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RECOMMENDED FOR PUBLICATION  
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 21a0159p.06

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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LUCILLE S. TAYLOR, an individual,  
*Plaintiff-Appellant,*

*v.*

ROBERT J. BUCHANAN, in his official  
capacity as President of the State  
Bar of Michigan Board of  
Commissioners; DANA M. WARNEZ,  
in her official capacity as President-  
Elect of the State Bar of Michigan  
Board of Commissioners; JAMES  
W. HEATH, in his official capacity as  
Vice President of the State Bar of  
Michigan Board of Commissioners;  
DANIEL DIETRICH QUICK, in his  
official capacity as Secretary of  
the State Bar of Michigan Board  
of Commissioners; JOSEPH P.  
MCGILL, in his official capacity  
as Treasurer of the State Bar of  
Michigan Board of Commissioners,  
*Defendants-Appellees.*

No. 20-2002

Appeal from the United States District Court  
for the Western District of Michigan at Grand Rapids.  
No. 1:19-cv-00670—Robert J. Jonker, District Judge.

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Decided and Filed: July 15, 2021

Before: SILER, MOORE, and THAPAR, Circuit Judges.

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**COUNSEL**

**ON BRIEF:** Derk A. Wilcox, MACKINAC CENTER LEGAL FOUNDATION, Midland, Michigan, for Appellant. Andrea J. Bernard, Charles R. Quigg, WARNER NORCROSS + JUDD LLP, Grand Rapids, Michigan, John J. Bursch, BURSCH LAW PLLC, Caledonia, Michigan, for Appellees. Kerry Lee Morgan, PEN-TIUK, COUVREUR & KOBILJAK, P.C., Wyandotte, Michigan, for Amicus Curiae.

Before: SILER, MOORE, and THAPAR, Circuit Judges.

MOORE, J., delivered the opinion of the court in which SILER and THAPAR, JJ., joined. THAPAR, J. (pp. 6–7), delivered a separate concurring opinion.

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**OPINION**

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KAREN NELSON MOORE, Circuit Judge. Attorneys in Michigan, like those in most other states, must join an integrated bar association in order to practice law. In this suit, Lucille S. Taylor, a Michigan attorney, argues that requiring her to join the State Bar of Michigan violates her freedom of association, and further that the State Bar of Michigan's use of a portion of her mandatory membership dues for certain advocacy

activities violates her freedom of speech. The district court rejected Taylor’s First Amendment claims, holding that they are foreclosed by two Supreme Court decisions that have not since been overruled. We **AF-FIRM**.

The first of the two cases relied upon by the district court is *Lathrop v. Donohue*, 367 U.S. 820 (1961). There, the Court held that compulsory membership in the Wisconsin Bar as a condition of practicing law (along with its compulsory membership fees) did not violate freedom-of-association principles. *Id.* at 843 (plurality op.); *id.* at 849 (Harlan, J., concurring in the judgment). The second case is *Keller v. State Bar of California*, where the Court considered a First Amendment challenge to the State Bar of California’s use of “membership dues to finance certain ideological or political activities” with which the plaintiffs disagreed. 496 U.S. 1, 4 (1990). Reaffirming that a state may require attorneys to join an integrated bar association in order to practice law, the unanimous Court held that the bar association could use membership dues to fund activities “germane” to the regulation of the legal profession and the improvement of legal services without violating freedom-of-speech principles. *Id.* at 13–14. To do so, the Court relied heavily upon its earlier reasoning in *Abood v. Detroit Board of Education*, where the Court upheld a state law allowing local government employers and unions to enter into “agency shop” agreements, “whereby every employee represented by a union even though not a union member must pay to the union, as a condition of employment, a service fee

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equal in amount to union dues,” 431 U.S. 209, 211 (1977), with the funds used to finance union activities related to the union’s collective-bargaining purpose. *See Keller*, 496 U.S. at 9–11, 13–14, 16–17.

To Taylor’s credit, she acknowledges that *Lathrop* and *Keller* are an insurmountable hurdle if they remain good law. Taylor concedes that her compulsory membership in the State Bar of Michigan does not offend the First Amendment under either case. *See, e.g.*, Appellant Br. at 3 (“*Lathrop* . . . found that such integrated bar membership requirements did not violate free association rights.”). And while the State Bar of Michigan does engage in advocacy germane to the legal profession, Taylor concedes that its activities do not cross the line set in *Keller*. *Id.* at 7 (“Lucille Taylor does not challenge that, at all times relevant to this lawsuit, the Bar has constrained itself to public advocacy that was previously held allowable under *Keller*.” (internal citation omitted)); *see also* R. 16 (Joint Statement of Material Facts at 9) (Page ID #92) (“Plaintiff is not alleging that the State Bar of Michigan has exceeded *Keller*’s parameters.”). Instead, Taylor argues that *Lathrop* and *Keller* no longer bind this court because of intervening precedent in the form of *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, 138 S. Ct. 2448 (2018), where the Court overruled *Abood* and held that First Amendment challenges to similar union laws are to be analyzed under at least the heightened “exacting scrutiny” standard that the Court had favored over *Abood* in *Harris v. Quinn*, 573 U.S. 616, 647–48 (2014). *See*

*Janus*, 138 S. Ct. at 2460, 2465. According to Taylor, because *Janus* overruled *Abood*, and *Abood* was the foundation upon which the Court built *Keller*, we need not follow *Keller* (and, by association, *Lathrop*) here and are free to consider anew her constitutional claims. We disagree.

Our cases are clear that we may not disregard Supreme Court precedent unless and until it has been overruled by the Court itself. *Thompson v. Marietta Educ. Ass’n*, 972 F.3d 809, 813 (6th Cir. 2020), *cert. denied*, No. 20-1019, 2021 WL 2301972 (U.S. 2021). Even where intervening Supreme Court decisions have undermined the reasoning of an earlier decision, we must continue to follow the earlier case if it “directly controls” until the Court has overruled it. *Id.* at 812, 814; *Grutter v. Bollinger*, 288 F.3d 732, 743–44 (6th Cir. 2002) (en banc) (“If a precedent of [the] Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to [the Supreme] Court the prerogative of overruling its own decisions.” (alterations original but first alteration omitted) (quoting *Agostini v. Felton*, 521 U.S. 203, 237 (1997)), *aff’d*, 539 U.S. 306 (2003)). In other words, it is for the Supreme Court to tell the courts of appeals when the Court has overruled one of its decisions, not for the courts of appeals to tell the Court when it has done so implicitly. *See Hohn v. United States*, 524 U.S. 236, 252–53 (1998) (“Our decisions remain binding precedent until we see fit to

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reconsider them, regardless of whether subsequent cases have raised doubts about their continuing vitality.”).

Here, the district court correctly concluded that *Lathrop* and *Keller* continue to bind the lower courts despite the Court’s ruling in *Janus*. To begin, the majority opinion in *Janus* made no mention of *Keller* (or *Lathrop*) in overruling *Abood*. Indeed, in *Harris*, the *Janus* precursor mentioned above, the Court expressly rejected the notion that its ruling impacted the continued validity of *Keller*, which “fit[] comfortably within the framework applied in [*Harris*].” *Harris*, 573 U.S. at 655–56. Even the two justices who have signaled their willingness to reconsider *Keller* in light of *Janus* have acknowledged that *Keller* remains binding upon the lower courts until the Supreme Court says otherwise. *Jarchow v. State Bar of Wis.*, 140 S. Ct. 1720, 1721 (2020) (“[A]ny challenge to our precedents will be dismissed for failure to state a claim, before discovery can take place. . . . Short of a constitutional amendment, only we can rectify our own erroneous constitutional decisions.”) (Thomas, J., joined by Gorsuch, J., dissenting from the denial of cert.). Consistent with the numerous courts faced with claims like Taylor’s in the wake of *Janus*, we hold that *Lathrop* and *Keller* remain good law. See, e.g., *Jarchow v. State Bar of Wis.*, No. 19-3444, 2019 WL 8953257, at \*1 (7th Cir. 2019), *cert. denied*, 140 S. Ct. 1720 (2020); *Fleck v. Wetch*, 937 F.3d 1112, 1115 (8th Cir. 2019), *cert. denied*, 140 S. Ct. 1294 (2020), *reh’g denied*, 140 S. Ct. 2756 (2020); *Crowe v. Or. State Bar*, 989 F.3d 714, 725 (9th Cir. 2021) (“But

*Keller* plainly has not been overruled.”), *petition for cert. filed* (May 27, 2021); *Schell v. Chief Just. & Justs. of Okla. Sup. Ct.*, 2 F.4th 1312, 1324–25 (10th Cir. 2021); *McDonald v. Longley*, 4 F.4th 229, 243 n.14 (5th Cir. July 2, 2021); *see also Thompson*, 972 F.3d at 813–14 (upholding a district court decision based upon *Minnesota State Board for Community Colleges v. Knight*, 465 U.S. 271 (1984), despite recognizing that “*Knight’s* reasoning conflicts with the reasoning in *Janus*”).<sup>1</sup>

Because, as Taylor concedes, *Lathrop* and *Keller* doom her First Amendment claims, we **AFFIRM** the judgment of the district court.

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<sup>1</sup> In *Schell* and *McDonald*, the Tenth and Fifth Circuits respectively allowed First Amendment claims regarding the Oklahoma Bar Association and State Bar of Texas to proceed but only to the extent that the plaintiffs in those cases alleged that those integrated bar associations engaged in activities that were not “germane” to the practice of law. *See Schell*, 2021 WL 2657106, at \*1; *McDonald*, 2021 WL 2767443, at \*9–14; *see also Boudreaux v. La. State Bar Ass’n*, \_\_\_ F.4th \_\_\_, 2021 WL 2767318, at \*4–5 (5th Cir. July 2, 2021); *Crowe*, 989 F.3d at 729 (holding that *Lathrop* does not preclude a free-association claim challenging compelled membership in a bar association that “engages in nongermane political activities”). We do not deal with the same circumstances here given Taylor’s concession that the State Bar of Michigan’s activities are consistent with *Lathrop* and *Keller*.

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**CONCURRENCE**

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THAPAR, Circuit Judge, concurring. Because Supreme Court precedent forecloses the plaintiff's compelled association claim, and because the plaintiff failed to bring the one claim that remains viable, I concur.

Michigan has an integrated bar. That means that the plaintiff must provide financial support to the Michigan Bar Association, which engages in lobbying and other such work. As the majority notes, the plaintiff's claim that forcing her to be part of an integrated bar violates her associational rights cannot succeed. The reason lies not in the First Amendment, but in Supreme Court precedent.

First, the Supreme Court held that mandatory bar membership, like union-shop agreements, was compelled association allowed by the First Amendment. *Lathrop v. Donohue*, 367 U.S. 820, 842–43 (1961). Then, the Court held that public employees could be required to pay union dues. *Abood v. Detroit Bd. of Educ.*, 431 U.S. 209, 235–36 (1977). And in *Keller v. State Bar of California*, the Court again upheld mandatory bar membership and again analogized “the relationship of the State Bar and its members” to “the relationship of employee unions and their members.” 496 U.S. 1, 12 (1990). So relying on its precedent in *Abood*, the *Keller* Court reasoned that just as a state could require public



employees to pay union dues, so too could a state require lawyers to pay state bar dues. *Id.* at 13–14. As far as the Court was concerned, state bars and public-sector unions seemed to go hand-in-hand.

But then in *Janus*, the Supreme Court overruled *Abood*, and said that “[c]ompelling individuals to mouth support for views they find objectionable” violates the First Amendment. *Janus v. Am. Fed’n of State, Cnty. & Mun. Emps., Council 31*, 138 S. Ct. 2448, 2463 (2018). And the Court repeated Thomas Jefferson’s warning that compelling an individual “to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical.” *Id.* at 2464 (cleaned up). So after *Janus*, one might believe that this is an easy case. But it is not. Why? Because *Janus* did not overrule *Keller*’s bar mandate. See *Jarchow v. State Bar of Wis.*, 140 S. Ct. 1720, 1720 (2020) (Thomas, J., dissenting from denial of certiorari) (noting that *Janus* “casts significant doubt” on *Keller*). But see *Harris v. Quinn*, 573 U.S. 616, 655–56 (2014) (refusing to extend *Abood* but maintaining *Keller*’s vitality). And only the Supreme Court can overrule its previous decisions. Until it does, we must follow *Keller*.

But even after *Keller*, some claims can still be brought against integrated bars. If an integrated bar association engages in political or ideological activity that does not relate to regulating the legal profession, a plaintiff can bring a freedom of speech and/or association claim. The speech claim would prevail if an integrated bar association used mandatory membership fees to fund non-germane political or ideological

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activity without providing adequate opt-out procedures. *See Chicago Tchrs. Union v. Hudson*, 475 U.S. 292, 306–07 (1986) (identifying opt-out procedures). The association claim could go forward even if the bar association allowed lawyers to opt out of funding ideological activity. *See Keller*, 496 U.S. at 17; *see also McDonald v. Longley*, No. 20-50448, 2021 WL 2767443 at \*9 (5th Cir. July 2, 2021). The plaintiff here, however, concedes that the Michigan State Bar’s ideological activities “do not cross the [germaneness] line set in *Keller*.” Maj. Op. at 3. So neither claim remains.

Because the plaintiff did not bring a viable challenge, I concur.

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UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

No. 20-2002

LUCILLE S. TAYLOR, an individual,

Plaintiff - Appellant,

v.

ROBERT J. BUCHANAN, in his official capacity as President of the State Bar of Michigan Board of Commissioners; DANA M. WARNEZ, in her official capacity as President-Elect of the State Bar of Michigan Board of Commissioners; JAMES W. HEATH, in his official capacity as Vice President of the State Bar of Michigan Board of Commissioners; DANIEL DIETRICH QUICK, in his official capacity as Secretary of the State Bar of Michigan Board of Commissioners; JOSEPH P. MCGILL, in his official capacity as Treasurer of the State Bar of Michigan Board of Commissioners,

Defendants - Appellees.

Before: SILER, MOORE,  
and THAPAR, Circuit Judges.

**JUDGMENT**

(Filed Jul. 15, 2021)

On Appeal from the United States District Court  
for the Western District of Michigan at Grand Rapids.

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THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED.

**ENTERED BY ORDER  
OF THE COURT**

/s/ Deborah S. Hunt \_\_\_\_\_  
Deborah S. Hunt, Clerk

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LUCILLE S. TAYLOR,

Plaintiff,

v.

CASE NO. 1:19-CV-670

DENNIS M. BARNES,  
et al.,

HON. ROBERT J. JONKER

Defendants. /

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**ORDER**

(Filed Sep. 8, 2020)

This is an action asserting First Amendment challenges to the structure of the Michigan State Bar. Plaintiff is a member of the Michigan Bar who asserts that the mandatory dues assessment violates her free speech rights, and that required membership as a condition to practice law violates her free association rights in light of the Supreme Court's decision in *Janus v. American Federation*, 138 S. Ct. 2448 (2018). Defendant officers of the Michigan Bar disagree and assert that nothing in *Janus* abrogates earlier Supreme Court decisions expressly validating a compulsory (or integrated) model for organization of a State Bar.

The parties have agreed on a Statement of Facts, ECF No. 16, and have each filed a Motion for Summary Judgment. ECF Nos. 17, 19. The parties have done an excellent job on their submissions, and it would be

most interesting to wade into the issues with the parties. But the Court is satisfied that whatever wading needs to be done must happen in a higher Court because the Supreme Court has squarely decided the issues framed here in favor of the defendants. In *Lathrop v. Donohue*, 367 U.S. 820 (1961), the Supreme Court rejected a free association claim by a member of the Wisconsin Bar on materially indistinguishable facts. In *Keller v. State Bar of California*, 496 U.S. 1 (1990), the Supreme Court rejected a free speech claim by a member of the California Bar on materially indistinguishable facts.

Plaintiff accepts that *Lathrop* and *Keller* rejected the claims she is making here, but urges this Court to revisit them in light of a line of Supreme Court authority culminating in *Janus* that, according to Plaintiff, calls into question the continuing validity of the holdings. This Court has no power to do that. *Ramos v. Louisiana*, 140 S. Ct. 1390, 1416 n.5 (2020) (Justice Kavanaugh, concurring in part); *Hohn v. United States*, 524 U.S. 236, 252-53 (1998). *See also Thompson v. Marietta Education Association*, \_\_\_ F.3d \_\_\_, 2020 WL 5015460 (6th Cir. Aug. 25, 2020) (refusing to extend *Janus* in a case “controlled by a fair reading of the Supreme Court’s precedents” because “lower courts must follow Supreme Court precedent”). Even Justices who may believe *Lathrop* and *Keller* were wrongly decided recognize that the Supreme Court will have to make that call. *See, e.g., Jarchow v. State Bar of Wisconsin*, 140 S. Ct. 1720 (June 1, 2020) (mem.)

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(Justices Thomas and Gorsuch dissenting from denial of certiorari in an integrated bar case).

Accordingly, following and applying *Lathrop* and *Keller*, as this Court is bound to do, the Court **GRANTS** the Defendants' Motion for Summary Judgment, and **DENIES** the Plaintiff's Motion for Summary Judgment. Judgment will enter in favor of Defendants and against Plaintiff.

**IT IS SO ORDERED.**

Date: September 8, 2020

/s/ Robert J. Jonker  
ROBERT J. JONKER  
CHIEF UNITED STATES  
DISTRICT JUDGE

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App. 16

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LUCILLE S. TAYLOR,  
Plaintiff,

v. CASE NO. 1:19-CV-670  
DENNIS M. BARNES, HON. ROBERT J. JONKER  
et al.,  
Defendants. /

**JUDGMENT**

(Filed Sep. 8, 2020)

In accordance with the Order entered this date, **JUDGMENT** is entered in favor of Defendants Dennis M. Barnes, Robert J. Buchanan, James W. Heath, Daniel D. Quick, Dana M. Warnez and against Plaintiff Lucille S. Taylor.

Date: September 8, 2020 /s/ Robert J. Jonker  
ROBERT J. JONKER  
CHIEF UNITED STATES  
DISTRICT JUDGE

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Amendment I. Establishment of Religion; Free Exercise  
of Religion; Freedom of Speech and the Press;  
Peaceful Assembly; Petition for Redress of Grievances

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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AMENDMENT XIV. CITIZENSHIP; PRIVILEGES  
AND IMMUNITIES; DUE PROCESS;  
EQUAL PROTECTION; APPOINTMENT OF  
REPRESENTATION; DISQUALIFICATION OF  
OFFICERS; PUBLIC DEBT; ENFORCEMENT

**Section 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Section 2.** Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors

for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

**Section 3.** No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

**Section 4.** The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any

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slave; but all such debts, obligations and claims shall be held illegal and void.

**Section 5.** The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

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**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.901 State bar; membership; public body corporate.**

Sec. 901. The state bar of Michigan is a public body corporate, the membership of which consists of all persons who are now and hereafter licensed to practice law in this state. The members of the state bar of Michigan are officers of the courts of this state, and have the exclusive right to designate themselves as “attorneys and counselors,” or “attorneys at law,” or “lawyers.” No person is authorized to practice law in this state unless he complies with the requirements of the supreme court with regard thereto.

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LUCILLE S. TAYLOR,  
Plaintiff,

Case No.  
1:19-cv-00670

Hon. Robert J. Jonker

v.

DENNIS M. BARNES, in his  
official capacity as President  
of the State Bar of Michigan  
Board of Commissioners;  
ROBERT J. BUCHANAN,  
in his official capacity as  
President-Elect of the State  
Bar of Michigan Board of  
Commissioners; DANA M.  
WARNEZ, in her official  
capacity as Vice President  
of the State Bar of Michigan  
Board of Commissioners;  
JAMES W. HEATH, in his  
official capacity as Secretary  
of the State Bar of Michigan  
Board of Commissioners; and  
DANIEL D. QUICK, in his  
official capacity as Treasurer  
of the State Bar of Michigan  
Board of Commissioners,

**JOINT  
STATEMENT OF  
MATERIAL FACTS**

(Filed May 15, 2020)

Defendants. /

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Plaintiff and Defendants hereby submit the following joint statement of undisputed material facts in

support of their respective motions for summary judgment:

**Background**

1. The Michigan Legislature integrated the Michigan bar and created the State Bar of Michigan in 1935.

2. The State Bar of Michigan is a public body corporate under the control of the Michigan Supreme Court. MCL 600.901.

3. The State of Michigan requires attorneys to become and stay members of the State Bar of Michigan as a condition precedent to being licensed to practice law in Michigan. MCL 600.901.

4. Becoming and staying a member of the State Bar of Michigan requires that lawyers, including Plaintiff, pay dues to the State Bar of Michigan. *See* MCL 600.904.

5. The State Bar of Michigan has over 46,000 members in good standing.

6. Plaintiff is a member of the State Bar of Michigan, and her dues have been paid through 2020.

7. Plaintiff has paid her dues since becoming a licensed attorney in Michigan and is not in arrears.

8. The named Defendants are officers of the State Bar of Michigan acting solely in their official capacities and acting under color of state law to enforce

laws requiring membership in and paying dues to the State Bar of Michigan.

9. This action is brought under 42 U.S.C. §§ 1983 and 1988.

10. Venue is appropriate in the Western District of Michigan under 28 U.S.C. § 1931.

### **The State Bar of Michigan's Governance**

11. The Michigan Supreme Court has the power to provide for the organization, government, and membership of the State Bar of Michigan, and to adopt rules and regulations concerning the conduct and activities of the State Bar of Michigan and its members; the schedule of membership dues therein; the discipline, suspension, and disbarment of its members for misconduct; and the investigation and examination of applicants for admission to the bar. MCL 600.904.

12. The Michigan Supreme Court has exercised its authority over the State Bar of Michigan by promulgating the Rules Concerning the State Bar of Michigan (the "RCSBM") as well as various administrative orders, including Michigan Supreme Court Administrative Order No. 2004-01. A copy of the current RCSBM is attached hereto as **Exhibit A**. At all times relevant to this lawsuit, the State Bar of Michigan has operated in accordance with the RCSBM and the administrative orders promulgated by the Supreme Court.

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13. The Representative Assembly is the final policy-making body of the State Bar of Michigan. (See RCSBM Rule 5, Section 1.)

14. The elected representatives of the Representative Assembly are elected by member lawyers in each judicial circuit. The judicial circuits are the election districts. Each judicial circuit is entitled to one representative. The remaining seats are to be apportioned among the circuits on the basis of lawyer population. (See RCSBM Rule 6 Section 3.)

15. The Representative Assembly is comprised of 142 elected representatives and 8 commissioner representatives who are the members of the executive committee of the Board of Commissioners. The Board of Commissioners, in turn, is comprised of 20 elected members, and 5 members appointed by the Supreme Court. At no time will more than 5 members of the 150 representatives to the Representative Assembly (3.333% of the total) be appointed by the Supreme Court. (See RCSBM Rule 6, Section 2, and Rule 5, Section 2.)

16. No person holding judicial office may be elected or appointed an officer of the Representative Assembly. No person holding judicial office may be elected or appointed an officer of the Board of Commissioners. (See RCSBM Rule 7 Sections 1 and 2.)

17. The Board of Commissioners elects its officers from among its member commissioners. (See RCSBM Rule 7, Section 1.)



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18. Three percent or more of the active members of the State Bar of Michigan may, by written petition, require consideration by the Representative Assembly of any question of public policy germane to the function and purposes of the State Bar. (See RCSBM Rule 13.)

19. Twenty-five or more active members of the State Bar of Michigan may file a written petition with the secretary at the principal office of the State Bar no later than 90 days before the annual meeting of the State Bar, to require the convening of a congress of the active members of the State Bar in conjunction with the annual meeting to consider the subject matter raised in the petition. One hundred active members constitute a quorum. (See RCSBM Rule 14, Section 1.)

20. Each year the Board of Commissioners shall cause to be presented an audited financial statement of the receipts and expenditures of the State Bar of Michigan for the fiscal year. Such a statement shall also be filed with the Clerk of the Supreme Court and shall be published in the January issue of the official publication of the State Bar of Michigan. (See RCSBM Rule 9.)

21. The Board of Commissioners of the State Bar of Michigan adopts the budget for the State Bar. (See RCSBM Rule 5, Section 1(a)(3).)

**The State Bar of Michigan's Dues**

22. Plaintiff's dues amounts, as well as all members' dues amounts, are set by the Supreme Court of

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Michigan and are allocated into three separate amounts for: (1) dues to fund the Attorney Grievance Commission and the Attorney Discipline Board, which for active members in the 2019-20 fiscal year are set at \$120.00; (2) dues to fund the Client Protection Fund, which for active members in the 2019-20 fiscal year are set at \$15.00; and (3) dues to fund the State Bar of Michigan's other operations, which for active members in the 2019-20 fiscal year are set at \$180.00. (See RCSBM 4(A).)

23. All dues are paid into the State Bar of Michigan treasury and maintained in segregated accounts to pay State Bar expenses authorized by the Board of Commissioners and the expenses of the attorney discipline system within the budget approved by the Supreme Court, respectively. (See RCSBM Rule 4(G).)

24. The State Bar of Michigan's mandatory dues are not automatically collected from each member. Instead, members must affirmatively act to renew their membership each year and remit payment via credit card, check, or money order.

25. Not all State Bar of Michigan members are required to pay the non-disciplinary portion of expenses. A person who has been a member of the State Bar for at least 50 years shall not be assessed general expenses, but shall pay the full amount assessed other members for the client security fund and the discipline agencies. (See RCSBM 4(D).)

26. The State Bar of Michigan also collects voluntary dues on behalf of its numerous subject-matter-specific sections. Plaintiff stipulates that those dues

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and the activities to which they are applied are not at issue in this case.

27. The State Bar of Michigan uses the mandatory dues it collects from members to engage in a variety of activities including, without limitation, the following:

- a. Collects license fees and administers licensing requirements.
- b. Investigates the character and fitness of candidates for admission to the Michigan bar.
- c. Maintains the official record of attorneys licensed to practice in Michigan.
- d. Operates and supports its governance mechanisms, including the Board of Commissioners and the Representative Assembly.
- e. Investigates and prosecutes the unauthorized practice of law.
- f. Administers IOLTA financial institution registrations.
- g. Issues ethics opinions interpreting the Michigan Rules of Professional Conduct and the Michigan Code of Judicial Conduct.
- h. Provides ethics counseling to lawyers and judges through its Ethics Helpline.
- i. Administers the Client Protection Fund to reimburse clients whose attorneys misappropriate funds.

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j. Administers the Lawyers and Judges Assistance Program, which assists attorneys and judges with substance abuse, mental health, and general wellness issues.

k. Analyzes and supports the development of public policies concerning the courts, the administration of justice, the provision of legal services, and the legal profession, including by reviewing, taking positions on, and advocating for or against proposed court rules and legislation affecting these matters, all in accord with Michigan Supreme Court Administrative Order No. 2004-01 and *Keller v. State Bar of California*, 496 U.S. 1 (1990).

l. Coordinates *pro bono*, legal aid, and access to justice initiatives.

m. Provides the Practice Management Resource Center, a broad-based information clearinghouse and resource center for Michigan lawyers for services and goods necessary to successfully manage a legal practice.

n. Manages the State Bar website and produces the *Michigan Bar Journal*, *e-Journal*, and other publications intended to address the educational and ethical standards of the bar, toward the end of seeking to improve the administration of justice and the quality of legal services available to Michigan's citizens.

**The Client Protection Fund**

28. The Client Protection Fund was established by the State Bar of Michigan's Board of Commissioners, as authorized by the Michigan Supreme Court, on February 25, 1966, for the purpose of reimbursing clients who have been victimized by attorneys who violate the profession's ethical standards by misappropriating funds entrusted to them.

29. Programs like the Client Protection Fund exist in all 50 states and the District of Columbia. In all but two states, these programs are funded with mandatory bar dues or licensing fees.

30. The Client Protection Fund operates under the Client Protection Fund Rules. A copy of the current Client Protection Fund Rules is attached hereto as **Exhibit B**. At all times relevant to this lawsuit, the State Bar of Michigan complied with the Client Protection Fund Rules.

31. The Client Protection Fund Rules provide that the purpose of the Client Protection Fund is "to promote public confidence in the administration of justice and integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in Michigan. Reimbursable losses must have occurred in the course of the lawyer-client or other fiduciary relationship between the lawyer and claimant and must have a significant contact with Michigan."

32. The Client Protection Fund is not an insurance policy, and no person has a legal right to reimbursement from the Client Protection Fund.

33. The State Bar of Michigan uses the Client Protection Fund to reimburse claimant losses that the Board of Commissioners determines fall within the definition of the reimbursable losses under the Client Protection Fund Rules, subject to the reimbursement limits set forth in the rules. The Client Protection Fund does not reimburse claimants for losses that fall outside the definition of reimbursable losses under the rules nor, when it does reimburse claimants, does it always fully reimburse those claimants. The Client Protection Fund sometimes awards partial reimbursements.

34. Between August 23, 2016, and August 22, 2019, the Client Protection Fund received 322 claims requesting total reimbursement of \$7,812,082.15.

35. As of November 25, 2019, the State Bar of Michigan had resolved 205 of the 322 claims to the Client Protection Fund, including 28 claims that were withdrawn by claimants and 177 claims that had received a determination by the Board of Commissioners.

36. The 177 claims requested reimbursement of \$5,073,175.26 in the aggregate. The Client Protection Fund Committee determined that \$910,035.75 of such asserted loss could be substantiated and fell within the scope of reimbursable loss under the Client Protection Fund Rules. The Client Protection Fund Committee

recommended and the Board of Commissioners approved payment of \$810,035.75 to the claimants on such claims.

37. One claim accounted for the \$100,000 difference between the loss that could be substantiated and fell within the scope of reimbursable loss under the Client Protection Fund Rules and the amount recommended and approved to be paid described in the preceding paragraph. That claimant suffered \$250,000 in reimbursable loss but could receive a maximum reimbursement of \$150,000 under the Client Protection Fund Rules.

38. As of November 25, 2019, 117 of the 322 claims remained pending.

**The State Bar of Michigan's Advocacy**

39. The State Bar of Michigan uses mandatory dues to fund activities in accordance with Michigan Supreme Court Administrative Order No. 2004-01. That Order prohibits the use of State Bar dues to fund ideological activities except in the following areas: (A) the regulation and discipline of attorneys; (B) the improvement of the functioning of the courts; (C) the availability of legal services to society; (D) the regulation of attorney trust accounts; and (E) the regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession. A copy of Administrative Order No. 2004-01 is attached hereto as **Exhibit C**. At all times relevant to

this lawsuit, the State Bar of Michigan complied with Administrative Order No. 2004-01.

40. Plaintiff does not challenge that, at all times relevant to this lawsuit, the State Bar of Michigan has constrained itself to public policy advocacy that the U.S. Supreme Court held allowable in *Keller v. State Bar of California*, 496 U.S. 1 (1990). Plaintiff is not alleging that the State Bar of Michigan has exceeded *Keller's* parameters.

41. The advocacy of the State Bar of Michigan is not promulgated or published with an indication that it has come from the Michigan Supreme Court, the state judiciary, the governor, the legislature, or any State Bar of Michigan member or group of members. It is always attributed to the State Bar of Michigan.

42. A summary of the positions taken by the State Bar of Michigan on legislation proposed during the 2017-18 and 2019-20 sessions of the Michigan Legislature through January 31, 2020, is attached hereto as **Exhibit D** and incorporated by reference herein.

43. The State Bar of Michigan reports that it dedicates approximately 6% of its annual budget to public policy development, analysis, and advocacy.

### **Challenges to Ideological Activities**

44. Since the Supreme Court decided *Keller v. State Bar of California*, 496 U.S. 1 (1990), no party has filed a lawsuit challenging Michigan's requirement



that attorneys be a member of and pay dues to the State Bar of Michigan.

45. Since the Michigan Supreme Court promulgated Administrative Order No. 2004-01 on February 3, 2004, the State Bar of Michigan has received one challenge to the State Bar of Michigan's expressive activities.

**Plaintiff and the State Bar of Michigan's Advocacy**

46. Plaintiff has always been free to speak privately and publicly about any issue on which the State Bar of Michigan has deliberated or taken a position.

47. The State Bar of Michigan is not in any way Plaintiffs exclusive representative in the collective-bargaining sense. Again, Plaintiff is free to speak privately and publicly about any issue on which the State Bar of Michigan has deliberated or taken a position.

48. Plaintiff is free to join and has joined other bar associations and special-interest groups that take positions contrary to those taken by the State Bar of Michigan.

49. Plaintiff has never filed a comment with the State Bar of Michigan in response to a public notice nor objected at a public hearing of the Board of Commissioners or Representative Assembly regarding any proposed State Bar of Michigan position on public policy issues.

50. Plaintiff has never filed a challenge with the State Bar of Michigan claiming that the State Bar took or proposed to take a public policy position with which she disagreed or otherwise impermissibly used mandatory dues under the First Amendment. Plaintiff has never sought revocation of a State Bar position or reimbursement for her share of such activity's cost.

51. Plaintiff has never withheld her dues payable to the State Bar of Michigan for any reason, including because she opposed a position for which the State Bar advocated or proposed to advocate.

52. Plaintiff has never communicated to the State Bar of Michigan that the State Bar's expressive activities did not reflect her best interests or the best interests of Michigan's citizens and attorneys.

53. In addition to challenging a State Bar of Michigan position based on the procedures set forth in Administrative Order No. 2004-01, if the State Bar were to take a position to which Plaintiff objects, Plaintiff could say so and could actively lobby decision makers to reject the State Bar's position.

54. If the State Bar of Michigan were to take a position to which Plaintiff objects, Plaintiff could say so and could seek reimbursement of her dues under Administrative Order No. 2004-01.

**Michigan's Interests in the Practice of Law  
and the State Bar of Michigan**

55. The administration of justice is a primary government function. Attorneys are essential to that function.

56. The State of Michigan has an interest in the practice of law within the state and has broad power to protect the public health, safety, and other valid interests by establishing standards for licensing attorneys and regulating the practice of law.

57. The State of Michigan has an interest in elevating the ethical and educational standards of the bar, enhancing the quality of legal services, and improving relations between the legal profession and the public.

58. The State of Michigan has an interest in protecting the public from unethical attorneys.

59. Because attorneys are in the business of knowing, understanding, utilizing, and interpreting the law and utilizing the court system, the State of Michigan has an interest in receiving systematized input from licensed attorneys on legislation concerning the administration of justice, the functioning of the court system, and the legal profession.

60. Licensed attorneys are subject to detailed ethics rules. Under those rules, all licensed attorneys should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned

profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest. (MRPC 1.0, Preamble Comment.)

61. The State Bar of Michigan is currently a component of Michigan's regulatory scheme for attorneys. Under that scheme, members of the bar, rather than the general public, bear the expense of ensuring that attorneys adhere to ethical practices.

62. None of Michigan's voluntary associations and special-interest groups for attorneys and judges includes all attorneys licensed to practice law in Michigan.

63. The following states do not have an integrated bar: Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Vermont. These states still require licensed attorneys to pay fees for purposes that may include funding attorney regulation, attorney discipline, the state's client protection fund, and other programs.

64. The remaining states and the District of Columbia have integrated bars.

**The Attorney Grievance Commission  
and the Attorney Discipline Board**

65. The Attorney Grievance Commission and the Attorney Discipline Board are separate entities, which are governed separately and are not funded out of the State Bar of Michigan's general funds. Rather, the State Bar of Michigan collects and forwards a designated portion of the dues collected to those two entities for their specific functions. All dues are collected and paid into the State Bar treasury and are maintained in segregated accounts to pay State Bar expenses authorized by the Board of Commissioners and the expenses of the attorney discipline system. Plaintiff is not challenging fees related to these two attorney-discipline entities. (See RCSBM 4(G).).

66. In addition to maintaining the official record of attorneys licensed to practice in the State of Michigan, the State Bar of Michigan provides finance, administration, and human resources department support to the Attorney Grievance Commission and the Attorney Discipline Board. The Attorney Grievance Commission and the Attorney Discipline Board reimburse the State Bar for the cost of these services.

67. The Attorney Grievance Commission is the prosecution arm of the Michigan Supreme Court for

discharge of its constitutional responsibility to supervise and discipline Michigan attorneys and those temporarily admitted to practice or otherwise subject to the disciplinary authority of the Supreme Court. The Attorney Grievance Commission is governed by the rules set forth in subchapter 9.100 of the Michigan Court Rules.

68. Attorney Grievance Commission commissioners are appointed solely by the Supreme Court. The Supreme Court chooses a chairperson and a vice-chairperson. Other officers are chosen by the commissioners appointed by the Supreme Court. (See MCR 9.108(A),(B), and (C).)

69. The Attorney Discipline Board is the adjudicative arm of the Michigan Supreme Court for discharge of its constitutional responsibility to supervise and discipline Michigan attorneys and those temporarily admitted to practice or otherwise subject to the disciplinary authority of the Supreme Court.

70. The Attorney Discipline Board is governed by the rules set forth in subchapter 9.100 of the Michigan Court Rules. The board consists of 6 attorneys and 3 laypersons appointed solely by the Supreme Court. The Supreme Court shall designate from among the members of the board a chairperson and a vice-chairperson. Other officers are chosen by the board from among its Supreme Court-appointed members. (See MCR 9.110(A) and (B).)

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Dated: May 15, 2020

/s/Derk A. Wilcox

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Dated: May 15, 2020

/s/ Andrea J. Bernard

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**Exhibit A**

**Rules Concerning the State Bar of Michigan**

**RULES CONCERNING THE  
STATE BAR OF MICHIGAN**

**Rule 1 State Bar of Michigan**

The State Bar of Michigan is the association of the members of the bar of this state, organized and existing as a public body corporate pursuant to powers of the Supreme Court over the bar of the state. The State Bar of Michigan shall, under these rules, aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.

**Rule 2 Membership**

Those persons who are licensed to practice law in this state shall constitute the membership of the State Bar of Michigan, subject to the provisions of these rules. Law students may become section members of the State Bar Law Student Section. None other than a member's correct name shall be entered upon the official register of attorneys of this state. Each member, upon admission to the State Bar and in the annual dues notice, must provide the State Bar with the member's correct name, physical address, and email address, that can be used, among other things, for the annual dues notice and to effectuate electronic service



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as authorized by court rule, and such additional information as may be required. If the physical address provided is a mailing address only, the member also must provide a street or building address for the member's business or residence. No member shall practice law in this state until the information required in this Rule has been provided. Members shall promptly update the State Bar with any change of name, physical address, or email address. The State Bar shall be entitled to due notice of, and to intervene and be heard in, any proceeding by a member to alter or change the member's name. The name and address on file with the State Bar at the time shall control in any matter arising under these rules involving the sufficiency of notice to a member or the propriety of the name used by the member in the practice of law or in a judicial election or in an election for any other public office. Every active member shall annually provide a certification as to whether the member or the member's law firm has a policy to maintain interest-bearing trust accounts for deposit of client and third-party funds. The certification shall be included on the annual dues notice and shall require the member's signature or electronic signature.

By order dated May 10, 2005, this Court adopted the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan with immediate effect. 472 Mich cxii-cxv (2005). Notice and an opportunity for comment at the September 29, 2005, public hearing having been provided, and consideration having been given, the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan are retained.

### **Rule 3 Membership Classes**

(A) Active.

A person engaged in the practice of law in Michigan must be an active member of the State Bar. In addition to its traditional meaning, the term “person engaged in the practice of law” in this rule includes a person licensed to practice law in Michigan or another jurisdiction and employed in Michigan in the administration of justice or in a position which requires that the person be a law school graduate, but does not include (1) a judicial law clerk who is a member or is seeking to become a member of the bar of another jurisdiction and who does not intend to practice in Michigan after the clerkship ends, or (2) an instructor in law. Only an active member may vote in a State Bar election or hold a State Bar office. A person not an active member who engages in the practice of law is subject to discipline or prosecution for unauthorized practice.

(B) Inactive. An active member may request an inactive classification.

- (1) If the period of inactivity is less than 3 years, the member may be reclassified as active by
  - (a) applying to the State Bar secretary;
  - (b) paying the full amount of the annual dues for the current fiscal year; and
  - (c) demonstrating that no disciplinary action has been taken or is currently pending in another jurisdiction.

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(2) If the period of inactivity is 3 years or more, the member must, in addition to fulfilling the requirements of subrule (B)(1)(a)-(c), obtain a certificate from the Board of Law Examiners that the member possesses sufficient ability and learning in the law to enable the member to properly practice as an attorney and counselor in Michigan.

If the inactive member has been or is currently subject to disciplinary action in another jurisdiction, the application must be referred to the Attorney Discipline Board and action on the application delayed until the board makes a decision.

(C) Law Student.

A student in good standing at a law school approved by the Board of Law Examiners or the American Bar Association may be a member of the law student section.

(D) Affiliate.

A legal assistant as defined in the State Bar bylaws may become an affiliate member of the State Bar of Michigan and shall thereupon be a member of the legal assistants section. A legal administrator as defined in the State Bar bylaws may become an affiliate member of the State Bar of Michigan and shall thereupon be a member of the legal administrators section.

(E) Resignation. An active or inactive member who is not subject to pending disciplinary action in this state or any other jurisdiction may resign from membership by notifying the secretary of the State Bar in writing. The secretary shall notify the member when the request is accepted, whereupon the member no longer

will be qualified to practice law in Michigan and no longer will be eligible to receive any other member benefits. The secretary of the State Bar also shall notify the clerk of the Supreme Court of the resignation. To be readmitted as a member of the State Bar, a person who has voluntarily resigned and who is not otherwise eligible for admission without examination under Rule 5 of the Rules for the Board of Law Examiners must reapply for admission, satisfy the Board of Law Examiners that the person possesses the requisite character and fitness to practice law, obtain a passing score on the Michigan Bar Examination, and pay applicable fees and dues. Resignation does not deprive the Attorney Grievance Commission or the Attorney Discipline Board of jurisdiction over the resignee with respect to misconduct that occurred before the effective date of resignation.

(F) Emeritus Membership. Effective October 1, 2004, an active or inactive member who is 70 years of age or older or has been a member of the State Bar for at least 30 years, and who is not subject to pending disciplinary action in this state or any other jurisdiction, may elect emeritus status by notifying the secretary of the State Bar in writing. The secretary shall notify the member when the request is accepted, whereupon the member no longer will be qualified to practice law in Michigan, but will be eligible to receive other member benefits as directed by the Board of Commissioners of the State Bar. The secretary of the State Bar also shall notify the clerk of the Supreme Court when a member is given emeritus status. Members who were age 70 or older as

of October 1, 2003, who resigned or were suspended from membership after October 1, 2003, but before September 30, 2004, for nonpayment of dues are to be automatically reinstated as emeritus members, effective October 1, 2004, unless they notify the secretary of the State Bar that they do not wish to be reinstated.

(1) *Grievances and Discipline.* Emeritus status does not deprive the Attorney Grievance Commission or the Attorney Discipline Board of jurisdiction over the emeritus member.

(2) *Readmission.* To be readmitted as an active member of the State Bar, a member who has voluntarily elected emeritus status and who is not otherwise eligible for admission without examination under Rule 5 of the Rules for the Board of Law Examiners must reapply for admission, satisfy the Board of Law Examiners that the person possesses the requisite character and fitness to practice law, obtain a passing score on the Michigan Bar Examination, and pay applicable fees and dues.

#### **Rule 4 Membership Dues**

(A) An active member's dues for each fiscal year (October 1 through September 30) are payable at the State Bar's principal office by October 1 of each year. The dues consist of three separate amounts to be set by the Supreme Court to fund: (1) the Attorney Grievance Commission and the Attorney Discipline Board, (2) the client security fund administered by the State Bar, and (3) other State Bar expenses. Each amount shall be

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listed separately in the dues notice. An inactive member shall be assessed one-half the amounts assessed an active member for the client security fund and general expenses, but the full amount designated for the discipline agencies.

(B) A member who is admitted to the State Bar between April 1 and September 30 shall be assessed one-half the full amount of dues for that fiscal year.

(C) Dues notices must be sent to all members before September 20. A \$50 late charge will be added to a dues payment postmarked after November 30. The State Bar must send a written notice of delinquency to the last recorded address provided as required by Rule 2 to a member who fails to pay dues by November 30. Active members must be notified by registered or certified mail. Inactive members must be notified by first class mail. If the dues and the late charge are not paid within 30 days after the notice is sent, the individual is suspended from membership in the State Bar. If an individual is not subject to a disciplinary order and the suspension is for less than 3 years, the member will be reinstated on the payment of dues, a \$100 reinstatement fee, and late charges owing from the date of the suspension to the date of the reinstatement. If the suspension is for 3 years or more, the individual must also apply for recertification under Rule 8 for the Board of Law Examiners.

(D) A person who has been a member of the State Bar for at least 50 years shall not be assessed general expenses, but shall pay the full amount assessed other

members for the client security fund and the discipline agencies. A member who elects emeritus status pursuant to Rule 3(F) is exempt from paying dues.

(E) An active or inactive member in good standing serving in the United States Armed Forces in full-time active-duty status, as defined by the United States Department of Defense, is eligible for a waiver of payment of dues, including the attorney discipline system fee and the client security fund assessment. An application for a waiver of dues that includes a copy of military orders showing federal active-duty status must be made for each year for which a dues waiver is requested, and a waiver will be granted up to a total of four times. A member for whom a waiver of dues is granted continues to be subject to the disciplinary system.

(F) Annual dues for affiliate members and law student section members are established annually by the Board of Commissioners in an amount not to exceed one-third of the portion of dues for active members which fund State Bar activities other than the attorney discipline system and are payable at the State Bar's principal office by October 1 of each year.

(G) All dues are paid into the State Bar treasury and maintained in segregated accounts to pay State Bar expenses authorized by the Board of Commissioners and the expenses of the attorney discipline system within the budget approved by the Supreme Court, respectively.

**Rule 5 Board of Commissioners**

*Section 1. Powers, Functions, and Duties.*

- (a) The Board of Commissioners shall
  - (1) implement policy adopted by the assembly;
  - (2) establish policy for the State Bar between assembly meetings not inconsistent with prior action of the assembly;
  - (3) manage the State Bar, adopt a budget for it, and supervise receipt and disbursements of State Bar funds;
  - (4) prescribe the function and duties of committees;
  - (5) provide for the organization of sections (including a law student section) of the State Bar, membership in which is voluntary, and determine the amount and regulate the collection and disbursement of section dues;
  - (6) receive and review committee and section reports and recommendations proposing action by the board and take interim or final action that the board finds feasible, in the public interest, and germane to the functions and purposes of the State Bar; and
  - (7) arrange for the publication of a journal to be issued at least 4 times a year and sent to the active members without charge.



- (b) The Board of Commissioners may
  - (1) adopt bylaws;
  - (2) appoint standing and special committees, including
    - (A) character and fitness,
    - (B) civil procedure,
    - (C) court administration,
    - (D) criminal jurisprudence,
    - (E) fiscal,
    - (F) grievance,
    - (G) judicial qualifications,
    - (H) legal education,
    - (I) legislation,
    - (J) professional and judicial ethics,
    - (K) scope and correlation, and
    - (L) unauthorized practice of law;
  - (3) at the request of the governor, the legislature, or the supreme court, or on its own initiative, conduct an investigation of any matter relating to the state's courts or tribunals, to the practice and procedure in them, or to the administration of justice, and report to the officer or body making the request;
  - (4) acquire and hold real and personal estate by lease, purchase, gift, devise, or bequest, and sell, convey, mortgage, pledge, or release property;

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(5) borrow money and pledge for repayment in annual installments, in anticipation of future revenues from annual membership dues, and issue notes, but the total indebtedness outstanding may not at any time exceed 40 percent and the principal installment due in one year may not exceed 8 percent of the revenues from required annual membership dues for the 5 preceding fiscal years;

(6) accept and hold real and personal estate in trust for any use or purpose germane to the general functions and purposes of the State Bar;

(7) bring an action or proceeding at law or in equity in a state or federal court or tribunal and intervene and be heard on an issue involving the membership or affairs of the State Bar in an action or proceeding pending in a state or federal court or tribunal.

(c) The board may assign these powers, functions, and duties to another State Bar agency but the board may reverse or modify the exercise of a power, function, or duty by a delegated agency.

*Section 2. Membership; Terms.* The board consists of:

(1) 20 elected members, each serving a 3-year term commencing upon the adjournment of the meeting of the outgoing Board of Commissioners held at the annual meeting following the member's election.

(2) 5 members appointed by the Supreme Court, each serving a 3-year term commencing upon the adjournment of the meeting of the outgoing Board of Commissioners held at the annual meeting

following the member's appointment. In the event that a commissioner appointed by the Supreme Court is not appointed before the adjournment of the annual meeting at which time he or she would ordinarily take office, that member shall begin to serve immediately upon appointment. Except where appointment is made under Section 5, such appointed commissioner shall be considered to have been in office at the beginning of the term for which the appointment is made.

(3) The chairperson-elect, the chairperson and the immediate past chairperson of the State Bar young lawyers section, each serving for the years during which they hold those positions.

(4) The chairperson, vice-chairperson, and clerk of the assembly, each serving for the years during which they hold those positions.

*Section 3. Election Districts; Apportionment.* The board shall establish commissioner election districts consisting of contiguous judicial circuits and containing, as nearly as practicable, an equal lawyer population. The largest geographic area may have the highest deviation from population equality.

The board shall review and revise election districts every 6 years. If, as the result of a revision in election districts, no elected commissioner maintains his or her principal office in a district or a district has fewer elected commissioners than it is entitled to, the board may designate an elected commissioner or commissioner at large for the district until the next annual election when the vacancy will be filled.

To provide for an orderly transition and to preserve the requirement that approximately one-third of the elected board members are elected each year, the board may extend the term of an elected commissioner for a period not exceeding one year and the authorized membership of the board will be enlarged for the period affected.

An elected commissioner whose district is merged with another district as the result of a revision of commissioner election districts may nevertheless serve the full term for which the commissioner was elected and the authorized membership of the board will be temporarily enlarged for that purpose.

*Section 4. Nomination and Election of Commissioners.* A commissioner is elected by the active members having their principal offices in the election district. To be nominated, a member must have his or her principal office in the election district and file a petition signed by at least 5 persons entitled to vote for the nominee with the secretary at the principal office of the State Bar between April 1 and April 30. Voting eligibility is determined annually on May 1. Before June 2, the secretary shall mail or electronically deliver a ballot to everyone entitled to vote. A ballot will not be counted unless marked and returned to the secretary at the principal office of the State Bar in a sealed envelope bearing a postmark date not later than June 15, or returned electronically or telephonically in conformity with State Bar election procedure not later than June 15. A board of 3 tellers appointed by the president shall canvass the ballots, and the secretary shall certify the

count to the supreme court clerk. A member of or a candidate for the board may not be a teller. The candidate receiving the highest number of votes will be declared elected. In the case of a tie vote, the tellers shall determine the successful candidate by lot. In an election in which terms of differing length are to be filled, the successful candidate with the lowest vote shall serve the shortest term to be filled.

*Section 5. Vacancy.* The board shall fill a vacancy among the elected commissioners and the Supreme Court shall fill a vacancy among the appointed commissioners, to serve the remainder of an unexpired term. If an elected commissioner moves his or her principal office out of his or her election district, the board shall declare that a vacancy exists. If an elected or appointed commissioner does not attend two consecutive meetings of the board without being excused by the president because of a personal or professional emergency, the president shall declare that a vacancy exists.

*Section 6. Meetings.* The board shall meet during the annual meeting of the State Bar and before the convening of the assembly and shall hold not less than 4 meetings each year. The interval between board meetings may not be greater than 3 months. A special meeting may be held at the president's call and must be held at the secretary's call at the request of three or more board members. At a meeting, a majority of the board constitutes a quorum.

*Section 7. Voting.* Each member of the board may cast only one vote. Voting by proxy is not permitted.

By order dated May 10, 2005, this Court adopted the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan with immediate effect. 472 Mich cxii-cxv (2005). Notice and an opportunity for comment at the September 29, 2005, public hearing having been provided, and consideration having been given, the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan are retained.

### **Rule 6 Representative Assembly**

*Section 1. Powers, Functions and Duties.* The Representative Assembly is the final policy-making body of the State Bar. No petition may be made for an increase in State Bar dues except as authorized by the Representative Assembly.

*Section 2. Membership.* The assembly consists of:

- (1) 142 elected representatives.
- (2) 8 commissioner representatives who are the members of the executive committee of the Board of Commissioners. No other member of the board may serve in the assembly.

Notwithstanding the provisions of this section, all representatives previously appointed by the Supreme Court shall serve until the end of their terms. The provisions of Section 6 with regard to the declaration of a vacancy shall also apply, where applicable, to the remaining appointed representatives. Vacancies in appointed positions shall not be filled. In order to achieve the increase in the number of elected representatives

from 130 to 142, the assembly shall allocate additional seats each year as necessary to replace former appointed representatives whose terms expire or whose seats have become vacant.

*Section 3. Election Districts; Apportionment.* The assembly shall apportion the representatives every 6 years. The judicial circuits are the election districts. Each judicial circuit is entitled to one representative. The remaining seats are to be apportioned among the circuits on the basis of lawyer population, determined on February 1 of the reapportionment year. If as a result of the reapportionment any circuit becomes entitled to fewer representatives than are currently elected therefrom, the assembly representatives from that circuit may nevertheless serve the full terms for which they were elected and the authorized membership of the assembly will be temporarily enlarged for that purpose.

*Section 4. Nomination and Election of Representatives.* A representative is elected by the active members having their principal offices in a judicial circuit. To be nominated, a member must have his or her principal office in the judicial circuit and file a petition signed by at least 5 persons entitled to vote for the nominee with the secretary at the principal office of the State Bar between April 1 and April 30. Voting eligibility is determined annually on May 1. Before June 2, the secretary shall mail or electronically deliver a ballot to everyone entitled to vote. When an assembly member seeks reelection, the election notification must disclose his or her incumbency and the number of meetings of

the assembly that the incumbent has attended in the following form: “has attended \_\_\_ of \_\_\_ meetings during the period of [*his or her*] incumbency.” A ballot may not be counted unless marked and returned to the secretary at the principal office of the State Bar in a sealed envelope bearing a postmark date not later than June 15, or returned electronically or telephonically in conformity with State Bar election procedure not later than June 15. A board of tellers appointed by the president shall canvass the ballots and the secretary shall certify the count to the supreme court clerk. A member of or candidate for the assembly may not be a teller. The candidate receiving the highest number of votes will be declared elected. In the case of a tie vote, the tellers shall determine the successful candidate by lot. An election will occur in each judicial circuit every 3 years, except that in a judicial circuit entitled to 3 or more representatives, one-third will be elected each year. If a short-term representative is to be elected at the same election as a full-term one, the member with the higher vote total is elected to the longer term.

*Section 5. Terms.* An elected representative shall serve a three-year term beginning with the adjournment of the annual meeting following the representative’s election and until his or her successor is elected. A representative may not continue to serve after completing two successive three-year terms unless service is extended under the provisions of Rule 7, Section 2.2

*Section 6. Vacancy.* If an elected representative ceases to be a member of the State Bar of Michigan, dies during his or her term of office, moves his or her principal



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office out of the judicial circuit he or she represents, or submits a written resignation acceptable to the chairperson, the chairperson shall declare that a vacancy exists. If an elected representative does not attend two consecutive meetings of the assembly without being excused by the chairperson because of a personal or professional emergency, or does not attend three consecutive meetings of the assembly for any reason or reasons, the chairperson shall declare that a vacancy exists.

When a vacancy exists, the remaining representatives from the affected judicial circuit or, if there are none, the State Bar-recognized local bar associations in the affected judicial circuit, shall nominate a successor prior to the next meeting of the assembly. The assembly may appoint such nominee or, in the event of failure to receive such nomination, any lawyer from the affected judicial circuit, to fill the vacancy, effective immediately upon such appointment and continuing until the position is filled by the election process.

In the event that at the time a vacancy arises under this rule more than eighteen months remain in the term of an elected representative, there will be an election for the unexpired term at the next annual election of representatives. If there are less than eighteen months remaining in the term of an elected representative when a vacancy arises, no interim election will be held. The interim appointment ends when the secretary certifies the election count, and the person elected shall take his or her seat immediately.

*Section 7. Meetings.* The assembly shall meet:

- (1) during the annual meeting of the State Bar;
- (2) annually in March or April; and
- (3) at any other time and place it determines.

A special meeting may be called by the Board of Commissioners, or by the chairperson and clerk, who shall determine the time and place of such meeting. A special meeting must be called by the chairperson on the written request of a quorum of the Representative Assembly. Fifty members constitute a quorum. The chairperson of the assembly presides at all of its meetings. The assembly may adopt rules and procedures for the transaction of its business not inconsistent with these rules or the bylaws of the State Bar. A section chairperson is entitled to floor privileges without a vote when the assembly considers a matter falling within the section's jurisdiction.

*Section 8. Voting.* Each member of the assembly may cast only one vote. Voting by proxy is not permitted.

By order dated May 10, 2005, this Court adopted the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan with immediate effect. 472 Mich cxii-cxv (2005). Notice and an opportunity for comment at the September 29, 2005, public hearing having been provided, and consideration having been given, the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan are retained.

## **Rule 7 Officers**

*Section 1. President, President-elect, Vice-president, Secretary, and Treasurer.* The officers of the Board of Commissioners of the State Bar of Michigan are the president, the president-elect, the vice-president, the secretary, and the treasurer. The officers serve for the year beginning with the adjournment of the annual meeting following their election and ending with the adjournment of the next annual meeting. A person may serve as president only once.

After the election of board members but before the annual meeting each year, the Board of Commissioners shall elect from among its members, by majority vote of those present and voting, if a quorum is present:

- (1) a vice-president who, after serving a one-year term, automatically succeeds to the office of president-elect for a one-year term, and then to the office of president, for a one-year term;
- (2) a secretary; and
- (3) a treasurer.

If a vice-president is not able to assume the duties of president-elect, the Board of Commissioners also shall elect from among its members, by majority vote of those present and voting, if a quorum is present, a president-elect who becomes president on the adjournment of the next succeeding annual meeting.

A commissioner whose term expires at the next annual meeting is not eligible for election as an officer unless the commissioner has been reelected or reappointed

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for another term as a commissioner. If the remaining term of a commissioner elected vice-president or president-elect will expire before the commissioner completes a term as president, the term shall be extended to allow the commissioner to complete the term as president. If the term of an elected commissioner is so extended, the authorized membership of the board is increased by one for that period; a vacancy in the district the vice-president or president-elect represents exists when the term as a commissioner would normally expire, and an election to choose a successor is to be held in the usual manner.

No person holding judicial office may be elected or appointed an officer of the Board of Commissioners. A judge presently serving as an officer may complete that term but may not thereafter, while holding judicial office, be elected or appointed an officer. A person serving as an officer who, after the effective date of this amendment, is elected or appointed to a judicial office, must resign as an officer of the board on or before the date that person assumes judicial office.

*Section 2. Chairperson, Vice-Chairperson, and Clerk of the Assembly.* A clerk of the Representative Assembly chosen from the elected or appointed membership of the assembly must be elected by the assembly at each annual meeting by majority vote of those present and voting, if there is a quorum present. The clerk serves a one-year term beginning with the adjournment of the annual meeting at which he or she is elected and ending with the adjournment of the next annual meeting at which he or she becomes vice-chairperson for a

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one-year term concluding with the next annual meeting, at which time he or she becomes chairperson for a one-year term concluding with the next annual meeting. If a representative is elected clerk of the assembly with only one or two years of his or her term remaining, the term of the representative is extended for an additional year or years to permit him or her to serve consecutive terms as vice-chairperson, and chairperson. If the term of an elected representative is so extended, the authorized membership of the assembly is increased by one for the appropriate period; a vacancy in the judicial circuit the chairperson-elect or chairperson represents exists when his or her term would normally expire and an election conducted to choose a successor having the vote to which the representative for that judicial circuit is entitled is to be held in the usual manner. Assembly officers may not concurrently hold another State Bar office and may not be reelected as assembly officers.

No person holding judicial office may be elected or appointed an officer of the Representative Assembly. A judge presently serving as an officer may complete that term but may not thereafter, while holding judicial office, be elected or appointed an officer. A person serving as an officer who, after the effective date of this amendment, is elected or appointed to a judicial office, must resign as an officer of the assembly on or before the date that person assumes judicial office.

*Section 3. Duties.* The president shall preside at all State Bar meetings and at all meetings of the Board of

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Commissioners and perform other duties that are usually incident to that office.

The president-elect shall perform the duties assigned by the president. If the president is unable to perform his or her duties or is absent from a meeting of the board or the State Bar, the president-elect shall perform the duties of the president while the disability or absence continues.

The vice-president shall perform the duties assigned by the president and if the president and president-elect are unable to perform their duties or are absent from a meeting of the board or the State Bar, the vice-president shall perform the duties of the president while the disability or absence continues.

The secretary shall act as secretary of the Board of Commissioners, prepare an annual report, and perform the duties usually incident to that office.

The treasurer shall prepare an annual report and perform the duties usually incident to that office. The treasurer will furnish bond that the Board of Commissioners directs.

The Board of Commissioners may assign other duties to the president, president-elect, vice-president, secretary, and treasurer.

The chairperson of the Representative Assembly shall preside at all of its meetings and perform the other duties usually incident to that office, together with additional duties the assembly may assign. The vice-chairperson shall perform duties assigned by the

chairperson or as the assembly may assign. The clerk of the assembly shall act as secretary of the assembly and perform the other duties the assembly assigns. If the chairperson is unable to perform his or her duties or is absent from a meeting of the assembly, the vice-chairperson shall perform the chairperson's duties while the disability or absence continues.

*Section 4. Vacancies.* If any office other than that of president or chairperson or vice-chairperson or clerk of the Representative Assembly becomes vacant, the Board of Commissioners shall fill the office for the unexpired term. If the office of president becomes vacant, the president-elect becomes president for the unexpired term, and may continue as president at the adjournment of the next annual meeting. If the office of president becomes vacant when the office of president-elect is also vacant, the Board of Commissioners shall fill both vacancies for the unexpired term. If the office of chairperson of the Representative Assembly becomes vacant, the vice-chairperson becomes chairperson for the unexpired term, and may continue as chairperson at the adjournment of the next annual meeting. If the office of chairperson becomes vacant when the office of vice-chairperson or clerk is also vacant, the assembly shall fill all vacancies for the unexpired term at its next meeting; the secretary shall convene and preside at the meeting until successors are elected.

**Rule 8 Executive Director**

The Board of Commissioners may appoint an Executive Director, and such assistants, who shall serve on a full-time or part-time basis during such period and for such compensation as the Board of Commissioners may determine, but shall at all times be subject to removal by the board with or without cause. The Executive Director shall perform such duties as the Board of Commissioners may from time to time prescribe. The Executive Director shall have the privilege of the floor at all meetings of the Board of Commissioners, Representative Assembly, sections, section councils, committees, or subcommittees, without vote.

**Rule 9 Disbursements**

The Board of Commissioners shall make the necessary appropriations for disbursements from the funds of the treasury to pay the necessary expenses of the State Bar of Michigan, its officers, and committees. It shall be the duty of the board to cause proper books of account to be kept and to have them audited annually by a certified public accountant. On or before December 31 each year the board shall cause to be presented an audited financial statement of the receipts and expenditures of the State Bar of Michigan for the fiscal year ending the preceding September 30. Such a statement shall also be filed with the Clerk of the Supreme Court and shall be published in the January issue of the official publication of the State Bar of Michigan.



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No officer, member of the Board of Commissioners, member of the Representative Assembly, or member of a committee or section of the State Bar of Michigan shall receive compensation for services rendered in connection with the performance of his or her duties. They may, however, be reimbursed for the necessary expenses incurred in connection with the performance of their duties.

### **Rule 10 Annual Meeting**

The State Bar shall hold an annual meeting, which shall include a meeting of the Board of Commissioners and the Representative Assembly and, if requested, the annual congress, as well as meetings of sections and committees that the Board of Commissioners may set. The Board of Commissioners shall designate the time (no later than November 1) and place of the annual meeting.

### **Rule 11 Committees**

*Section 1. Appointment.* Committees of the State Bar of Michigan may be established for the promotion of the objects of the State Bar of Michigan, and shall consist of limited numbers of members appointed by the president with their number, jurisdiction, method of selection and tenure determined in accordance with the bylaws and the resolution establishing the committee. In the event of the resignation, death or disqualification of any member of a committee, the president

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shall appoint a successor to serve for the unexpired term.

*Section 2. Classes.* The classes of committees of the State Bar of Michigan shall be:

(a) Standing committees, for the investigation and study of matters relating to the accomplishment of the general purposes, business and objects of the State Bar of Michigan of a continuous and recurring character, within the limitation of the powers conferred.

(b) Special committees, created by resolution of the Board of Commissioners defining the powers and duties of such committees, to investigate and study matters relating to the specific purposes, business and objects of the State Bar of Michigan of an immediate or non-recurring character. The life of any special committee shall expire at the end of the next annual meeting following its creation unless continued by action of the board.

*Section 3. Powers.* The Committee on Arbitration of Disputes Among Lawyers, which has the authority to arbitrate disputes voluntarily submitted by lawyers, has the power to issue subpoenas (including subpoenas duces tecum), to take testimony under oath, and to rule on the admissibility of evidence according to the rules of evidence applicable to civil cases.

**Rule 12 Sections**

*Section 1. Establishment and Discontinuance.* New sections may be established and existing sections may be

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combined or discontinued or their names changed by the Board of Commissioners in a manner provided by the bylaws.

*Section 2. Bylaws.* Each section shall have bylaws not inconsistent with these Rules or the bylaws of the State Bar of Michigan. Section bylaws or amendments thereof shall become effective when approved by the Board of Commissioners.

*Section 3. Existing Sections.* Sections in existence at the time of the adoption of these Rules shall continue unless changed by action of the Board of Commissioners.

### **Rule 13 Initiative**

Three percent or more of the active members of the State Bar may by written petition require consideration by the Representative Assembly of any question of public policy germane to the function and purposes of the State Bar; the assembly may take action on it that it finds proper. The petition must be filed with the clerk at least 90 days before any meeting of the Representative Assembly at which the subject matter is to be considered.

### **Rule 14 Congress**

*Section 1. Membership and Meeting.* Twenty-five or more active members of the State Bar may file a written petition with the secretary at the principal office of the State Bar no later than 90 days before the annual

meeting of the State Bar, to require the convening of a congress of the active members of the State Bar in conjunction with the annual meeting to consider the subject matter raised in the petition. One hundred active members constitute a quorum. The president is the presiding officer of the congress and the secretary is the secretary of the congress.

*Section 2. Agenda.* The congress shall consider all matters proposed for inclusion on its agenda in the petition requesting its convening. The congress may take action on the matters arising on its agenda that it deems warranted. The action is advisory only and must be communicated to the Board of Commissioners and to the Representative Assembly, but the congress may by a two-thirds vote place an issue on the agenda of the board or assembly. If an issue so initiated is first considered by the board, the board shall notify the assembly of its action, and the assembly shall concur with, modify, or reverse the board's action.

## **Rule 15 Admission to the Bar**

### *Section 1. Character and Fitness Committees.*

(1) A standing committee on character and fitness consisting of 18 active members of the bar shall be appointed annually by the president of the State Bar of Michigan, who shall designate its chairperson. District character and fitness committees consisting of active members of the bar in each commissioner election district shall be appointed, and their chairpersons designated, by the State Bar commissioners within the

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respective districts, subject to approval by the State Bar Board of Commissioners.

(2) The standing committee and the district committees under its supervision shall investigate and make recommendations with respect to the character and fitness of every applicant for admission to the bar by bar examination and, upon request of the Board of Law Examiners, the character and fitness of any other applicant for admission.

(3) The State Bar of Michigan shall assign staff to assist the standing and district committees in the discharge of their duties.

(4) The standing committee and each district committee shall meet at the times and places designated by their respective chairpersons. Five members of the standing committee or 3 members of a district committee shall constitute a quorum. The action of a majority of those present constitutes the action of a committee.

(5) State Bar recommendations concerning the character and fitness of an applicant for admission to the bar shall be transmitted to the Board of Law Examiners in accordance with the following procedure:

(a) An applicant shall be recommended favorably by State Bar staff without referral to committee when investigation of all past conduct discloses no significant adverse factual information.

(b) In all other instances, applicants shall be referred to the appropriate district committee for personal interview unless the chairperson or other

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member of the standing committee designated by the chairperson determines that any adverse information reflected in the file would under no circumstance justify a committee determination that the applicant does not possess the character and fitness requisite for admission, in which event the application shall be transmitted to the Board of Law Examiners with a favorable recommendation.

(c) District committees shall, under the supervision and direction of the standing committee, investigate the character and fitness (other than scholastic) of every applicant referred to them. They shall do so by informal interview and any additional investigation which to them seems appropriate. District committees shall make a written report and recommendation to the standing committee concerning each applicant referred to them.

(d) Upon receiving a district committee report and recommendation, the standing committee shall endorse the recommendation, take the recommendation under advisement pending the receipt of additional information that it deems necessary, remand the recommendation to the district committee with instructions for further proceedings, or reject the recommendation and conduct a hearing de novo.

(e) If the standing committee endorses a report and recommendation of a district committee that an applicant has the requisite character and fitness for admission to the bar, it shall transmit that recommendation to the Board of Law Examiners.

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(f) If the standing committee endorses a report and recommendation of a district committee that an applicant does not have the requisite character and fitness for admission to the bar, it shall furnish the applicant with a copy of the report and recommendation and advise the applicant of the right to a formal hearing before the standing committee provided request therefor is made in writing within 20 days. If the applicant requests a formal hearing within the time permitted, a hearing shall be scheduled before the standing committee. If the applicant does not request a formal hearing before the standing committee within the time permitted, the standing committee shall thereupon transmit the report and recommendation of the district committee to the Board of Law Examiners.

(g) At the conclusion of any hearing conducted by the standing committee it shall transmit its report and recommendation to the Board of Law Examiners.

(6) Each applicant is entitled to be represented by counsel at the applicant's own expense at any stage of character and fitness processing.

(7) Information obtained in the course of processing an application for admission to the bar may not be used for any other purpose or otherwise disclosed without the consent of the applicant or by order of the Supreme Court.

(8) Notwithstanding any prohibition against disclosure in this rule or elsewhere, the committee on character and fitness shall disclose information concerning

a bar application to the Attorney Grievance Commission during the course of the commission's investigation of a disciplined lawyer's request for reinstatement to the practice of law. Upon receiving a request for character and fitness information and proof that a disciplined lawyer is seeking reinstatement to the practice of law, the committee shall notify the lawyer that the commission has requested the lawyer's confidential file. The committee then shall disclose to the commission all information relating to the lawyer's bar application. The commission and the grievance administrator shall protect such information, as provided in MCR 9.126(D). The administrator shall submit to a hearing panel, under seal, any information obtained under this rule that the administrator intends to use in a reinstatement proceeding. The hearing panel shall determine whether the information is relevant to the proceeding, and only upon such a determination may the administrator use the information in a public pleading or proceeding.

(9) Any information pertaining to an application for admission to the bar submitted to a district committee, the standing committee, the Board of Law Examiners or the Supreme Court must also be disclosed to the applicant.

(10) A person is absolutely immune from suit for statements and communications transmitted solely to the State Bar staff, the district committee, the standing committee or the Board of Law Examiners, or given in the course of an investigation or proceeding concerning the character and fitness of an applicant for



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admission to the bar. The State Bar staff, the members of the district and standing committees and the members and staff of the Board of Law Examiners are absolutely immune from suit for conduct arising out of the performance of their duties.

(11) The standing committee has the power to issue subpoenas (including subpoenas duces tecum), to take testimony under oath, and to rule on the admissibility of evidence guided, but not strictly bound, by the rules of evidence applicable to civil cases. An applicant is entitled to use the committee's subpoena power to obtain relevant evidence by request submitted to the chairperson of the standing committee.

(12) Formal hearings conducted by the standing committee shall be suitably recorded for the later production of transcripts, if necessary.

(13) An applicant is entitled to a copy of the entire record of proceedings before the standing committee at the applicant's expense.

(14) An applicant is entitled to at least 10 days notice of scheduled district committee interviews and standing committee hearings. The notice shall contain the following information:

- (a) The time and place of the interview or hearing;
- (b) A statement of the conduct which is to be the subject of the interview or hearing;
- (c) The applicant's right to be represented by counsel; and

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(d) A description of the procedures to be followed at the interview or hearing, together with copies of any applicable rules.

(15) An applicant has the burden of proving by clear and convincing evidence that he or she has the current good moral character and general fitness to warrant admission to the bar.

(16) Upon request made no later than 5 days prior to a scheduled interview or hearing, the applicant and State Bar staff may demand of the other that they be furnished with the identity of any witnesses to be produced at the interview or hearing as well as an opportunity for inspecting or copying any documentary evidence to be offered or introduced.

(17) If an application is withdrawn following an adverse recommendation by a district committee or the standing committee, or, if following such an adverse recommendation the applicant fails to appear for further proceedings or takes no further action, the standing committee shall notify the applicant that the application for admission to the bar may not be renewed until the expiration of two years from the date of the adverse recommendation by the district committee or by the standing committee, or such greater period as the committee specifies, up to a maximum period of five years. The notification shall specify the reasons for the imposition of a waiting period that is longer than two years.

(18) An applicant who has been denied character and fitness certification for admission to the bar by the

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Board of Law Examiners may not reapply for character and fitness certification for a period of two years following the denial or such greater period specified in the decision denying certification, up to a maximum period of five years. The decision shall specify the reasons for the imposition of a waiting period that is longer than two years.

(19) The standing committee may adopt rules of procedure governing the processing and investigation of applications for admission to the bar and proceedings before district committees and the standing committee not inconsistent with these rules.

(20) An applicant is entitled to review by the Board of Law Examiners of any report and recommendation filed with the board concluding that the applicant does not have the character and fitness requisite for admission.

(21) Every applicant for admission by examination and any other applicant whose application is submitted to the standing committee on character and fitness for evaluation and recommendation shall pay to the State Bar of Michigan a fee of \$375 for the character and fitness investigation authorized by this rule. An additional fee of \$175 shall be required for character and fitness evaluations related to applications for the February examination that are submitted after November 1, and applications for the July examination that are submitted after March 1.

*Section 2. Foreign Attorney; Temporary Permission.*  
Any person who is duly licensed to practice law in

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another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, may be temporarily admitted under MCR 8.126.

*Section 3. Procedure for Admission; Oath of Office.* (1) Each applicant to whom a certificate of qualification has been issued by the board of law examiners is required to appear personally and present such certificate to the Supreme Court or one of the circuit courts of this state. Upon motion made in open court by an active member of the State Bar of Michigan, the court may enter an order admitting such applicant to the bar of this state. The clerk of such court is required to forthwith administer to such applicant in open court the following oath of office:

I do solemnly swear (or affirm):

I will support the Constitution of the United States and the Constitution of the State of Michigan;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

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I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with my client's business except with my client's knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any cause for lucre or malice;

I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as conditions for the privilege to practice law in this state.

(2) The applicant is required to subscribe to such oath of office by signing a copy and to register membership in the State Bar of Michigan in the manner prescribed in Rule 2 of these rules and to pay the required dues before practicing law in this state. The clerk shall record such admission, in the journal of such court, and shall preserve such oath of office in the records of the court. A roll of all persons admitted to the bar shall be kept in the office of the clerk of the Supreme Court.

(3) Admission to the bar of this state is an authorization to practice as an attorney and counselor in every court in this state.

**Rule 16 Unauthorized Practice of the Law**

The State Bar of Michigan is hereby authorized and empowered to investigate matters pertaining to the unauthorized practice of law and, with the authority of its Board of Commissioners, to file and prosecute actions and proceedings with regard to such matters.

**Rule 17 Mandatory Legal Education Program for New Admittees to the Michigan Bar**

[Rescinded March 22, 1994, effective April 1, 1994, 444 Mich.]

**Rule 19 Confidentiality of State Bar Records**

Sec. 1. Except as provided below, in Rule 15, or as otherwise provided by law, records maintained by the state bar are open to the public pursuant to the State Bar of Michigan Access to Information Policy.

Sec. 2. Records and information of the Client Protection Fund, Ethics Program, Lawyers and Judges Assistance Program, Practice Management Resource Center Program, and Unauthorized Practice of Law Program that contain identifying information about a person who uses, is a participant in, is subject to, or who inquires about participation in, any of these programs, are confidential and are not subject to disclosure, discovery, or production, except as provided in section (3) and (4).

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Sec. 3. Records and information made confidential under section (1) or (2) shall be disclosed:

- (a) pursuant to a court order;
- (b) to a law enforcement agency in response to a lawfully issued subpoena or search warrant, or;
- (c) to the attorney grievance commission or attorney discipline board in connection with an investigation or hearing conducted by the commission or board, or sanction imposed by the board.

Sec. 4. Records and information made confidential under section (1) or (2) may be disclosed:

- (a) upon request of the state bar and approval by the Michigan Supreme Court where the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, or
  - (b) at the discretion of the state bar, upon written permission of all persons who would be identified by the requested information.
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**Exhibit B**

**State Bar of Michigan  
Client Protection Fund Rules**

**State Bar of Michigan Client Protection Fund  
Rules**

Client Protection Fund Rules

**RULE 1—PURPOSE AND SCOPE**

- A. The purpose of the Michigan Client Protection Fund [Fund] is to promote public confidence in the administration of justice and integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in Michigan. Reimbursable losses must have occurred in the course of the lawyer-client or other fiduciary relationship between the lawyer and claimant and must have a significant contact with Michigan.
- B. For purposes of these Rules, the term “lawyers admitted and licensed to practice law” includes lawyers admitted *pro hoc vice* and lawyers recently suspended or disbarred whom clients reasonably believed to be licensed or admitted to practice at the time the dishonest conduct occurred. If the lawyer was under an order of interim suspension, suspension or revocation issued at least six months prior to the dishonest conduct, it may be presumed that the client was unreasonable in believing that the lawyer was licensed or admitted to practice law at the time of the dishonest conduct.



**RULE 2—ESTABLISHMENT**

- A. The Fund is established to reimburse claimants for losses that arise out of dishonest conduct that has a significant contact with Michigan committed by lawyers admitted to practice in Michigan.
- B. The Fund is under the supervision of the Board of Commissioners of the State Bar of Michigan, which shall receive, hold, manage and disburse from the Fund the monies the Fund receives through per lawyer assessments, voluntary contributions, unused judicial campaign funds and otherwise.
- C. These Rules shall be effective for claims filed with the Fund on or after January 1, 2004.

**RULE 3—FUNDING AND MANAGEMENT**

- A. The Supreme Court has provided for the financing of the Fund through imposition of an annual, per lawyer assessment of all Michigan lawyers, beginning with the 2003-2004 fiscal year.
- B. The Fund also receives unused judicial campaign contributions pursuant to Canon Seven (B) of the Michigan Code of Judicial Conduct, voluntary contributions and other miscellaneous contributions as appropriate.

C. The Board of Commissioners shall:

1. Take all appropriate and available measures to ensure that the Fund is financed at an amount adequate to provide for the proper payment of claims and costs of administering the Fund.
2. Prudently invest such monies of the Fund that may not be needed currently to pay losses and to maintain sufficient reserves as appropriate.
3. Employ adequate staff to assure the effective and efficient performance of the Fund functions and purposes.
4. Retain and compensate consultants, administrative staff, investigators, actuaries, agents, legal counsel and other persons as necessary.
5. Prosecute claims for restitution to which the Fund is entitled.

**RULE 4—FUNDS**

All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Board of Commissioners.

**RULE 5—THE CLIENT PROTECTION FUND COMMITTEE**

A Standing Committee [Committee] of at least seven members of the State Bar of Michigan shall administer

the Fund. The appointment and tenure of Committee members shall be in accordance with Article VI, Section 2 of the Bylaws of the State Bar of Michigan unless the Board of Commissioners specifically authorizes otherwise.

**RULE 6—COMMITTEE MEETINGS**

- A. The Committee shall meet as frequently as necessary to conduct the business of the Fund and to timely process claims.
- B. The chairperson may call a meeting at any reasonable time and shall call a meeting upon the request of at least two members.
- C. A majority of the members of the Committee shall constitute a quorum for the transaction of its business.
- D. Minutes of the meetings shall be taken and maintained.
- E. Any Committee member missing three consecutive meetings without an excused absence from the Chairperson shall be deemed to have resigned from the Committee and the member's seat on the Committee shall be open to appointment.

Any Committee member missing three consecutive meetings with an excused absence may be subject to a review of whether their appointment on the Committee remains feasible and is the best interest of the Committee.

**RULE 7—DUTIES AND RESPONSIBILITIES OF  
THE COMMITTEE**

- A. The Committee shall have the following duties and responsibilities to:
1. Review all claims submitted to the Committee by staff after investigation and analysis;
  2. Make a recommendation to the Board of Commissioners regarding whether the claims should be paid or denied, why the claim is recommended for payment or denial and the amount which should be paid on the claim;
  3. Make recommendations to the Board of Commissioners regarding policies and procedures involving the Fund as it deems necessary and appropriate;
  4. Provide a full report, at least annually, to the Board of Commissioners and to provide other necessary reports;
  5. Publicize its activities to the public and the Bar;
  6. Retain legal counsel for subrogation recovery efforts for restitution to which the Fund is entitled; and
  7. Authorize studies and programs for client protection and prevention of dishonest conduct by lawyers.

**RULE 8—CONFLICT OF INTEREST**

- A. A Committee member or Commissioner who has or has had a lawyer-client relationship or financial relationship with a claimant or lawyer who is the subject of a claim shall not participate in the investigation or adjudication of a claim involving that claimant or lawyer.
- B. A Committee member or Commissioner with a past or present relationship, other than as provided in Paragraph A, with a claimant or the lawyer whose alleged conduct is the subject of the claim, or who has other potential conflicts of interest, shall disclose such relationship to the Committee and the Board of Commissioners and, if the Committee and Board of Commissioners deems appropriate, that Committee member or Commissioner shall not participate in any proceeding relating to such claim.

**RULE 9—ELIGIBLE CLAIMS**

- A. The loss must be caused by dishonest conduct that has a significant contact with the State of Michigan and shall have arisen out of a lawyer-client relationship or other fiduciary relationship between the lawyer and the claimant where the lawyer was admitted or licensed to practice law in Michigan at the time of the dishonest conduct or the lawyer was suspended or disbarred but whom the client reasonably believed to be licensed or admitted when the dishonest conduct occurred. If the lawyer was under an order of interim suspension,

suspension or revocation issued at least six months prior to the dishonest conduct, it may be presumed that the client was unreasonable in believing that the lawyer was licensed or admitted to practice law at the time of the dishonest conduct.

- B. The dishonest conduct upon which the claim is predicated must have been reported to either the Attorney Grievance Commission, or a law enforcement authority, or the claimant must have filed a claim in any court or tribunal having jurisdiction within two years after the dishonest act, or, if the dishonest act could not then have reasonably been discovered, within six months after the claimant did or reasonably should have discovered the dishonest conduct upon which the claim is predicated, whichever is later. A claim for reimbursable losses must be reported to a law enforcement authority by the claimant when in excess of \$20,000 or requested by Client Protection Fund staff.

A claim must be filed with the Client Protection Fund no later than one (1) year after the determination by the Attorney Grievance Commission and/or Attorney Discipline Board.

- C. As used in these Rules, “dishonest conduct” means wrongful acts committed by a lawyer like theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value, including, but not limited to:

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1. Failure to refund unearned fees as required by Rule 1.16 of the Michigan Rules of Professional Conduct.
2. Borrowing money from a client without the intent to repay it, or with disregard of the lawyer's inability or reasonably anticipated inability to repay it.
3. Settling a case without the authorization and knowledge of the client and misappropriating the settlement proceeds. In such instances the Committee may, in its discretion, presume that the lawyer settled the case for less than full value and waives the right or is estopped from receiving a credit for the attorney's fees.
4. Receiving funds or property from a client to invest the funds or property where:
  - a. The lawyer knew the clients(s) had funds to invest because of information acquired through a lawyer-client relationship regardless of whether there was an on-going or existing lawyer-client relationship at the time of the investment, and
  - b. The lawyer possessed a higher degree of sophistication and knowledge than the client or where there is a historical relationship of trust and reliance on the lawyer by the client, and

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- c. The investment vehicle or project:
  - 1. Did not exist, or
  - 2. The actual nature and characteristics of the investment vehicle or project differed substantially from the representations made to the client regarding the investment vehicle or project, or
  - 3. The disbursement was made directly to the lawyer, friend, relative of the lawyer or an entity controlled by either, where the investment vehicle or project could reasonably be viewed as a non-legitimate investment vehicle or project under the totality of the facts.
  
- D. Except as provided by section F of this Rule, the following losses shall not be reimbursable:
  - 1. Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates, employers and employees of lawyer(s) causing the losses;
  - 2. Losses covered by any bond, surety agreement, or insurance contract to the extent covered, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest;
  - 3. Losses incurred by any financial institution which are recoverable under a



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“banker’s blanket bond” or similar commonly available insurance or surety contract;

4. Losses incurred by any business entity controlled by the lawyer, or any person or entity described in section D(1), (2), or (3) hereof;
  5. Losses incurred by any governmental entity or agency;
  6. Loss of money or property paid to a lawyer for services rendered or to be rendered unless there was a failure to refund unearned legal fees or the fee was unreasonable in light of the work performed under the factors set forth in Michigan Rule of Professional Conduct 1.5 and the State Bar of Michigan Ethics Opinions regarding attorney’s fees;
  7. Consequential or incidental damages such as lost interest or attorney’s fees or other costs incurred in seeking recovery of a loss; or
  8. Losses arising from the inadequate, insufficient or negligent rendition of services.
- E. Claims are excluded if the dishonest conduct occurred during a period when the lawyer was under an order of interim suspension, suspension, or revocation issued at least six months prior to the dishonest conduct and the client was unreasonable in believing that the lawyer

was licensed or admitted to practice law at the time of the dishonest conduct.

- F. In cases of extreme hardship or special and unusual circumstances, the Committee may recommend and the Board may, in its discretion, authorize payment of a claim that would otherwise be excluded under these Rules.
- G. In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Board may, in its discretion, deny the claim.

**RULE 10—PROCEDURES AND RESPONSIBILITIES FOR CLAIMANTS**

- A. The Committee shall prepare and approve an application form for claiming reimbursement.
- B. The form shall include at least the following information provided by the claimant under penalty of perjury:
  - 1. The name and address of claimant, home and business telephone, occupation and social security number;
  - 2. The name, address and telephone number of the lawyer alleged to have dishonestly taken the claimant's money or property, and any family or business relationship of the claimant to the lawyer;
  - 3. The legal or other fiduciary services the lawyer was to perform for the claimant;
  - 4. The amount paid to the lawyer;

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5. A copy of any written agreement pertaining to the claim;
6. Satisfactory evidence of payment;
7. The amount of loss and the date when the loss occurred;
8. The date when the claimant discovered the loss and how the claimant discovered the loss;
9. A description of the lawyer's dishonest conduct and the names and addresses of any persons who have knowledge of the loss;
10. The name of the entity that the loss has been reported (e.g. prosecuting attorney, police, disciplinary agency, or other person or entity) and a copy of any complaint and description of any action that was taken;
11. The source, if any, from which the loss can be reimbursed including any insurance, fidelity or surety agreement;
12. The description of any steps taken to recover the loss directly from the lawyer or any other source;
13. Information regarding any source from which the claimant may be reimbursed for any part of the claim (including the amount received, or to be received, and the source) and a statement that the claimant agrees to notify the Fund of any

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reimbursements received during the pendency of the claim;

14. The facts believed to be important to the Fund's consideration of the claim;
  15. How the claimant learned about the Fund;
  16. The name, address, and telephone number of the claimant's present lawyer;
  17. The claimant's agreement to cooperate with the State Bar of Michigan regarding the claim or with any civil actions which may be brought in the name of the State Bar of Michigan pursuant to a subrogation and assignment clause;
  18. The claimant's agreement to repay the Fund if the claimant is subsequently reimbursed from another source;
  19. The name and address of any other fund to which the claimant has applied or intends to apply for reimbursement and a copy of the application; and
  20. A statement that the claimant agrees to the publication of appropriate information about the nature of the claim and the amount of reimbursement if reimbursement is made.
- C. The claimant shall have the responsibility to complete the claim form and provide satisfactory evidence of a reimbursable loss.

- D. No attorney shall be compensated for providing services regarding the CPF application process or the CPF claim administration process except for an amount not to exceed \$250 or as authorized by the Board.

All members of the State Bar of Michigan are urged to give assistance to any claimant in presenting claims to the Fund without fee. Claimants are advised that, except in unusual circumstances, the assistance of an attorney may not be necessary in filing a claim since the Committee has available staff, which will investigate the underlying facts. The foregoing sub-paragraph shall appear prominently on the application form.

- E. The claim shall be filed with the State Bar of Michigan in the manner and place designated.

#### **RULE 11—PROCESSING CLAIMS**

- A. When it appears that a claim is not eligible for reimbursement under Rule 9, the claimant shall be notified why the claim is not eligible for reimbursement, and, if appropriate, that unless additional facts to support eligibility are submitted to the Fund, the file will be closed, and that the claimant may submit a request for review of this decision by the Board of Commissioners in writing within 30 days of the date of notice.
- B. An order disciplining respondent for the same dishonest act or conduct alleged in a claim, or

a final judgment imposing civil or criminal liability therefor, shall be conclusive evidence that the respondent committed the dishonest act or conduct.

- C. The Attorney Grievance Commission of the claim and request information related to its investigation on the matter. The Fund will promptly notify the Attorney Discipline Board of payment of any claim and request that any order include language requiring that restitution first be made directly to the Fund until the Fund is paid in full.
- D. The Committee may conduct its own investigation when it deems it appropriate.
- E. A copy of the claim shall be served in a manner set forth in the Michigan Court Rules for service of a civil complaint upon the respondent at the respondent's address on file with the State Bar of Michigan, or last known address, or the respondent's representative. The respondent or representative shall have 30 days to respond or such further time as permitted by staff. If served by certified mail and returned "unclaimed" or "refused", all future documents may be sent to respondent via first class mail. If documents are returned as undeliverable and no forwarding address can be obtained, then the Fund is exempt from mailing a copy of the claim to respondent until a current address can be obtained or a final determination has been mailed to Claimant. If the respondent fails to timely respond to the notice of claim, the respondent shall not be

given further opportunity to respond or otherwise defend the claim, including a request for review, unless good cause is shown.

- F. The Committee may request that testimony be presented to complete the record. Upon request, the claimant or respondent, or their representatives, may be given an opportunity to be heard, the decision being within the discretion of the Committee or the Board of Commissioners.
- G. The Committee may make a finding of dishonest conduct premised upon a preponderance of evidence to determine whether a claim should be approved or denied. Such a determination is not a finding of dishonest conduct for purposes of professional discipline.
- H. When the record is complete, the claim shall be determined based upon all available evidence and the claimant and the respondent notified of the Committee's determination and its reasoning. The approval or denial of a claim requires the affirmative vote of the majority of attending Committee members, provided there is a quorum for the meeting.
- I. Rules of evidence, procedures, and witnesses do not apply to any claim proceeding. All relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The claimant shall have the duty to supply relevant evidence to support the claim. Evidence of a claim may be provided by other sources such as the Attorney Grievance

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Commission, law enforcement, or court proceedings.

- J. The Committee may require the claimant to seek reimbursement from any other source that may be legally responsible for the loss.
- K. Unless the totality of the circumstances warrants otherwise, no claim should be approved during the pendency of a disciplinary proceeding involving the same conduct alleged in the complaint.
- L. Both the claimant and the respondent shall be advised of the Committee's findings, recommendation and reasons as soon as practicable and shall be informed of the final determination by the Board of Commissioners and the opportunity to submit a request for review.
- M. The claimant or respondent may submit a request for review in writing within 30 days of the notice of denial or determination of the amount of a claim by the Committee. Only the record established for review by the Committee may be considered in a request for review, except the Board of Commissioners, in its discretion, may consider newly discovered evidence in a request for review which by due diligence could not be reasonably discovered in time for review and determination by the Committee. If the claimant or respondent fails to make a request, the decision of the Committee is final if the Board of Commissioners fully accepts the Committee's determination as the final determination.



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A timely request for review of the Committee's decision shall be submitted to the Board of Commissioners for review and a final determination.

A de novo standard of review shall apply to a request for review. The requestor must show by a preponderance of the evidence that the decision was incorrect.

The claimant and respondent may submit a request for review in writing within 30 days of notice of the Board of Commissioner's final determination only when the Board of Commissioners does not fully accept the Committee's determination as the final determination. If the final determination notice to either party is returned and a forwarding address cannot be obtained from the post office, then the period to submit a request for review, if applicable, begins to run 5 days after the date of the correspondence.

### **RULE 12—PAYMENT OF REIMBURSEMENT**

- A. The Board of Commissioners may establish a maximum amount of reimbursement that is payable by the Fund.
- B. The maximum amount payable by the Fund due to any incident or series of incidents constituting the execution of a coordinated plan or system of fraud against a single claimant; and the maximum payable to any claimant because of the dishonesty of a single lawyer or group of lawyers acting in collusion, shall be

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\$150,000. A "Claimant" for this purpose may be taken to mean any group of persons who shall have a mutual or common interest in the relationship with the lawyer, even though each member of such group may separately sustain a loss, as with corporations, partnerships, associations, estates of decedents, and persons having mutual, common or joint interests in property.

- C. The aggregate maximum amount for which the Fund shall reimburse losses as the result of the dishonesty of a single lawyer or group of lawyers acting in collusion is \$375,000. Whenever it appears to the Fund that claims may exceed this limit, additional claims against the lawyer or lawyers shall not be paid for two years following the filing of the initial claim against the lawyer or lawyers. The claims that have been processed and those approved by the Committee and not yet paid are, if necessary, apportioned on a pro-rata basis so that the total payments do not exceed \$375,000 using the following calculation:

Individual claim amount lost = % of maximum limit to be paid on claim  
Total amount lost

However, the maximum amount payable to a single claimant may not exceed \$150,000.00, if so, the percentage awarded to that claimant is set at 40% or \$150,000.00 and the remainder of the funds are pro-rated between the remaining claimants.

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- D. If a claimant is a minor or an incompetent, the reimbursement may be paid to any person or entity authorized to receive the reimbursement for the benefit of the claimant.
- E. The Board of Commissioners may approve payment of a claim at an amount that exceeds the maximum limits where the totality of the circumstances, in light of the purposes and policies of the Fund, warrants doing so.
- F. Payments shall be made in such amounts and at such times as the Committee or staff recommends and the Board of Commissioners deems appropriate, and may be paid in lump sum or installment payments.

**RULE 13—REIMBURSEMENT FROM FUND IS A MATTER OF GRACE**

No person shall have the legal right to reimbursement from the Fund whether as a claimant, third party beneficiary or otherwise.

**RULE 14—REIMBURSEMENT, RESTITUTION AND SUBROGATION**

- A. A lawyer whose dishonest conduct results in reimbursement to a claimant may be liable to the Fund for restitution and State Bar of Michigan may initiate of an action seeking reimbursement.
- B. A lawyer whose dishonest conduct has resulted in reimbursement to a claimant shall make restitution to the Fund including

interest and the expense incurred by the Fund in collection reimbursement. A lawyer's failure to make satisfactory arrangement for restitution may be cause for suspension, disbarment or denial of an application for reinstatement.

- C. As a condition of reimbursement, and to the extent of the reimbursement provided by the Fund, a claimant shall be required to provide the Fund with a transfer of the claimant's rights against the lawyer, the lawyer's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the claimant's loss, unless the Board of Commissioners decides otherwise.
- D. To the extent the claimant has sustained a loss in excess of the amount of reimbursement received from the Fund, the claimant shall be entitled to participate in any action commenced by the State Bar of Michigan pursuant to the subrogation rights received by the Fund's reimbursement to the claimant. Upon commencement of an action by the State Bar of Michigan as subrogee or assignee of a claim, it shall advise the claimant, who may then join in such action to recover the claimant's unreimbursed losses.
- E. The claimant shall be required to agree to cooperate in all efforts that the State Bar of Michigan undertakes to achieve restitution for the Fund, and to repay the Fund if claimant is subsequently reimbursed from another

source in an amount that exceeds the difference between the amount of total loss identified by the Fund and the Fund award. Such repayment shall not exceed the amount of the Fund award, unless the Board of Commissioners decides otherwise.

- F. The Fund may undertake all reasonable efforts to pursue subrogation rights assigned to the Fund. The Fund is authorized to obtain necessary services to pursue such subrogation rights including legal services, and to pay reasonable fees for those services. The normal legal and equitable principles regarding subrogation actions shall apply to the State Bar of Michigan's efforts to recoup the amount paid to the claimant.
- G. While all fees and costs, including attorney fees, incident to prosecution of subrogation rights shall be paid by the Fund, any recovery obtained by the Fund shall first be used to reimburse the Fund for such fees and costs, including attorney fees and second, to reimburse the Fund for the amount paid to claimant. The remainder of any recovery received by the Fund shall be paid to the claimant unless the Fund has unreimbursed claims from other claimants that involve the same attorney. In such an instance, the distribution and division of the excess recovery between the State Bar of Michigan and claimant shall be subject to negotiation between the parties, and subject to Board of Commissioners approval.

- H. In the event that the claimant commences an action to recover unreimbursed losses against the lawyer or another entity that may be liable for the claimant's loss, the claimant shall be required to notify the State Bar of Michigan of such action.
- I. The Committee or staff may make a recommendation to the Board of Commissioners that subrogation not be pursued or, pursued in a fashion that deviates from these rules when the totality of the circumstances warrant.

**RULE 15—CONFIDENTIALITY**

- A. Claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement, except as provided below or unless provided otherwise by law. After payment of the reimbursement, the Fund may publicize the nature of the claim, the amount of reimbursement, and the name of the lawyer. The name and address of the claimant shall not be publicized by the Board unless specific permission has been granted by the claimant. A protective order will be sought to preserve confidences of the claimant where appropriate.
- B. This Rule shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Board shall authorize, or the release of statistical information which

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does not disclose the identity of the parties or the use of such information is necessary to pursue the Fund's subrogation rights.

**RULE 16—AMENDMENTS TO THE RULES**

The Committee may, by majority vote, recommend to the Board of Commissioners amendments to these Rules and the Board may amend these Rules at any time.

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**Exhibit C**

**Michigan Supreme Court  
Administrative Order No. 2004-01**

**Order**

Entered: February 3, 2004

ADM File No. 2003-15

Administrative Order No. 2004-01 State Bar of Michigan Activities

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On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, Administrative Order 2004-01 is adopted, effective immediately. Administrative Order 1993-5 is rescinded, effective immediately.

I. Ideological Activities Generally.

The State Bar of Michigan shall not, except as provided in this order, use the dues of its members to fund the activities of an ideological nature that are not reasonably related to:

- (A) the regulation and discipline of attorneys;
- (B) the improvement of the functioning of the courts;
- (C) the availability of legal services to society;
- (D) the regulation of attorney trust accounts; and
- (E) the regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

The State Bar of Michigan shall permanently post on its website, and annually publish in the Michigan Bar Journal, a notice advising members of these limitations on the use of dues and the State Bar budget.

II. Activities Intended to Influence Legislation.

- (A) The State Bar of Michigan may use the mandatory dues of all members to review and analyze pending legislation.
- (B) The State Bar of Michigan may use the mandatory dues of all members to provide content-neutral technical assistance to legislators, provided that;
  - (1) a legislator requests the assistance;



- (2) the executive director, in consultation with the president of the State Bar of Michigan, approves the request in a letter to the legislator stating that providing technical assistance does not imply either support for or opposition to the legislation; and
  - (3) the executive director of the State Bar of Michigan annually prepares and publishes in the Michigan Bar Journal a report summarizing all technical assistance provided during the preceding year.
- (C) No other activities intended to influence legislation may be funded with members' mandatory dues, unless the legislation in question is limited to matters within the scope of the ideological-activities requirements in Section I.
- (D) Neither the State Bar of Michigan nor any person acting as its representative shall take any action to support or oppose legislation unless the position has been approved by a two-thirds vote of the Board of Commissioners or Representative Assembly taken after all members were advised, by notice posted on the State Bar website at least 2 weeks prior to the Board or Assembly meeting, that the proposed legislation might be discussed at the meeting. The posted notice shall include a brief summary of the legislation, a link to the text and status of the pending legislation on the Michigan Legislature website, and a statement that members may express their

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opinion to the State Bar of Michigan at the meeting, electronically, or by written or telephonic communication. The webpage on which the notice is posted shall provide an opportunity for members to respond electronically, and the comments of members who wish to have their comments made public shall be accessible on the same webpage.

- (E) The results of all Board and Assembly votes on proposals to support or oppose legislation shall be posted on the State Bar website as soon as possible after the vote, and published in the next Michigan Bar Journal. When either body adopts a position on proposed legislation by a less-than-unanimous vote, a roll call vote shall be taken, and each commissioner's or assembly-person's vote shall be included in the published notice.
- (F) Those sections of the State Bar of Michigan that are funded by the voluntary dues of their members are not subject to this order, and may engage in ideological activities on their own behalf. Whenever a section engages in ideological activities, it must include on the first page of each submission, before the text begins and in print larger than the statement's text, a disclosure indicating
  - (1) that the section is not the State Bar of Michigan but rather a section whose membership is voluntary,
  - (2) that the position expressed is that of the section only, and that the State Bar has no position on the matter, or, if the State

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Bar has a position on the matter, what that position is,

- (3) the total membership of the section,
- (4) the process used by the section to take an ideological position,
- (5) the number of members in the decision-making body, and
- (6) the number who voted in favor and opposed to the position.

If an ideological communication is made orally, the same information must be effectively communicated to the audience receiving the communication.

Although the bylaws of the State Bar of Michigan may not generally prohibit sections from engaging ideological activity, for a violation of this Administrative Order or the State Bar of Michigan's bylaws, the State Bar of Michigan may revoke the authority of a section to engage in ideological activities, or to use State Bar facilities or personnel in any fashion, by a majority vote of the Board of Commissioners. If the Board determines a violation occurred, the section shall, at a minimum, withdraw its submission and communicate the withdrawal in the same manner as the original communication occurred to the extent possible. The communication shall be at the section's own cost and shall acknowledge that the position was unauthorized.

III. Challenges Regarding State Bar Activities.

- (A) A member who claims that the State Bar of Michigan is funding ideological activity in violation of this order may file a challenge by giving written notice, by e-mail or regular mail, to the executive director.
  - (1) A challenge involving legislative advocacy must be filed with the State Bar by e-mail or regular mail within 60 days of the posting of notice of adoption of the challenged position on the State Bar of Michigan website; a challenge sent by regular mail must be postmarked on or before the last day of the month following the month in which notice of adoption of that legislative position is published in the Michigan Bar Journal pursuant to section II(E).
  - (2) A challenge involving ideological activity appearing in the annual budget of the State Bar of Michigan must be postmarked or e-mailed on or before October 20 following the publication of the budget funding the challenged activity.
  - (3) A challenge involving any other ideological activity must be postmarked or e-mailed on or before the last day of the month following the month in which disclosure of that ideological activity is published in the Michigan Bar Journal.

Failure to challenge within the time allotted shall constitute a waiver.

- (B) After a written challenge has been received, the executive director shall place the item on the agenda of the next meeting of the Board of Commissioners, and shall make a report and recommendation to the Board concerning disposition of the challenge. In considering the challenge, the Board shall direct the executive director to take one or more of the following actions:
  - (1) dismiss the challenge, with explanation;
  - (2) discontinue the challenged activity;
  - (3) revoke the challenged position, and publicize the revocation in the same manner and to the same extent as the position was communicated;
  - (4) arrange for reimbursement to the challenger of a pro rata share of the cost of the challenged activity; and
  - (5) arrange for reimbursement of all members requesting a pro rata share of the cost of the challenged activity in the next dues billing.
- (C) A challenger or the State Bar of Michigan may seek review by this Court as to whether the challenged activity violates the limitations on State Bar ideological activities set forth in this order, and as to the appropriate remedy for a violation.
- (D) A summary of the challenges filed under this section during a legislative term and their

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disposition shall be posted on the State Bar's website.

IV. Other State Bar Activities.

The State Bar of Michigan shall.

- (A) annually publish in the Michigan Bar Journal a notice informing members that, upon request, their names will be removed from the mailing list that is used for commercial mailings, and
  - (B) annually publish in the Michigan Bar Journal a notice informing members of the Young Lawyers Section that, upon request, their membership in that section will be terminated.
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**Exhibit D**

**Summary of the Positions Taken by the  
State Bar of Michigan on Legislation Proposed  
During the 2017-18 and 2019-20 Sessions of the  
Michigan Legislature through January 31, 2020**

**Summary of State Bar of Michigan Positions on Legislation  
During the 2017-18 and 2019-20 Legislative Sessions**

Session	Identifier	Description	Position
2019-20	HB4296	Bill to extend the e-filing fee sunset to 2/28/31.	Support to ensure that e-filing adequately funded.
2019-20	HB4378	Bill to create a FOIA exemption for any information that would reveal the identity of a party who proceeds anonymously in a civil action in which that party alleges that he or she was the victim of sexual misconduct.	Support with an amendment that the exemptions set forth in the bill also apply to survivors of human trafficking.
2019-20	HB4407	Bill to amend the Revised Judicature Act to allow a district court magistrate to hear and preside over civil infractions pertaining to marijuana.	Support.
2019-20	HB4488	Bill to amend the definition of “good moral character” as it relates to occupational and professional licenses and to establish when a licensing board may consider a criminal conviction, a civil judgment, or a certificate of employability.	Support amending so that the bill does not apply to attorney licensing.
2019-20	HB4489	Bill to amend the Revised Judicature Act to clarify that, for purposes of attorney licensing, the Board of Law Examiners makes the determination of “good moral character.”	Support.
2019-20	HB4509	Bill to amend the Revised Judicature Act to permit nonattorneys to represent limited liability companies in certain summary eviction proceedings.	Oppose.
2019-20	HB4535	Bill to provide for defense attorney access to the Law Enforcement Information Network.	Support the concept of defense attorneys having access to LEIN information; oppose the bill as drafted.
2019-20	HB4696	Bill to eliminate the age cap for judicial candidates.	Support.
2019-20	HB5117	Bill to amend the Revised Judicature Act to eliminate certain requirements and periods of limitations that otherwise would apply to claims under the Wrongful Imprisonment Compensation Act.	Support (based on Board of Commissioners vote on SB 0895 and SB 0896 of 2018 held on April 20, 2018).
2019-20	HB5118	Bill to amend the Wrongful Imprisonment Compensation Act to extend the deadline to file claims for those who were released before the Act’s effective date to 18 months from the amendment’s effective date.	Support (based on Board of Commissioners vote on SB 0895 and SB 0896 of 2018 held on April 20, 2018).



Session	Identifier	Description	Position
2019-20	HB5169	Bill to amend the Revised Judicature Act to require the plaintiff in a malpractice action against certain licensed professionals to file an affidavit of merit from a licensed professional in the same field certifying that the claim has merit upon demand by the defendant.	Oppose.
2019-20	HJRO	Joint resolution proposing to amend Article VI, § 19 of the Constitution of 1963 to eliminate the age cap for judicial candidates.	Support.
2019-20	SB0020	Bill to amend the Michigan Penal Code to specify permissible venues for prosecutions for delivery of a controlled substance causing death.	Support.
2019-20	SB0021	Bill to amend the Code of Criminal Procedure to specify permissible venues for prosecutions for delivery of a controlled substance causing death.	Support.
2019-20	SB0068	Bill to amend the Revised Judicature Act to eliminate certain requirements and periods of limitations that otherwise would apply to claims under the Wrongful Imprisonment Compensation Act.	Support (based on Board of Commissioners vote on SB 0895 and SB 0896 of 2018 held on April 20, 2018).
2019-20	SB0069	Bill to amend the Wrongful Imprisonment Compensation Act to extend the deadline to file claims for those who were released before the Act's effective date to 18 months from the amendment's effective date.	Support (based on Board of Commissioners vote on SB 0895 and SB 0896 of 2018 held on April 20, 2018).
2019-20	SB0076	Bill to amend the Revised Judicature Act to: <ul style="list-style-type: none"> <li>• specify that assistance provided by an application assistant or victim advocate under the proposed Address Confidentiality Program Act would not constitute the unauthorized practice of law, and</li> <li>• allow a participant in the Address Confidentiality Program to claim an exemption from jury service for the period during which he or she was a Program participant.</li> </ul>	Oppose because it creates an additional exemption to jury service; courts already have the ability to excuse these individuals from jury service.

Session	Identifier	Description	Position
2019-20	SB0142	Appropriations bill for the judiciary for the fiscal year ending 9/30/20.	Support the FY 2019-2020 Judiciary Budget as contained in SB 142 S-1 and the Executive Budget Recommendation.
2019-20	SB0143	Appropriations bill for the Department of Licensing and Regulatory Affairs for the fiscal year ending 9/30/20.	Support the FY 2019-2020 Budget for the Michigan Indigent Defense Commission as contained in SB 143 S-1 and the Executive Budget Recommendation.
2019-20	SB0231	Bill to amend the Revised Judicature Act's provision on service of process by individuals other than a sheriff, deputy sheriff, medical examiner, court officer, or constable to require that such individuals file a verified statement of the facts of service.	Support.
2017-18	HB4209	Bill to amend the Revised Judicature Act to authorize an increase in minimum juror compensation.	Support to increase juror compensation.
2017-18	HB4210	Bill to amend the Revised Judicature Act to provide that courts be reimbursed for juror compensation by reference to a statutory rate rather than the rate set in 2003.	Support to increase juror compensation.
2017-18	HB4433	Bill to amend the conditions under which a party's criminal conviction may be expunged and the procedure for doing so.	Support with amendments to address the following issues: 1) clarify which offenses qualify for the summary procedure on an application to set aside an adjudication; 2) provide an opportunity for victims of the offense at issue to request a hearing on the application; 3) expand the list of crimes that are disqualified from the bill's summary procedure to include crimes committed in the context of dating violence, sexual abuse, and family violence; and 4) exempt victims of the offense at issue from any misdemeanor penalty for disclosing information about the offense after the adjudication has been set aside.
2017-18	HB4463	Bill to revise the Revised Judicature Act to permit nonattorneys to represent limited liability companies in certain summary eviction proceedings.	Oppose.

Session	Identifier	Description	Position
2017-18	HB4612	Bill to amend the Code of Criminal Procedure to extend the authority of courts to impose costs related to the actual costs incurred by trial courts for court operations.	Support.
2017-18	HB4613	Bill to create a Trial Court Funding Commission to review and recommend changes to the trial court funding system in light of a recent court decision.	Support.
2017-18	HB4666	Bill to amend the Revised Judicature Act's provisions on service to require a certificate of service to be signed under penalties of perjury.	Oppose as introduced; neutral on the 11-3 substitute version.
2017-18	HB4754	Bill to amend the Revised Judicature Act to authorize plans of concurrent jurisdiction between or among judicial circuits.	Support with an amendment addressing the training needs for specialty courts.
2017-18	HB5073	Bill to amend the Revised Judicature Act to provide for the mediation of certain nondomestic relations disputes in state courts and related rules.	Oppose because the subject matter of the bill is more appropriately addressed in court rules.
2017-18	HB5244	Bill to amend the Mental Health Code to allow a facility that performs an examination to determine competency to stand trial to seek one extension of time to complete its report upon a showing of good cause.	Oppose. Although the State Bar supports the goals of improving the speed and accuracy of competency evaluations, these bills would not improve the current system, due to lack of deadlines, funding, and standards.
2017-18	HB5246	Bill to amend the Mental Health Code to modify the rules regarding examinations to determine competency to stand trial.	Oppose. Although the State Bar supports the goals of improving the speed and accuracy of competency evaluations, these bills would not improve the current system, due to lack of deadlines, funding, and standards.
2017-18	HB5806	Bill to amend the Revised Judicature Act to allow the family division of a circuit court to adopt or institute a juvenile mental health court and related rules.	Support.
2017-18	HB5807	Bill to amend the Revised Judicature Act's provisions regarding mental health courts to eliminate references to juveniles and juvenile mental health courts.	Support.

Session	Identifier	Description	Position
2017-18	HB5808	Bill to amend the Probate Code to allow the family division of a circuit court to make orders affecting adults that the court deems necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction.	Support.
2017-18	HB5820	Bill to amend the Mental Health Code to provide for court-ordered outpatient treatment.	Support.
2017-18	HB5985	Bill to amend the Michigan Indigent Defense Act to modify the funding, operations, and standards of the Michigan Indigent Defense Commission.	<p>Support HB 5985 as long as the following four issues are addressed:</p> <ul style="list-style-type: none"> <li>• The Michigan Indigent Defense Commission (MIDC) should promulgate uniform standards to determine partial indigency as defined in the act.</li> <li>• The MIDC should exist as an independent entity that is allowed to hire its executive director and other personnel.</li> <li>• Funds collected from partially indigent defendants should be used to support the indigent defense system in a manner approved by the MIDC or to offset the state share.</li> <li>• The MIDC should have the authority to determine how best to allocate the partial funding to preserve the integrity of the system in the most impactful manner</li> </ul>
2017-18	HB6110	Bill to amend the definition of “good moral character” for occupational and professional licensing purposes, to bar the use of civil judgments in making	Amend the bill to not apply to the licensing of attorneys.
		such determination, and to specify the circumstances under which a criminal conviction may be used in making such determination.	
2017-18	HB6277	Bill to amend the Code of Criminal Procedure to require courts to inform juries that they may choose not to convict even if the prosecution has proved its case beyond a reasonable doubt.	Oppose.

Session	Identifier	Description	Position
2017-18	HJRG	Joint resolution proposing to amend Article VI, § 19 of the Constitution of 1963 to eliminate the age cap for judicial candidates.	Support.
2017-18	SB0385	Bill to amend the collection agency licensing statute to allow collection agencies to hire in-house counsel to represent a third-party creditor in debt- collection litigation.	Oppose as introduced; support the S-1 substitute as passed the Senate because it addressed concerns with the unlicensed practice of law.
2017-18	SB0435	Bill to require drug-treatment and DWI/sobriety courts and their associated circuit and district courts to be certified by the State Court Administrative Office or lose funding and the ability to perform certain functions.	Support.
2017-18	SB0436	Bill to amend the Michigan Vehicle Code's definition of DWI/sobriety court to specify that it includes only a DWI/sobriety court that has been certified by the State Court Administrative Office.	Support.
2017-18	SB0437	Bill to require mental health courts and their associated circuit and district courts to be certified by the State Court Administrative Office or lose funding and the ability to perform certain functions.	Support.
2017-18	SB0438	Bill to require veterans treatment courts and their associated circuit and district courts to be certified by the State Court Administrative Office or lose funding and the ability to perform certain functions.	Support.
2017-18	SB0895	Bill to amend the Revised Judicature Act to exclude claims under the Wrongful Imprisonment Compensation Act from certain time limits applicable in the Court of Claims.	Support.
2017-18	SB0896	Bill to specify that a person convicted, imprisoned, and released from custody before March 29,2017, would have to commence an action under the Wrongful Imprisonment Compensation Act within 18 months after the bill's effective date.	Support.
2017-18	SB0951	Bill to amend the Code of Criminal Procedure to permit the prosecution of delivery of a controlled substance causing death in certain venues.	Support.

Session	Identifier	Description	Position
2017-18	SB0952	Bill to amend the Michigan Penal Code to specify permissible venues for prosecution of delivery of a controlled substance causing death.	Support.
2017-18	SB1087	Bill to require insurers paying claims to an attorney to send notice of payment to the claimant or judgment creditor.	Support.
2017-18	SB1092	Bill to amend the Revised Judicature Act to require courts to postpone the service of jurors who are farmers and called between April 1 and November 30.	Oppose.
2017-18	SB1103	Bill to amend the Revised Judicature Act's procedures for small claims courts.	Support.
2017-18	SB1182	Bill to amend the Revised Judicature Act to provide for attorney fee awards to prevailing parties.	Oppose.
2017-18	SB1183	Bill to amend the Revised Judicature Act to provide for attorney fee awards on appeal if the court determines that the appeal was vexatious.	Oppose.
2017-18	SJRF	Joint resolution proposing to amend Article VI, § 19 of the Constitution of 1963 to eliminate the age cap for judicial candidates.	Support.

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Number of lawyers, by integrated and  
voluntary bars, in each state per the  
ABA National Lawyer Population Survey

Integrated bar states	2021	2020	2019
Alabama	14,897	14,897	14,821
Alaska	2,340	2,324	2,324
Arizona	15,688	15,081	15,081
Florida	77,223	79,328	78,448
Georgia	33,158	32,584	32,409
Hawaii	4,184	4,270	4,270
Idaho	4,029	3,967	3,911
Kentucky	13,570	13,570	13,570
Louisiana	21,414	20,568	20,568
Michigan	35,453	35,453	35,453
Mississippi	6,845	6,866	6,886
Missouri	24,369	24,369	24,369
Montana	3,183	3,167	3,184
Nebraska	5,546	5,546	5,555
New Mexico	5,612	5,612	5,612
North Carolina	24,253	24,253	24,253
North Dakota	1,696	1,697	1,687
Oklahoma	13,713	13,549	11,678
Oregon	12,158	12,196	12,274
Rhode Island	4,071	4,071	4,071
South Carolina	10,853	10,798	10,568
South Dakota	1,985	1,907	1,995
Texas	93,821	92,833	91,244
Utah	8,581	8,473	8,362
Virginia	24,020	24,230	24,230

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Washington	26,701	26,316	26,182
West Virginia	4,770	4,770	4,770
Wisconsin	15,488	15,482	15,512
Wyoming	1,692	1,773	1,773
Total lawyers in integrated Bar States	511,313	509,950	505,060
Total Lawyers	1,281,199	1,282,263	1,277,108
Percentage in Integrated Bars	39.9%	39.8%	39.5%
Voluntary bar states	2021	2020	2019
Arkansas	6,808	6,299	6,693
California	167,709	168,569	170,117
Colorado	22,802	22,802	22,802
Connecticut	21,036	21,036	21,036
Delaware	3,058	3,058	3,058
Illinois	62,720	62,720	62,720
Indiana	15,802	15,761	15,845
Iowa	7,452	7,306	7,306
Kansas	7,932	8,045	8,045
Maine	3,995	3,995	3,995
Maryland	40,800	40,800	40,800
Massachusetts	42,720	42,908	42,788
Minnesota	26,065	25,823	25,823
Nevada	7,482	7,509	7,030
New Jersey	40,137	41,152	41,152
New York	185,076	184,662	182,296
Ohio	38,189	38,189	38,189
Pennsylvania	49,087	49,249	50,039



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Tennessee	18,818	18,818	18,702
Vermont	2,198	3,612	3,612
Total lawyers in voluntary bar states	769,886	772,313	772,048
Total Lawyers	1,281,199	1,282,263	1,277,108
Percentage in voluntary bars	60.1%	60.2%	60.5%

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