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The Strange Disbarment of Mark A. Adams, Esquire

Lawyers are human beings. The whole legal fiasco beginning in the fall of 2001, when three employees of Corporate Sports Marketing, Inc. decided to engage Florida employment lawyer Mark A. Adams to sue the firm for commissions allegedly owed, appears to be enough to drive any man mad, or at least give him cause to express unbridled contempt for the justice system. It must have seemed to Mr. Adams that he was being pursued by pitbulls from hell, including, last but not least, the Attorney General of the State of Florida. Mr. Adams had, with permission of the court effective on October 1, 2002 withdrawn from representing the employees. But then he stood charged, nine months after his withdrawal from the case, with criminal contempt of court for failing to pay sanctions imposed against him and for failing to disclose his financial records to further the collection of that judgment. He has in fact publicly accused several of the lawyers and judges as well as a court clerk involved in the case of unethical or corrupt and felonious conduct, especially including Timothy A. Weber, a lawyer with the powerful i.e. politically connected law firm that represented Corporate Sports Marketing.

That law firm, Battaglia, Ross, Discos & Wein, P.A , reportedly one of the oldest law firms in West Florida, was founded by Anthony Battaglia, who is identified on the firm's website as a Law & Politics "Super Lawyer" and a Woodward and White "Best Lawyers in America," and he is there touted for his "aggressive" style. His successful handling of bank fraud cases is advertised on the site, and the fact that he has served as a member of the Republican National Committee for Florida, President of the St. Petersburg Bar Association, President of the U.S. Attorneys Association of the Middle District of Florida, Chairman of the Federal District Courthouse for St. Petersburg, as well as on the Judicial Nomination Committee of the Sixth Judicial Circuit, and as a member of the Board of Governors of The Florida Bar – the Florida Supreme Court agency that eventually disbarred Mr. Adams. Mr. Battaglia is well known nationally for his devoted defense of his friend, former Pasco County Circuit Court Judge and Republican Congressman Richard Kelly, who was charged in the FBI Abscam sting – Congressman Kelly, reportedly inducted into Abscam by a reputed soldier in the Bonanno

crime family, was the only Republican Congressman convicted. The Battaglia firm website notes that Mr. Battaglia has “strongly endorsed raising the standards of professionalism and conduct amongst the members of the Florida Bar.” Mr. Weber, advertised onsite for his corporate and bank litigation expertise, apparently follows on Mr. Battaglia’s coattails: “He works closely with Founder and Chairman of the Board, Anthony S. Battaglia, using his own highly creative and aggressive approach to complement Mr. Battaglia’s leadership and unique style of handling complex litigation,” states the website’s promotional rhetoric.

Mr. Adams publicly contends that Mr. Weber and other persons with the Battaglia firm bragged that they would improperly influence the judge in the Corporate Sports Marketing case. He believes that such improper influence moves judges, for example, to abuse the inherent power of courts to sanction litigants and their attorneys and to hold them in contempt of court in order to extort favorable settlements of cases. This is impliedly what happened in the Corporate Sports Marketing case, at least according to his side of the story published on the World Wide Web. Even worse, the powers-that-be were allegedly out to personally get him, not only for exposing the improper influence in his case, but for helping Republican opponents challenge the 2006 election – to get legal representation and injunctions – hence he believes several Federal and State judges in the Tampa area allegedly conspired to rule against him in several of his cases against major employers. To make matters worse, he alleged in his Web biography that, “In the fall of 2006...Anthony S. Battaglia had made an illegal campaign contribution to the gubernatorial campaign of Republican Charlie Crist and that members of Battaglia’s firm and family also made contributions to Crist’s campaign which indicate that these contributions may have been illegal also. Mark made this information public, a complaint was filed with the Florida Election Commission, and the North Country Gazette wrote an article about it.” (1) Mr. Adams was fortunate at the time, he claims in his biography, because he “had cases before honest judges and he had clients which he provided advisory and transactional services, so he was able to keep himself afloat for a while.” But not for long, for his own reputation now stands ruined; he is a pariah among his former peers, reduced to writing rants about the human rights violations of the Bush Administration.

Indeed, Mr. Adam’s contempt for what he perceives as a gross miscarriage of justice extends from his Florida experience to the highest offices in the land. A truly independent judiciary is not apolitical – it is political inasmuch as it is concerned with the liberal distribution of power, and its political ideal is equal justice for all parties under the law. Mr. Adams, who has voiced such ideals as the very reason he became an attorney in the first place, was undoubtedly grievously offended at the national level by the U.S. Supreme Court’s 2000 decision in *BUSH et al. v. GORE et al.* Dissenting Judge Breyer worried about “the risk of undermining the public’s confidence in the Court itself. That confidence is a public treasure. It has been built slowly over many years, some of which were marked by a Civil War and the tragedy of segregation. It is a vitally necessary ingredient of any successful effort to protect basic liberty and, indeed, the rule of law itself.” Justice Stevens dissenting remark in the same case does not support the view that the Bush Family forces had in fact corrupted every Florida judge: “What must underlie

petitioners' entire federal assault on the Florida election procedures is an unstated lack of confidence in the impartiality and capacity of the state judges who would make the critical decisions if the vote count were to proceed. Otherwise, their position is wholly without merit. The endorsement of that position by the majority of this Court can only lend credence to the most cynical appraisal of the work of judges throughout the land. It is confidence in the men and women who administer the judicial system that is the true backbone of the rule of law. Time will one day heal the wound to that confidence that will be inflicted by today's decision. One thing, however, is certain. Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law."

Now Mr. Adam's widespread accusations of judicial corruption have been largely ignored or dismissed as the contumely of a paranoid person who has lost his head, a disgruntled former officer of the court – perhaps a defamation suit would allow the truth about what is really going on under the bench behind the bar to be publicly aired. He may have logical cause for paranoia. His legal briefs and his biographical recounting of events are well contrived and persuasive, but the picture painted against him is equally logical and persuasive, which leads us to suspend judgment, or perhaps to give him a warning rap on the knuckles for menial sins instead of drumming him out of the legal corps unto eternity. But the sins alleged, which included untimely filings, tardiness, and disappearing from a courthouse, added up to a mortal sin in the eyes of the court, one for which he should be most severely punished – his conduct did not result in a default judgment against his clients, whom he claims were eventually intimidated into dropping their suit and/or paying sanctions. He may have his regrets about his conduct, but he does not think it was any worse than the other attorneys and judges involved – he has said the whole thing is a case of the pot calling the kettle black.

Almost every legal move in Florida courts made by Mr. Adams was dismissed by his powerful opponents as egregious misconduct, as unmeritorious, frivolous, incompetent, and, in sum, contemptuous. If we laymen think that a lawyer can make a motion to dismiss, for example, at any time after the inception of a case, we would be wrong, at least if Mr. Adam filed the motion, for then it would be a blatant attempt to obstruct justice hence contemptuous. Or if we think lawyers can use technical procedures to impede the miscarriage of justice and forestall doom until some remedy can be obtained, we would be wrong if Mr. Adams were our lawyer. By the way, we see complaints amended time and time again for one reason or another, in many if not most cases, but if Mr. Adams files an amended complaint it must be false and frivolous and he must be engaging in deceptive and dilatory tactics simply because he has contempt for the court. He has said that he ran his series of motions by a couple of attorneys, and they saw nothing wrong with his procedures – the attorneys are unnamed, no doubt for good reason.

Ultimately Mr. Adams won the contempt case on a technicality that might itself seem trivial to the layman, who knows little of the law until its full weight is brought to bear on him – the Lord of the Law is best

known by those who are crushed under His awesome weight. It was held that a certain affidavit dated September 30, 2003 and asserting the essential facts that everyone was seemingly well aware of and which constituted the criminal contempt charged, was defective; rather, it was not really a sworn affidavit but amounted to a mere acknowledgement because of a poor choice of words drafted by Mr. Weber, who signed and filed the affidavit and asked that Mr. Adams be held in contempt. Wherefore Pinellas County Circuit Court Judge Robert E. Beach dismissed that affidavit on November 28, 2005. His order was vigorously appealed by the Attorney General, to Florida's Second District Court of Appeals, which, on April 29, 2009 finally upheld Judge Beach's decision.

We wish the Court of Appeals had explicitly addressed all the objections raised by Mr. Adams, who might have gone to jail for "indirect criminal contempt," a punishable offense that occurs out of sight or hearing of the judge. Indirect criminal contempt differs from direct criminal contempt, which involves offensive behavior noticed inside the courtroom, conduct that has included, in some courts, such minor acts as sitting down or standing up too slowly, and yawning disrespectfully.

Rule 3.840 (Indirect Criminal Contempt) of the Florida Rules of Criminal Procedure provides that a judge on his own motion or on the affidavit of any person having knowledge of the facts may issue and sign an order directed to the defendant, stating the essential facts constituting the criminal contempt charge and requiring the defendant, to appear before the court to show cause why the defendant should not be held in contempt. The defendant can move to dismiss the order to show cause, and a defendant's omission to file motions or answer shall not be deemed an admission of guilt. The defendant in indirect criminal cases in Florida has certain rights such as had by defendants in other criminal cases, but he has no right to a jury trial inasmuch as Rule 3.840(d) reads that "All issues of law and fact shall be heard and determined by a judge." To be denied a jury is not unconstitutional, at least not yet, for Florida courts have held that "Criminal contempt is not a crime, consequently no criminal prosecution is involved." Go figure. Criminal contempt law is apparently judge-made common law created pursuant to the inherent power of a judiciary absolutely independent of the other branches of government and maybe pursuant to a conservative natural right held a priori to the liberal constitution itself. And then there is civil contempt. Criminal contempt law is intended to punish people for sins against the court, while civil contempt law would jail them until they obey a court order, in which case they are released, so their incarceration is in their own hands, so to speak.

The definitions are confused by the inherent power of the court to somehow transform civil contempt into criminal contempt. Mr. Adams, in a memorandum of law filed with the Pinellas County Circuit Court, Civil Division, in November 2005 (Case No. CTC AB 36199MMANO), argued that the indirect criminal contempt charges brought against him in the civil matter should have been for civil contempt since they appertained to a failure to pay the court's sanction, which is a judgment for money, and that Article I, Section 11 of the Florida Constitution provides that, "No person shall be imprisoned for debt, except in cases of fraud." Moreover, "The Order to Show Cause and the document titled 'Affidavit of Timothy W. Weber, Esquire' show that relief was sought in

a civil action by a party for violation of an order entered in its favor and for failure to appear at a deposition at the office of Battaglia, Ross, Dicus & Wein, P.A., in St. Petersburg, that the State was not the prosecuting party, and that no criminal case number was issued, but these documents do not show that any offense was committed against the court itself." Therefore the Order to Show Cause why Mr. Adams should not be held in indirect criminal contempt should be vacated. And, Mr. Adam's argued, the acts committed did not even amount to civil contempt under Florida Rules of Civil Procedure, for "since the Defendant only exercised his legal right to file a motion to vacate the judgment wrongfully entered against him, a motion to quash the notices of deposition in aid of execution, and a motion to stay discovery as allowed pursuant to Florida Rules of Civil Procedure 1.540, 1.560, 1.380, and 1.280, the Defendant did not do anything other than that which he has the legal right to do, and therefore, the Defendant did not commit any form of contempt and the Order to Show Cause Why Mark A. Adams and Mark A. Adams, P.A. Should Not Be Held In Indirect Criminal Contempt should not have been issued and it should be vacated."

So much for the contempt charge, but Mr. Adam's victory was largely pyrrhic inasmuch as he had already been prosecuted and heard by The Florida Bar, the disciplinary arm of the Florida Supreme Court, for the same misconduct alleged, and had been permanently disbarred by the Supreme Court on July 12, 2007.

The Florida Bar is an "integrated bar" or involuntary bar, meaning that an attorney must be a member of that bar in order to practice law in the state courts, and that the bar itself is an agency of the court which has sole power to use its agencies to license and discipline lawyers, who are "officers of the court." Thus does the Florida Supreme Court use its "inherent power" to effectually be the prosecutor, judge and jury in disciplinary cases: May justice be divinely done in the name of the prosecutor, the judge, and the jury, as the 3-in-1 distributor of justice, amen! And may the Chief Justice help the apostate, the political heretic, and especially the blasphemous lawyer who does not have the protection of a powerful i.e. politically connected law firm.

Incidentally, integrated bars have been mistakenly identified with lawyer unions, over the dissent that they encourage fascist-like goose-stepping and provide the dissident lawyer with no protection, such as that had by police officers, i.e. "officers of the law." The movement to integrate bars with state supreme courts commenced in the Thirties, when the historical clamor "Kill the lawyers!" was being raised again in hard times, the purpose of integration being to round up the wagons and bring all lawyers into the fold, raise the profession's esteem in the public eye, which has from time to time wanted to see courthouses burned down, and to isolate control over the profession from interference from the legislative and executive branches.

Now the very structure of an integrated bar lends to an appearance of impropriety and may conceal the actual political corruption of what should be an equitable judicial process to obtain social justice for all members of society. Integrated bars are dangerous anachronisms that should be disintegrated; i.e., their regulatory and representative functions should be clearly separated, and the disciplinary function and

complaint process should be presided over by non-lawyers.

As for Mark A. Adams, Esquire, he is for now a voice crying in the wilderness, his tears miniscule drops in the virtually infinite ocean of the World Wide Web, every drop summarily dismissed or ignored by the power elite as irrelevant per se.

Miami Beach

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