

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, JOHN HARKNESS,
AND FRANK ANTONES,

Defendants.

**PLAINTIFF'S NEW MOTION TO VACATE ORDER ON THE BASIS OF THE
FLORIDA BAR'S PATENT FRAUD AND EMERGENCY MOTION TO STAY
STATE COURT PROCEEDINGS IN LIGHT THEREOF**

COMES NOW petitioner, John B. Thompson, and moves this court, pursuant to Rule 60 (b), Federal Rules of Civil Procedure, to vacate its order dismissing this cause of action because of newly discovered fraud this very morning, December 3, on the part of The Florida Bar, stating:

The Florida Bar commenced its trial of plaintiff herein in the state disciplinary proceedings, by explaining why it was able to prosecute Thompson for his alleged violations of both Alabama and Florida Bar Rules.

To support this dual prosecution of Thompson in Florida for what he allegedly did in Alabama, The Bar's prosecutor placed in its Memorandum of Law handed for the first time to Thompson and the referee, at the opening moments of the trial, Rule 3-4.6 which states that The Bar can do just this—prosecute Thompson here in Florida for what he allegedly did in Alabama in violation of both Alabama and Florida Bar Rules.

When Thompson pointed out to the referee that in fact Bar Rule 3-4.6 was changed on January 1, 2006, to purportedly allow such a dual pursuit of Thompson (or anyone else) when such a dual approach was not allowed prior to that Rule 3-4.6 change, Sheila Tuma, The Bar's prosecutor, stated on the record: "The new Rule 3-4.6 is a mere codification of what was already authorized by the existing case law."

We now know, this morning, that that representation to the state disciplinary referee—forgive the word—was a lie. There was no codification. There was a change in policy.

How do we know that? We can look at the words of the Florida Supreme Court itself, found in the attached PDF document which is the High Court's clear and irrefutable assertion that this was not a codification of what was already the law but was a "necessary" change in the law to allow a dual or two-pronged disciplinary assault upon a Florida lawyer for what he has allegedly done in what is called the "host" state. Prior, to the Rule change, the attached Supreme Court order now proves, Florida had to wait on what the host state did by way of discipline. Does this federal court want proof of this fraud, which was told this very federal court when The Florida Bar argued against the bad faith exception to abstention in the face of Thompson's argument that The Bar had no authority to prosecute Thompson dually?

Look at the Court's Order starting at the bottom of page 4. Look at the use of the word "necessary":

"According to the Bar, the multijurisdictional practice of law includes legal services in any area of the law, which could occur at any stage of representation. The client can be either from the state where the lawyer is licensed ("home state") or where the lawyer wishes to practice or provide the services ("host state"). The activity usually takes place on a temporary or occasional basis. Currently, the multijurisdictional practice of law is prohibited

in Florida. See Rapoport. To implement this practice in Florida, several amendments to the Rules Regulating the Florida Bar and one amendment to the Florida Rules of Judicial Administration are necessary.” [emphasis]

It is not “necessary” to codify what already exists. It may be convenient. It is surely not necessary. In case this is too much for the Bar’s inside and outside counsel to grasp, then let’s have the Florida Supreme Court make it even clearer as to how fraudulent, how deceptive The Bar has been in knowingly misrepresenting to this court and to the referee what it has been doing to Thompson in this regard since November 2005. This is from the bottom page 6 in the Supreme Court’s attached order:

“Reciprocal Discipline

The amendments to Rules Regulating the Florida Bar 3-2.1, “Generally” (definitions); 3-4.1, “Notice and Knowledge of Rules; Jurisdiction over Attorneys of Other States and Foreign Countries”; **3-4.6, “Discipline by Foreign or Federal Jurisdiction; Choice of Law”**; and 3-7.2, “Procedures upon Criminal or Professional Misconduct; Discipline upon Determination or Judgment of Guilt of Criminal Misconduct,” **create a process for meaningful discipline of a lawyer both in the host state and, more importantly, in the home state. Without such a process, the amendment to rule 4-5.5 would not provide sufficient protection from attorney misconduct for the courts, lawyers, and people of the host state.**” [emphasis added]

There you have it, Judge Jordan. The new version of Rule 3-4.6 had to be passed and made effective on January 1, 2006, in order to “create (not codify an existing process or means) “for meaningful discipline of a lawyer both in the host state and, *more importantly* in the home state.”

Until January 2006, which was one month *after* Thompson was kicked out of Alabama by virtue of the Blank Rome *phv* revocation order, there was absolutely no means whatsoever by which The Florida Bar could prosecute Thompson in this fashion. That is precisely why The Bar’s outside counsel herein and The Bar’s inside prosecutor

in the state disciplinary proceedings have both lied, respectively, to the two different tribunals.

Judge Jordan, with all respect, you cannot be serious about your oath as a federal judge and allow, now, this patent and proven fraud by which The Bar secured its abstention order to stand. This court **must** now vacate that order. The Florida Supreme Court has its proven its "official arm," The Bar, to be a liar. Ms. Sheila Tuma and Mr. Barry Richard knowingly raised that official arm, with a middle finger extended, to flip off this court, Thompson, and the Florida Supreme Court itself.

I hereby certify that the foregoing has been provided to opposing counsel through the court's electronic filing system, this December 3, 2007.



/s/ JOHN B. THOMPSON, Plaintiff
Attorney, Florida Bar #231665
1172 South Dixie Hwy., Suite 111
Coral Gables, Florida 33146
Phone: 305-666-4366
amendmentone@comcast.net