

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

MICHAEL J. HASON,

Plaintiff,

vs.

Case No.: 4:06cv105-RH/WCS

**FLORIDA BOARD OF
BAR EXAMINERS, et al.**

Defendants.

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**DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION
TO PHILIP J. STODDARD'S MOTION FOR LEAVE
TO RESPOND TO DEFENDANTS' MOTION TO DISMISS**

Defendants Eleanor Hunter, Executive Director of the Florida Board of Bar Examiners ("Hunter"), and the Florida Board of Bar Examiners ("the Board"), respond in opposition to proposed Intervenor Philip J. Stoddard's ("Stoddard") Motion for Leave of Court to Respond to the Defendants' Motion to Dismiss the Plaintiff's Complaint (doc. 45). Defendants submit that Mr. Stoddard's Motion should be denied, and Defendants request that the unauthorized "Memorandum of Opposition" (doc. 46) that is attached to Mr. Stoddard's Motion, be stricken.¹

This action was filed in August of 2005, in the Southern District of Florida, by a single Plaintiff, Michael J. Hason. (doc. 1). Plaintiff Hason's action arises out of his application for admission to The Florida Bar. Process was served against two defendants: Eleanor Hunter and the Florida Board of Bar Examiners. Defendants Hunter and the Board moved in the Southern District to dismiss Plaintiff Hason's action on a

¹ Proposed Intervenor Stoddard did not file a memorandum of law in support of his Motion for Leave as required by N.D. Fla. Loc. R. 7.1(A), nor did he confer with Defendants and file a certificate as required by N.D. Fla. Loc. R. 7.1(B).

number of grounds including, *inter alia*, improper venue and the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971). (doc. 10). Plaintiff Hason and the defendants then conducted their Rule 26(f) conference and filed a Rule 26(f) Joint Report. (doc. 20).

Defendants' initial Motion to Dismiss was granted in part (with respect to venue), and the action was transferred to the Northern District. (doc. 24).² Defendants have renewed their Motion to Dismiss in the Northern District. (docs. 30 and 31).

Mr. Stoddard then filed a motion to intervene (doc. 38). Mr. Stoddard's proposed "Complaint in Intervention" (doc. 39) purports to name an additional individual as a defendant: The Board's General Counsel, Thomas A. Pobjecky. The Defendants responded in opposition to Mr. Stoddard's Motion to Intervene (doc. 44). Defendants submit that, for the reasons expressed in Defendants' Response to Mr. Stoddard's Motion to Intervene, the motion to intervene should be denied. Mr. Stoddard's Motion to Intervene remains pending. The Court has not entered any order permitting Mr. Stoddard to participate in this case in any capacity.

Even though Mr. Stoddard's Motion to Intervene has not been ruled on and he is not a party in this case, Mr. Stoddard is now requesting leave to file a memorandum in opposition to Defendants' Motion to Dismiss. Moreover, the proposed intervenor, Mr. Stoddard, has attached to his Motion a copy of the proposed pleading (doc. 46). However, Mr. Stoddard has no standing or other basis to participate in this case. By filing a motion for leave to respond to Defendants' Motion and attaching his proposed pleading, Mr. Stoddard is essentially seeking to circumvent the Court's consideration and

² The Court in the Southern District addressed only the venue issue, and did not rule on the other grounds for dismissal. (doc. 24).

disposition of Mr. Stoddard's Motion to Intervene. Mr. Stoddard is seeking to exercise the rights of a party without satisfying the requirements of Federal Rule of Civil Procedure 24 relating to intervention. His attempt to do so should be denied.

Plaintiff Hason filed an "Opposition to Motion to Dismiss" on June 2, 2006. (doc. 42). After Mr. Stoddard filed his Motion for Leave to Respond (to which his proposed pleading was attached), Mr. Hason filed an "Amended Opposition to Motion to Dismiss" to which he attached an unsigned copy of Proposed Intervenor Stoddard's unauthorized "Memorandum of Opposition." (doc. 48, pp. 18-38). The unauthorized "Memorandum of Opposition" (doc. 48, pp. 18-38) is not signed by a party or counsel for a party, in accordance with Rule 11(a), Fed. R. Civ. P. Accordingly, the unauthorized "Memorandum of Opposition" (doc. 48, pp. 18-38) attached to Mr. Hason's Amended Opposition should also be stricken.

WHEREFORE, Defendants Hunter and the Board respectfully request that Proposed Intervenor Stoddard's Motion for Leave to file "Memorandum in Opposition" (doc. 45) be denied; and Defendants request that the subject pleading (doc. 46, doc. 48, pp. 18-38) be stricken.

Respectfully submitted,

s/ James J. Dean

James J. Dean, Fla Bar No. 0832121
Sean M. Shaw, Fla Bar No. 0690988
Messer, Caparello & Self, P.A.
215 S. Monroe Street, Suite 701
P.O. Box 1876
Tallahassee, FL 32302-1876
(850) 222-0720
(850) 224-4359 (Fax)

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished by electronic service via ECM/CM filing and/or by United States Mail this 26th day of June, 2006, to Michael J. Hason, 11815 Mayfield Ave., Brentwood, CA 90049-1750 and Philip J. Stoddard, 248 Shores Blvd., St. Augustine, FL 32086.

s/ James J. Dean

James J. Dean, Fla Bar No. 0832121