

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 LEAVE TO FILE DOCUMENT

COMES NOW plaintiff, John B. Thompson, hereinafter Thompson, as an attorney on his own behalf, and moves this court for leave to file the attached document, stating:

1. U.S. District Court Judge Arthur J. Tarnow, Eastern District of Michigan, has struck down as unconstitutional the Michigan Bar's and Michigan Supreme Court's "Michigan Rules of Professional Conduct," Rules 3.5(c) and 6.5(a). The below is from the commencement of Judge Tarnow's order. Note that Rule 6.5(a) "relates to attorney conduct toward all persons."

OPINION

Pursuant to the Declaratory Judgment Act, Plaintiffs Fieger and Steinberg raise constitutional challenges to the Michigan Rules of Professional Conduct [“MRPC”] 3.5(c) and 6.5(a), often referred to as the courtesy and civility provisions [“courtesy provisions”]. Enacted by the Michigan Supreme Court, these rules place restrictions on attorney conduct, including attorney speech. MRPC 3.5(c) applies to attorney conduct directed toward tribunals, whereas MRPC 6.5(a) relates to attorney conduct toward all persons involved in the legal process. Plaintiffs raise facial challenges to these courtesy provisions arguing that they violate both the First Amendment right to free speech and the Due Process Clause of the Fourteenth Amendment because they are overly broad and vague.

2. Judge Tarnow found these “courtesy provisions” or “speech code provisions,” to use this plaintiff’s characterization, unconstitutional. This is from the lengthy order’s conclusion:

VI. Conclusion

For these reasons, this Court finds that Michigan Rules of Professional Conduct 3.5(c) and 6.5(a) as interpreted by the Michigan Supreme Court opinion *Griev. Adm’r v. Fieger*, 476 Mich. 231 (2006), violate the First Amendment and the Due Process Clause of the Fourteenth Amendment because the provisions are both overbroad and vague. Therefore, declarative relief is granted. Michigan Rules of Professional Conduct 3.5(c) and 6.5(a), referred to as the courtesy and civility provisions, shall not be enforced.

IT IS SO ORDERED.

3. The two unconstitutional Michigan Rules of Professional Conduct (delineated and discussed in Judge Turnow’s opinion) are similar in wording and purpose to The Florida Bar’s unconstitutionally vague and First Amendment-chilling “speech code”

Rules with which The Bar has been harassing Thompson for more than three years. Take away The Bar's prosecution of Thompson under these speech code Rules, and there is nothing left with which The Bar can bludgeon Thompson. And unlike The Florida Bar, the Michigan Bar did not have the crazed *chutzpa* to pathologize Feiger's radio rantings.

4. Thus, Thompson seeks permission to file with the court the attached Florida Bar Rules with which The Bar seeks to punish Thompson's First Amendment-protected speech about two judges, about a video game company that has been caught distributing millions of copies of adult-rated video games to children, about the illegal (18 USC 1464) broadcast of pornographic, about Beasley Broadcast Group's criminal transmission of the *Howard Stern Show*, and about the attorneys who have facilitated these illegal, criminal activities.

5. If Geoffrey Fieger can go on a widely-heard radio program and call sitting Michigan judges "jackasses," "monkeys," "in the pockets of special interest groups," and compare these judges to Hitler, then surely Thompson has a constitutional right, despite the attached Bar speech code, rules *to write the President of the United States, the FCC, the Governor of Florida, and a US Attorney about illegal activities, even if such "petition speech" inconveniences "persons involved in the legal process."*

WHEREFORE, plaintiff moves this court for leave to file the attached speech code rules, for it is these Rules which Thompson seeks to have declared unconstitutional in his declaratory judgment portion of his lawsuit as to vagueness, as to their failure to survive a "strict scrutiny test" for restrictions on speech, and as to their unconstitutionality in their application to Thompson's speech.

I HEREBY CERTIFY that this has been served upon record counsel this 10th day of September, 2007, electronically.

/s/ JOHN B. THOMPSON, Plaintiff
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