!

15. Fine. It was *pro bono* stalking then, andThe Bar couldn't care less. Then if that is The Bar's standard for stalking, then ***surely*** Thompson's truthful comments about Judge Friedman are not reachable under Rule 4-4.4 which clearly states that a lawyer has to have a "client" for Rule 4-4.4 to apply. The application of that Rule to Thompson exempts him; The Bar's tortured view of what Tom Tew was doing exempts Tew. The Bar has to be consistent, at least to the "you must have a client" Rule.

16. This is just one example of how The Bar has one set of Rules for Thompson and another set of Rules for others. This goes to selective prosecution/equal protection. It goes to bad faith as well. The alleged Rule 4-4.4 violation is so contrived that The Bar literally has to say that the Rule doesn't mean what it says on its face. Thompson has

asked Referee Tunis for relief as to such matters, and she refuses to afford it. State remedy? No remedy.

17. Thompson will file with the court shortly the patent shortcomings of the SC07-60 complaint, known as the "Alabama" and Tew Cardenas/Beasley complaint, but it is more of the same, and he wanted the court to have this analysis of how thoroughly the "Friedman" complaint is deficient on its face, which amounts to a clear denial of due process.

I SOLEMNLY SWEAR, as if under oath, that the foregoing is a true, correct, and complete recitation of the facts, so help me God.

I HEREBY CERTIFY that this has been served upon record counsel this 4th day of September, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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