



A STRUCTURE WORTH DEFENDING

In March 2019, three Texas lawyers sued the State Bar of Texas claiming that under *Janus v. AFSCME* (2018), it is unconstitutional for an attorney to be required to join the State Bar of Texas in order to practice law. The plaintiffs also challenge bar programs that they claim exceed the bar's "core regulatory functions."

The State Bar of Texas will vigorously defend its existing statutory structure, which was established by the Texas Legislature in aid of the Texas Supreme Court's inherent authority to regulate the practice of law.

There are a number of similar lawsuits pending around the country targeting mandatory bar associations. None has been successful.

That's because U.S. Supreme Court precedent is clear. Mandatory membership in a state bar and payment of compulsory fees are constitutional because of the state's interest in regulating the legal profession and improving the quality of legal services.¹

All State Bar of Texas programs further the state's interests in regulating the legal profession or improving the quality of legal services. Through these activities, the State Bar protects the public, serves its members, and supports the administration of the legal system.

It is disappointing that the plaintiffs have targeted the State Bar's access to justice, legislative, and diversity efforts, which are specifically designed to improve the quality of legal services in Texas.

- **Access to Justice:** The plaintiffs want to stop the State Bar from supporting initiatives to ensure legal representation for Texans and indigent clients who need legal aid. More than 5.6 million Texans qualify for civil legal aid, but only 10 percent of their legal needs are being met because of inadequate resources. The State Bar helps fill this justice gap by supporting access to justice programs that provide legal help to veterans, active-duty military, and their families; people affected by natural disasters; victims of domestic violence and abuse; and many other Texans in need. Support for increased access to justice consistently draws strong bipartisan support.
- **Legislative Program:** The State Bar's legislative activities are constitutional and serve to improve the law in Texas. State Bar legislative proposals are generally crafted by the bar's practice-area sections through the work of volunteer attorneys with extensive knowledge of needed improvements.
- **Diversity:** The State Bar's diversity programs, which are open to all Texas attorneys, help the legal profession better serve Texas' growing population. These programs are widely supported by the Texas legal and business communities because they improve the quality of legal services.

GOVERNANCE INFORMATION

The State Bar of Texas has the following purposes under the State Bar Act (Gov't Code Sec. 81.012)

- (1) to aid the courts in carrying on and improving the administration of justice;
- (2) to advance the quality of legal services to the public and to foster the role of the legal profession in serving the public;
- (3) to foster and maintain on the part of those engaged in the practice of law high ideals and integrity, learning, competence in public service, and high standards of conduct;
- (4) to provide proper professional services to the members of the state bar;
- (5) to encourage the formation of and activities of local bar associations;
- (6) to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relationship of the state bar to the public; and
- (7) to publish information relating to the subjects listed in Subdivision (6).

As Texas lawyers, we have been fortunate to practice in a self-regulated profession with an independent grievance system since the creation of the State Bar of Texas in 1939. The State Bar has undergone Sunset review four times since then, most recently in 2017 when the Legislature continued us for 12 more years.

Through a mandatory bar, we are able to gather our collective might to advance and improve the legal profession as well as safeguard shared principles including protection of the public, adherence to the rule of law, and promotion of equal access to justice. In fact, it is the oath we take as lawyers, and the right to access to justice that we defend every day, that make our profession different from all others.

The structure of our State Bar has served Texas well for 80 years. We will continue to defend it, for the betterment of all Texans.

Sincerely,

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To read the State Bar's response and related filings in *McDonald v. Longley*, go to texasbar.com/mcdonaldvlongley.

NOTE

1. See *Lathrop v. Donohue*, 367 U.S. 820 (1961) and *Keller v. State Bar of Calif.*, 496 U.S. 1 (1990).