

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ANNE GEORGES TELASCO,

Plaintiff,

v.

CASE No. 1:19-cv-22135-BB

THE FLORIDA BAR,

Defendant.

**DEFENDANT’S MOTION TO WITHDRAW THIS ACTION FROM MEDIATION
AND INCORPORATED MEMORANDUM OF LAW**

Defendant, THE FLORIDA BAR, pursuant to Local Rule 16.2(d)(4), moves this Court for withdrawal of the Order Requiring Mediation [D.E. 24], entered August 13, 2019. In support, Defendant states:

Local Rule 16.2(d)(1) requires that an order of referral to mediation be issued in all civil cases except those types of cases listed in Local Rule 16.2(c). Rule 16.2(d)(4), however, permits the presiding Judge to exempt or withdraw a matter from referral to mediation, at any time, before or after reference, upon application of a party and/or determination for any reason that the case is not suitable for mediation.

This case is not suitable for mediation. Plaintiff’s First Amended Verified Complaint requests relief in connection with The Florida Bar’s official duties during the course of attorney disciplinary proceedings, including damages and a ruling that the findings of the Referee are null and void. The Florida Bar has moved to dismiss this action for—among other things—this Court’s lack of jurisdiction based on Eleventh Amendment Immunity, absolute judicial immunity, and the *Rooker-Feldman* doctrine. [D.E. 18]

While those jurisdictional issues remain unresolved, this Court should not require mediation. *See Bouchard Transp. Co. v. Fla. Dept. of Env'tl. Prot.*, 91 F.3d 1445, 1449 (11th Cir. 1996) (“Where, as here, the Eleventh Amendment question presented is a purely legal one, the district court abuses its discretion by reserving a ruling on immunity and ordering the parties to mediate.”); *Carroll v. Gross*, 984 F.2d 392, 393 (11th Cir. 1993) (defendants who were acting as agents of the Florida Supreme Court in attorney disciplinary proceeding were entitled to absolute immunity from lawsuit), *cert. denied*, 510 U.S. 893 (1993). The immunity afforded The Florida Bar is not a mere defense from liability, but an “entitlement not to stand trial *or face the other burdens of litigation.*” *Bouchard*, 91 F.3d at 1448 (emphasis added; marks and citations omitted). An order requiring mediation is inconsistent with the protections provided by the Eleventh Amendment and judicial immunity doctrines and infringes upon The Florida Bar’s right not to participate in this litigation. *Id.*

Further, the majority of Plaintiff’s factual allegations relate to her state court attorney disciplinary proceeding or a recitation of her seventeen-year old disciplinary history in a letter addressed to her attention. [D.E. 7] The Florida Supreme Court reviewed the Referee’s findings and rendered an order on Plaintiff’s discipline. [D.E. 7, Ex. C – Judgment of Disbarment dated July 11, 2002] Consequently, The Florida Bar cannot now negotiate the disciplinary decision or Referee’s findings and will not negotiate damage settlements which purportedly flow from actions taken on disciplinary proceedings. Required mediation would serve only to impose unnecessary burdens and would not resolve this case.

WHEREFORE, Defendant, The Florida Bar, requests this Court (i) enter an Order withdrawing this case from mediation requirements pursuant to Local Rule 16.2(d)(4); and (ii) grant any and all such other and further relief as is just and equitable.

s/Karusha Y. Sharpe
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DEFENDANT'S CERTIFICATE OF GOOD FAITH COMPLIANCE
WITH LOCAL RULE 7.1(a)(3)

On September 6, 2019, the undersigned Counsel for Defendant conferred with *pro se* Plaintiff in a good faith effort to resolve the issues raised in this motion but was unable to do so. Plaintiff objects to the relief requested herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via the CM/ECF system which will serve Plaintiff via email, as consented to, this 16th day of September, 2019.

S/KARUSHA Y. SHARPE

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