

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

21 DEC -2 PM 4: 15

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

TONY K. MCDONALD, JOSHUA B. §
HAMMER, AND MARK S. PULLIAM, §
PLAINTIFFS, §

V. §

CAUSE NO. 1:19-CV-219-LY

RANDALL O. SORRELS, LARRY P. §
MCDUGAL, JOE K. LONGLEY, §
LAURA GIBSON, BRITNEY E. §
HARRISON, ANDRES E. ALMANZAN, §
JERRY C. ALEXANDER, KATE BIHM, §
REBEKAH STEELY BROOKER, LUIS §
M. CARDENAS, ALISON W. COLVIN, §
DEREK COOK, ROBERT D. CRAIN, §
CHRISTINA DAVIS, ALISTAIR B. §
DAWSON, LESLIE DIPPEL, §
MICHAEL DOKUPIL, VICTOR FLORES, §
JARROD T. FOERSTER, LAURA GIBSON, §
JOHN CHARLES GINN, SHARI §
GOLDSBERRY, MARC E. GRAVELY, §
AUGUST W. HARRIS III, JOE "RICE" §
HORKEY, JR., WENDY-ADELE §
HUMPHREY, MICHAEL K. HURST, §
NEIL D. KELLY, DAVID C. KENT, §
ALDO D. LOPEZ, YOLANDA CORTES §
MARES, ROBERT E. MCKNIGHT, JR., §
STEPHEN J. NAYLOR, AMIE S. PEACE, §
SALLY PRETORIUS, CARMEN M. ROE, §
ADAM T. SCHRAMEK, DAVID K SERGI, §
ALAN E. SIMS, DINESH H. SINGHAL, §
JASON SMITH, SANTOS VARGAS, §
G. MICHAEL VASQUEZ, K. NICOLE §
VOYLES, AMY WELBORN, JAMES §
WESTER, JAMES C. WOO, AND §
DIANE ST. YVES, IN THEIR OFFICIAL §
CAPACITIES AS MEMBERS OF THE §
BOARD OF DIRECTORS OF THE STATE §
BAR OF TEXAS,¹ §
DEFENDANTS. §

¹ Defendants were sued in their official capacities as members of the Board of Directors of the State Bar of Texas. Pursuant to Federal Rule of Civil Procedure 25(d), the successors of individuals who were previously named as Defendants in this action but who are no longer members of the Bar's Board of Directors have been automatically substituted as parties.

FINAL JUDGMENT

This matter is now before the court on remand from the Fifth Circuit, following that court's decision in *McDonald v. Longley*, 4 F.4th 229 (5th Cir. 2021). In light of that decision, and upon the agreement of the parties:

IT IS ORDERED, ADJUDGED, and DECREED that:

1. Judgment is **RENDERED** in Plaintiffs' favor as specified in *McDonald v. Longley*, 4 F.4th 229 (5th Cir. 2021).

2. The court hereby **DECLARES** that Defendants violated Plaintiffs' First Amendment rights by compelling them to join the State Bar of Texas while the Bar was engaged in non-germane activities under *Keller v. State Bar of California*, 496 U.S. 1 (1990).

3. The court further **DECLARES** that lobbying and legislative activities seeking substantive changes to the law unrelated to regulating the legal profession or improving the quality of legal services are non-germane activities under *Keller*.

4. So long as Plaintiffs are members of the State Bar of Texas, Defendants are permanently **ENJOINED** from using Plaintiffs' mandatory dues to support lobbying or legislative activities (including such activities by the Texas Access to Justice Commission) seeking substantive changes to Texas law unrelated to regulating the legal profession or improving the quality of legal services. Plaintiffs and Defendants shall confer in good faith to attempt to resolve any alleged violations of this paragraph before Plaintiffs may seek any judicial remedies that might be available for the alleged violations. Defendants reserve all defenses to any effort to enforce this paragraph, including defenses based on sovereign immunity.

5. Plaintiffs have requested restitution for the dues they paid under protest in 2019, 2020, and 2021 while this action was pending. In response, Defendants have invoked sovereign

immunity. *See, e.g., Liedtke v. State Bar of Texas*, 18 F.3d 315, 318 n.12 (5th Cir. 1994). Plaintiffs' request for restitution of their dues is therefore **DENIED**.

6. Except as specified above, and in accordance with *McDonald*, final judgment is **RENDERED** for Defendants on all other claims and requests for relief in Plaintiffs' complaint.

7. On November 24, 2021, Plaintiffs filed a petition for writ of certiorari in the United States Supreme Court on the issues on which they did not prevail in the Fifth Circuit. The disposition of that petition could affect Plaintiffs' entitlement to attorney's fees and costs. It is accordingly hereby **ORDERED** that Plaintiffs shall have until 60 days after the final disposition of the Supreme Court case to file any motion for attorney's fees and costs pursuant to 42 U.S.C. §1988, 28 U.S.C. §1920, and Fed. R. Civ. P. 54(d).

SIGNED this 2nd day of December, 2021.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE